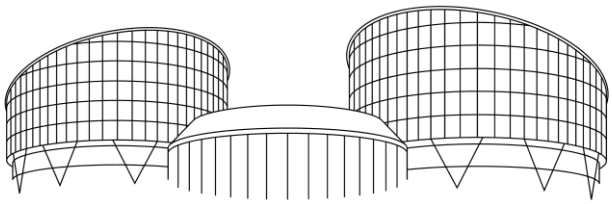

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 13234/09
Sevak KHACHATRYAN
against Armenia

The European Court of Human Rights (Third Section), sitting on 15 January 2013 as a Committee composed of:

Kristina Pardalos, *President*,
Alvina Gyulumyan,
Johannes Silvis, *judges*,
and Marialena Tsirli, *Deputy Section Registrar*,

Having regard to the above application lodged on 2 March 2009,

Having regard to the applicant's submissions seeking to withdraw his application before the Court,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Sevak Khachatryan, is an Armenian national, who was born in 1978 and lives in Yerevan. He was represented before the Court by Mr E. Varosyan and L. Sahakyan, lawyers practising in Yerevan. The Armenian Government ("the Government") were represented by their Agent, Mr G. Kostanyan, Representative of the Republic of Armenia at the European Court of Human Rights.

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 10 July 2008 the applicant was charged with two counts of aggravated bribe-taking and detained for two months by a decision of the Kentron and Nork-Marash District Court of Yerevan.

On 27 August and 3 November 2008 the Kentron and Nork-Marash District Court of Yerevan extended the applicant's detention each time for two months, until 7 January 2009. The applicant lodged appeals against those decisions which were dismissed by the Criminal Court of Appeal on 18 September 2008 and 24 November 2008 respectively.

On 30 December 2008 the applicant's criminal case file was referred to the Northern Criminal Court for trial, which on 13 January 2009 decided to leave the applicant's preventive measure, namely detention, unchanged.

On 27 February 2009 the Northern Criminal Court re-transferred the applicant's case for trial to the Kotayk Regional Court which on 25 March 2009 decided that there was no need to change the applicant's detention.

During the ensuing trial the applicant lodged a motion seeking to be released by disputing the lawfulness of the court decisions of 13 January and 25 March 2009.

On 12 May 2009 the Kotayk Regional Court dismissed the applicant's motion. The applicant lodged an appeal.

On 1 June 2009 the Criminal Court of Appeal decided to leave the applicant's appeal unexamined, finding that the court decisions of 13 January and 25 March 2009 were not subject to appeal.

The applicant lodged an appeal on points of law which was declared inadmissible by the Court of Cassation for lack of merit on 18 July 2009.

COMPLAINTS

1. The applicant complained under Article 5 § 1 of the Convention that his detention starting from 7 January 2009 was not based on a court decision.

2. The applicant complained under Article 5 § 3 that the domestic courts did not provide proper reasons to justify his pre-trial detention and that his detention was not based on a reasonable suspicion.

3. The applicant complained under Article 5 § 4 of the Convention that:

(a) his arguments concerning a lack of reasonable suspicion and the absence of proper reasons justifying his detention on remand were not properly addressed by the Court of Appeal and the Court of Cassation;

(b) the equality of arms was violated since the domestic courts, when deciding to prolong his detention on remand, relied on the materials of the criminal case which were not submitted during the court hearings and which he could not, therefore, consult;

(c) he was unable to initiate proceedings to contest the lawfulness of his detention since his appeal against the court decisions of 13 January and 25 March 2009 was left unexamined as not subject to appeal; and

(d) a two-month detention period ordered by a court, without a possibility to initiate a review of the lawfulness of his detention in the meantime, could not be considered as a "reasonable interval".

THE LAW

On 6 December 2011 the Court declared the application partly inadmissible and decided to communicate the complaints concerning the alleged unlawfulness of the applicant's detention from 7 to 13 January 2009, the alleged lack of relevant and sufficient reasons for the applicant's detention and the alleged impossibility for the applicant to initiate proceedings to contest the lawfulness of his detention, under Article 5 §§ 1, 3 and 4 respectively.

On 16 April 2012 the Government submitted their observations concerning the admissibility and merits of the application.

On 10 September 2012 the applicant, without providing any reasons, requested to withdraw from the proceedings.

On 4 October 2012 the applicant's representatives submitted a similar request in which they stated that the applicant wished to withdraw his application and that that request was based on his free will.

The Court considers that, in these circumstances, the applicant may be regarded as no longer wishing to pursue his application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

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

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Marialena Tsirli	Kristina Pardalos
Deputy Registrar	President