



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

FIRST SECTION

DECISION

Application no. 10496/09
Oleg Vladimirovich MENSHIKH against Russia
and 9 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 7 October 2014 as a Committee composed of:

Khanlar Hajiyeu, *President*,

Julia Laffranque,

Dmitry Dedov, *judges*,

and Søren Prebensen, *Acting 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' reaction 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 appendix.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, 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 or that it had not been based on relevant or sufficient reasons.

4. On 12 and 19 December 2013 the applicants' complaints were communicated to the Government for observations.

5. By letter of 9 April 2014 the Government informed the Court that they proposed to make unilateral declarations 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 the declarations, the Government acknowledged that all the applicants had been detained “without well-founded justification on the basis of the decisions rendered by the courts” which “did not comply with the requirements of Article 5 § 3 of the Convention” and stated their readiness to pay the following amounts to the applicants as just satisfaction:

(a) 3,120 euros (EUR) to Mr Menshikh for his detention on remand “between 14 May 2008 and 7 December 2009”;

(b) EUR 6,320 to Mr Gresev for his detention on remand “between 28 December 2006 and 20 April 2011”;

(c) EUR 2,000 to Mr Titov for his detention on remand “between 14 May 2010 and 12 May 2011”;

(d) EUR 5,040 to Mr Makarov for his detention on remand “between 24 August 2010 and 5 September 2013”;

(e) EUR 1,900 to Mr Kasyanenko for his detention on remand “between 17 June 2011 and 27 April 2012”;

(f) EUR 1,700 to Mr Dulatov for his detention on remand “between 8 September 2011 and 7 June 2012”;

(g) EUR 2,880 to Mr Murtazaliyev for his detention on remand “between 13 May 2011 and 15 October 2012”;

(h) EUR 1,700 to Ms Derevenskikh for her detention on remand “between 29 March and 25 December 2012”;

(i) EUR 1,700 to Ms Rogatneva for her detention on remand “between 29 March and 25 December 2012”;

(j) EUR 4,000 to Mr Franchuk for his detention on remand “between 5 June 2011 and 4 June 2013”; and

(k) EUR 3,440 to Mr Abezin for his detention on remand “between 29 March 2012 and 25 December 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. The applicants were invited to comment on the Government’s unilateral declarations, if they so wished. They submitted no comments in reply.

THE LAW

9. 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.

10. 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”.

11. 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.

12. 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).

13. 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 an 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.

14. 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.

15. 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.

16. The Court is satisfied that the amounts of compensation proposed are consistent with the amounts awarded in similar Russian cases (see *Valeriy*

Kovalenko v. Russia, no. 41716/08, 29 May 2012; and *Kislitsa v. Russia*, no. 29985/05, 19 June 2012).

17. 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 *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006 and *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

18. 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.

Søren Prebensen
Acting Deputy Registrar

Khanlar Hajiyev
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	10496/09	21/01/2009	Oleg Vladimirovich MENSHIKH 11/10/1967 Voronezh	Andrey Vyacheslavovich BAKHLIN
2.	15732/10	20/02/2010	Viktor Nikolayevich GRESEV 22/01/1961 Ufa	
3.	11600/11	18/01/2011	Aleksandr Georgiyevich TITOV 18/06/1968 Moscow	
4.	4417/12	16/03/2012	Vladimir Aleksandrovich MAKAROV 09/03/1989 Verkhniy Chov	
5.	13049/12	01/02/2012	Ilya Ivanovich KASYANENKO 27/10/1972 Kurgan	Fedor Grigoryevich RYBAK
6.	17431/12	07/02/2012	Ali Kharisovich DULATOV 25/06/1969 Srednyaya Yelyuzan	Nazhiya Dzhafyarovna SUBOCHEVA
7.	74409/12	18/10/2012	Magomed Murtazaliyevich MURTAZALIYEV 30/05/1982 Lesnoy	
8.	23082/13	04/02/2013	Zhanna Yuryevna DEREVENSKIKH 27/04/1962 Ustye Aleksandra Aleksandrovna ROGATNEVA 24/06/1990	

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
			Ustye	
9.	26885/13	23/03/2013	Vyacheslav Valeryevich FRANCHUK 08/07/1986 Ufa	
10.	41892/13	20/05/2013	Yevgeniy Vladimirovich ABEZIN 14/06/1975 Verkhnyaya Pyshma	