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

FIRST SECTION

DECISION

Application no. 44049/09
Sergey Stepanovich KULIDA
against Russia

The European Court of Human Rights (First Section), sitting on 17 June 2014 as a Committee composed of:

Khanlar Hajiyev, *President,*
Erik Møse,
Dmitry Dedov, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having regard to the above application lodged on 14 May 2009,

Having regard to the declaration by the respondent Government requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Sergey Stepanovich Kulida, is a Russian national, who was born in 1959. He was represented before the Court by Mr I. Varchenko, a lawyer practising in Gelendzhik.

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 applicant complained under Articles 5 § 3 and 6 § 1 of the Convention about an excessive length of his pre-trial detention and of criminal proceedings against him.

4. The application had been communicated to the Government.

5. By letter of 23 January 2014, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the application. They further requested the Court to strike

the application out of the list of cases in accordance with Article 37 of the Convention.

6. By the above declarations, the Russian authorities acknowledged that the applicant had been detained in breach of Article 5 § 3 of the Convention and that there was a violation of Article 6 § 1 of the Convention on account of an excessive length of criminal proceedings against him. The Government stated their readiness to pay 5,408 euros (EUR) to the applicant as just satisfaction. The remainder of the declaration read as follows:

> "The authorities therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as 'any other reason' justifying the striking of the case out of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.
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> 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 Convention. 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."

7. By a letter of 21 March 2014, the applicant indicated that he was not satisfied with the terms of the unilateral declaration on account of an insufficient amount of compensation and the authorities' refusal to quash his conviction.

THE LAW

8. 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".

9. 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.

10. 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).

11. The Court notes at the outset that since its first judgment concerning an excessive length of pre-trial detention in breach of Article 5 § 3 of the Convention and an excessive length of criminal proceedings against the applicant in breach of Article 6 § 1 of the Convention (see *Kalashnikov v. Russia*, no. 47095/99, ECHR 2002-VI), it has found similar violations in more than a hundred cases against Russia. Having regard to the recurrent nature of these grievances, the Court finds them to be the subject of its well-established case-law.

12. 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 applicant and explicitly acknowledged violations of Article 5 § 3 and Article 6 § 1 of the Convention.

13. As to the intended redress to be provided to the applicant, the Government have undertaken to pay him compensation in respect of pecuniary and non-pecuniary damages, as well as costs and expenses. Even if the method of calculation employed by the Russian authorities did not correspond exactly to the guidelines established by the Court, what is important is that the proposed sum is not unreasonable in comparison with the awards made by the Court in similar cases (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 105, ECHR 2006-V). The Government have committed themselves to effecting the payment of the sum within three months of the Court's decision, with default interest to be payable in case of delay of settlement.

14. The Court therefore considers that it is no longer justified to continue the examination of the case. 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. 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 application to its list of cases, should the Government fail to comply with the terms of the 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).

15. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Articles 5 § 3 and 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

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

André Wampach
Deputy Registrar

Khanlar Hajiyev
President