CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 59112/00
by Raisa Yakovlevna BALMASOVA
against Russia

The European Court of Human Rights (Second Section), sitting on 9 November 2004 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr I. CABRAL BARRETO,
Mr R. TÜRMEN,
Mr V. BUTKEVYCH,
Mr M. UGREKHELIDZE,
Mr A. KOVLER,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 10 March 2000,

Having deliberated, decides as follows:

THE FACTS

The applicant, Raisa Yakovlevna Balmasova, is a Russian national, who was born in 1939 and lives in Naberezhniye Chelny, Russia. The respondent Government are represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

A. The circumstances of the case

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

The applicant has a granddaughter ("the child") born on 3 May 1995, the common child of her daughter ("the mother") and her daughter's former husband ("the father").

On 23 October 1997 the domestic courts granted custody of the child to the father. The mother suffered from a mental disorder. The applicant was granted visiting rights on 9 April 1999 by the the Naberezhnochelninskiy Town Court of the Tatarstan Republic (*Набережночелнинский городской суд Республики Татарстан*) but, the applicant alleged, the father refused to comply with this decision. The Bailiff intervened to arrange a few visits but, overall, the visiting schedule was not enforced.

On 14 July 1999 the applicant complained to the courts about the inefficacy of the Bailiff. On 14 September 1999 the Naberezhnochelninskiy Town Court of the Tatarstan Republic rejected the complaint, finding that, even though both the father and the applicant had failed to comply with the visiting schedule, the applicant was largely responsible for the creation of an atmosphere of conflict, which had made the child reluctant to communicate with her. The applicant's appeal against this judgment was dismissed and the Bailiff took no further steps to facilitate the enforcement of the judgment.

In March 2000 the father instituted proceedings seeking to restrict the applicant's access to the child until she reached the age of ten. The father claimed that the applicant's visits had had a negative effect on the child's mental health. On 27 April 2000 the Naberezhnochelninskiy Town Court granted the father's claims, finding that the applicant's visits had indeed had a negative effect on the child. Taking into account the young age of the child and her health condition, the Town Court decided to restrict the applicant's right to have contact with the child until she reached the age of ten. The applicant's appeal against this judgment was dismissed.

COMPLAINTS

The applicant complained about the non-enforcement of the court judgment of 9 April 1999 granting her access to her granddaughter. She invoked Articles 6 and 13 of the Convention in connection with the court proceedings rejecting her complaint about the bailiff's failure to enforce the above-mentioned judgment.

The applicant also complained about the subsequent imposition by the courts of a restriction on her access to the child, invoking Articles 6 and 13 of the Convention.

THE LAW

On 10 February 2004 the application was communicated to the respondent Government. On 14 May 2004 the Government's observations on the admissibility and merits of the application were received and the applicant was invited to submit her written observations in reply by 20 July 2004. She failed to do so, despite a reminder and warning from the Registry, by registered post, that such failure might result in the striking out of her application.

The Court infers from the applicant's continued silence that she does not intend to pursue her application. Furthermore, the Court considers that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the case.

In these circumstances it considers that the case should be struck out of the list in accordance with Article 37 § 1 (a) of the Convention.

For these reasons, the Court unanimously

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

S. Dollé
Registrar

J.-P. COSTA
President