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

THIRD SECTION

DECISION

Applications nos. 31390/08 and 63805/09
Ivan Fedorovich BALABANOV and Nadezhda Konstantinovna BALABANOVA against Russia
and Lyudmila Aleksandrovna KONKOVA and Others against Russia

The European Court of Human Rights (Third Section), sitting on 26 September 2017 as a Committee composed of:

Helen Keller, *President,*
Pere Pastor Vilanova,
Alena Poláčková, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above applications lodged on 26 April 2008 and 6 November 2009 respectively,

Having regard to the declarations submitted by the respondent Government on 22 June 2016 requesting the Court to strike the applications out of the list of cases and the applicants' reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

A list of the applicants is set out in the appendix.

The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

All applicants obtained judgments ordering municipal unitary enterprises having the right of economic control to pay the applicants various sums of money. The companies were subsequently liquidated and the judgments remained unenforced. The applicants complained under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about non-enforcement of the judgments given against the unitary enterprises and

under Article 13 of the Convention about the lack of an effective remedy in respect of the non-enforcement. Relevant information concerning the domestic judicial decisions and their enforcement status is summarised below.

On 26 February 2016 the applications had been communicated to the Government.

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

By letters of 22 June 2016 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.

The declarations in respect of each applicant provided as follows:

> "... the Government of the Russian Federation acknowledge the violation of the applicant's rights guaranteed by the Convention. The judgments of [a domestic court] of [date] became final on [date] and [was] not enforced.
>
> The Government of the Russian Federation are ready to pay the applicant [the sums listed in the appendix] as compensation of pecuniary damage and [the sums listed in the appendix] as compensation of non - pecuniary damage."

The Government's proposals, as well as factual information on the domestic judgments in the individual cases, are summarised in the appendix below. The declarations went on to read:

> "The Government therefore invite the Court to strike [the application] 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 out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.
>
> The [sums set out in the table below], which [are] to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable and will be converted into the currency of the Russian Federation at the rate applicable at the date of payment. [They] 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 [these sums] within the said three-month period, the Government undertake to pay simple interest on [them] 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."

The applicants, who were invited to comment on the declarations, did not provide any comments in reply.

The Court observes that Article 37 § 1 (c) enables it 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."

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued (see the principles emerging from the Court's case-law, and in particular the *Tahsin Acar v. Turkey judgment* (preliminary objections) ([GC], no. 26307/95, §§ 75-77, ECHR 2003-VI). To this end, the Court has examined the declarations in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

In a number of cases against Russia the Court has established its practice concerning complaints about the non-enforcement of domestic judgments given against state and municipal unitary enterprises having the right of economic control (see, for example, *Liseytseva and Maslov v. Russia*, nos. 39483/05 and 40527/10, 9 October 2014; *Voronkov v. Russia*, no. 39678/03, 30 July 2015; and several follow-up cases).

Turning to the amounts proposed, the Court notes, in particular, that in the present cases, where the domestic judgments can no longer be enforced due to the liquidation of the debtor enterprises in 2009 (see the appendix below), the Government undertook to pay the applicants the equivalents of the respective judgment debts (see the "remedial offer – pecuniary damage" part of the appendix below). The Court further notes that the amounts proposed in respect of non-pecuniary damage are consistent with the amounts awarded in similar cases (see *Liseytseva and Maslov*, cited above, § 233, and *Voronkov*, cited above, §§ 67-70).

Having regard to the nature of the admissions contained in the Government's declarations, as well as the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of the applications (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the applications (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

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

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations 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.

Done in English and notified in writing on 19 October 2017.

Fatoş Aracı
Deputy Registrar

Helen Keller
President

APPENDIX

No.	Application No. Lodged on	Applicant Year of birth Place of residence	Domestic court Date of judgment Final on	Domestic award (Russian roubles (RUB)	Debtor company, Liquidation date	Enforcement date Enforcement delay as acknowledged in the UD	Remedial offer – pecuniary damage (RUB)	Remedial offer – non-pecuniary damage, in euros (EUR)
1.	31390/08 26/04/2008	1) BALABANOV Ivan Fedorovich 1944 Belgorod 2) BALABANOVA Nadezhda Konstantinovna 1944 Belgorod	Vorkuta Town Court a) 17/04/2000 27/04/2000 b) 29/03/2005 16/06/2005 Vorkuta Town Court a) 17/04/2000 27/04/2000 b) 29/03/2005 16/06/2005	a) 30,575 b) 34,359 a) 9,270 b) 10,417	State unitary enterprise GUP "Mine "Yuzhnaya" of the Federal Agency for Energy Liquidated on 17/10/2009	All judgments have remained unenforced	1) 64,935 to Mr Balabanov 2) 19,687 to Ms Balabanova	EUR 2,000 to each applicant
2.	63805/09 06/11/2009	1) KONKOVA Lyudmila Aleksandrovna 1954 Kolpakovka 2) UTKINA Lyubov Mikhailovna 1940 Kolpakovka 3) POLUSHKINA Anna Aleksandrovna 1957 Kolpakovka	Justice of the Peace of the Shalinskiy District Court Circuit of the Sverdlovsk Region 1) 08/08/2007 19/08/2007 2) 08/08/2007 19/08/2007 3) 08/08/2007 19/08/2007	1) 7,254 2) 6,665 3) 4,924	Municipal unitary enterprise MUP "Kolpakovskoe ZHKH" of Kolpakovka, the Sverdlovsk Region Liquidated on 12/08/2009	All judgments have remained unenforced	1) 7,254 to Ms Konkova 2) 6,665 to Ms Utkina 3) 4,924 to Ms Polushkina	EUR 1,500 to each applicant