



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

FIRST SECTION

DECISION

Application no. 22147/03
Aleksandr Vasilyevich KASARAKIN
against Russia

The European Court of Human Rights (First Section), sitting on 9 December 2014 as a Committee composed of:

Khanlar Hajiyeu, *President*,

Erik Møse,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 5 May 2003,

Having regard to the declaration submitted by the respondent Government on 30 June 2014 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

The applicant, Mr Aleksandr Vasilyevich Kasarakin, is a Russian national, who was born in 1970 and lives in Kaluga. He is currently serving his sentence of imprisonment in a correctional colony in Ulan-Ude, the Republic of Buryatiya.

He was represented before the Court by Ms O. Preobrazhenskaya, a lawyer of the Centre of Assistance to International Protection based in Moscow. The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

The applicant complained under Article 3 of the Convention about poor conditions of his detention in remand centre IZ-40/1 of Kaluga between 14 November 2000 and 10 August 2004 and under Article 5 § 3 of the Convention about the excessive length of his pre-trial detention which lasted between 4 November 2000 and 4 December 2003.

By letter of 30 June 2014 the Government informed the Court that they proposed to make a declaration with a view to resolving the issues raised by the application. They acknowledged that between 14 November 2000 and 10 August 2004 the applicant had been “detained in the IZ-40/1 facility of the Kaluga Region in the conditions which did not comply with the requirements of Article 3 of the Convention” and that between 4 November 2000 and 4 December 2003 the applicant had been detained “without well-founded justification on the basis of the decisions rendered by the prosecutor and the courts of the Kaluga Region, which did not comply with the requirements of Article 5 § 3 of the Convention”. The Government stated their readiness to pay the applicant 16,950 euros as just satisfaction. The payment was to cover any pecuniary and non-pecuniary damage, together with any costs and expenses incurred, as well as any tax that may be chargeable. It would be effected within a period of three months from the date of notification of the decision taken by the Court. In the event of failure to pay within that period, the Government undertook 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. The payment would constitute the final resolution of the case.

By letter of 17 September 2014 the applicant informed the Court that he agreed to the terms of the Government’s declaration.

THE LAW

A. Complaints under Articles 3 and 5 § 3 of the Convention

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 in paragraph 1 (a), (b) or (c) of that Article.

In the light of the applicant’s agreement with the terms of the Government’s declaration, the Court considers that Article 37 § 1 (c) is applicable in the present case in so far as the above complaints are concerned. Further, the terms of the declaration are in line with the Court’s practice in similar cases. Finally, the Court considers that further examination of the application in this part is not required by respect for human rights as defined in the Convention and the Protocols thereto (Article 37 § 1 *in fine*).

In view of the above, it is appropriate to strike the case out of the list in so far as it relates to the above complaints.

B. Other complaints raised in the application

The Court further notes that the applicant also raised a number of additional complaints, notably, under Article 5 §§ 1 and 4 and Article 6 of the Convention.

Having regard to all the material in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols in that part of the application.

It follows that the remainder of the application must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Takes note of the terms of the Government's declaration under Articles 3 and 5 § 3 of the Convention;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in so far as it concerns the complaint under Article 3 about the conditions of the applicant's pre-trial detention and Article 5 § 3 about length and reasonableness of the pre-trial detention;

Declares the remainder of the application inadmissible.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President