



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

*This version was rectified on 21 March 2016
under Rule 81 of the Rules of Court.*

Application no. 44098/10
Anna Sergeevna SHCHEGLOVA against Russia
and 4 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 27 May 2014 as a Committee composed of:

Mirjana Lazarova Trajkovska, *President*,

Linos-Alexandre Sicilianos,

Ksenija Turković, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above applications lodged on the dates listed in the appendix,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases and the applicants' reply to those declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicants are Russian nationals whose names and dates of birth are specified in the table below.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

3. The applicants complained that their detention on remand had been unreasonably long and that it had not been based on relevant or sufficient reasons.

4. On 21 June 2013 the applicant's complaints were communicated to the Russian Government for observations.

5. By letters of 13 September 2013 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

6. In that declaration, the Government acknowledged that all the applicants had been “detained in violation of Article 5 § 3 of the Convention” and stated their readiness to pay the following amounts to the applicants as just satisfaction:

(a) 1,800 euros (EUR) to Ms Shcheglova for her detention on remand between 23 July 2009 and 19 May 2010;

(b) EUR 1,400 to Mr Navolnev for his detention on remand between 27 August 2010 and 9 March 2011;

(c) EUR 3,600 to Mr Shmidt for his detention on remand between 8 February 2011 and 24 December 2012;

(d) EUR 2,800¹ to Mr Khodych for his detention on remand between 26 November 2010 and 18 April 2012; and

(e) EUR 2,960 to Mr Khromenkov for his detention on remand between 29 December 2011 and 12 July 2013.

7. The remainder of their declarations provided as follows:

“The sum referred to above, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This payment will constitute the final resolution of the case.”

8. By their separate letters of various dates, the applicants rejected the Government’s offers in whole or in part. They expressed the view that the sums mentioned in the Government’s declarations were unacceptably low.

9. In addition, Mr Shmidt and Mr Khodych objected to the striking-out of their complaints on the basis of the Government’s unilateral declarations because the latter do not contain any undertaking relating to an eventual re-opening of the proceedings at domestic level. Mr Shmidt also submitted that a Court’s judgment in his case would enable him to bring unspecified proceedings against the judges responsible for the violation of his Convention rights.

¹ Rectified on 21 March 2016: the text was: “EUR 4,320”.

THE LAW

10. Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and examine them in a single decision.

11. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified under (a), (b) or (c) of paragraph 1 of that Article. In particular, Article 37 § 1 (c) enables the Court to strike a case out of its list if:

“...for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

12. It also recalls that in certain circumstances it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

13. To this end, the Court will examine carefully the declaration in the light of the principles established in its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

14. The Court notes at the outset that since its first judgment concerning the lengthy detention on remand in Russia (see *Kalashnikov v. Russia*, no. 47095/99, §§ 104-121 ECHR 2002-VI), it has found a violation of Article 5 § 3 of the Convention on account of excessively lengthy detention on remand without proper justification in more than eighty cases against Russia (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 200, 10 January 2012). It follows that the complaints raised in the present applications are based on the clear and extensive case-law of the Court.

15. Turning next to the nature of the admissions contained in the Government's declarations, the Court is satisfied that the Government did not dispute the allegations made by the applicants and explicitly acknowledged that their detention on remand had been in breach of Article 5 § 3 of the Convention.

16. As to the intended redress to be provided to the applicants, the Government have undertaken to pay them certain amounts of compensation in respect of pecuniary and non-pecuniary damages, as well as costs and expenses. The Government have committed themselves to effecting the payment of those sums within three months of the Court's decision, with default interest to be payable in case of delay of settlement.

17. The Court is satisfied that the proposed sums are not unreasonable in comparison with the awards made by the Court in respect of pecuniary and

non-pecuniary damage in similar Russian cases (see *Valeriy Kovalenko v. Russia*, no. 41716/08, 29 May 2012; *Kislitsa v. Russia*, no. 29985/05, 19 June 2012; *Dolgova v. Russia*, no. 11886/05, §§ 54-56, 2 March 2006; *Shcheglyuk v. Russia*, no. 7649/02, §§ 50-53, 14 December 2006; and *Yuriy Yakovlev v. Russia*, no. 5453/08, §§ 93-95, 29 April 2010).

18. The Court further notes that the sums proposed by the Government do bear a reasonable relationship of proportionality to the amounts which the Court would award to the applicants in respect of their costs and expenses (see, by contrast, *Topčić-Rosenberg v. Croatia*, no. 19391/11, § 29, 14 November 2013).

19. Lastly, the Court sees no force in the arguments raised by Mr Schmidt and Mr Khodych. It is true that, in contrast to a judgment by the European Court finding a violation of the Convention or its Protocols, there is no apparent provision of Russian law that would allow the courts to re-open the proceedings on account of a decision by the Court to strike a case out of its list of cases (see, *mutatis mutandis*, *Rozhin v. Russia*, no. 50098/07, § 23, 6 December 2011). However, the nature of the violation of Article 5 § 3 of the Convention acknowledged by the Government in the present case is such that re-opening of the domestic proceedings does not appear necessary to eliminate the effects of the infringement of their right to trial within a reasonable time or to release pending trial. The same applies to the desire by Mr Schmidt to bring proceedings against the judges responsible.

20. The Court therefore considers that it is no longer justified to continue the examination of these cases. As the Committee of Ministers remains competent to supervise, in accordance with Article 46 § 2 of the Convention, the implementation of the judgments concerning the same issues, the Court is also satisfied that respect for human rights as defined in the Convention (Article 37 § 1 *in fine*) does not require it to continue the examination of the case. In any event, the Court's decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the applications to its list of cases, should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006).

21. In view of the above, it is appropriate to strike the cases out of the list in accordance with Article 37 § 1 (c) of the Convention.

For these reasons, the Court unanimously

Decides to join the applications,

Takes note of the terms of the Government's declarations concerning the applicants' complaints under Article 5 § 3 of the Convention and of the

modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	44098/10	08/06/2010	Anna Sergeyevna SHCHEGLOVA 04/03/1974 Moscow	
2.	26669/11	01/04/2011	Aleksandr Vasilyevich NAVOLNEV 25/07/1982 Stavropol	
3.	77857/11	02/12/2011	Maksim Aleksandrovich SHMIDT 15/08/1988 Tyumen	Vladimir Borisovich SEMKIN
4.	25607/12	11/04/2012	Aleksandr Mikhaylovich KHODYCH 22/12/1976 Kushchevskaya	Yuriy Nikolayevich KOROTCHENKO
5.	68668/12	08/10/2012	Sergey Anatolyevich KHROMENKOV 02/05/1987 Syktyvkar	