CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 42483/02
by Maksim BARANOV
against Russia

The European Court of Human Rights (First Section), sitting on 5 January 2006 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mr K. HAJIYEV,
Mr D. SPIELMANN,
Mr S.E. JEBENS, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 30 June 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together.

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Maksim Andreyevich Baranov, is a Russian national who was born in 1982 and lives in Moscow. The respondent Government are represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

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

A. Domestic proceedings

On 15 November 2001 Mr Antonenko was registered as a candidate in the elections to the Moscow City Duma.

On 14 December 2001 a private person K. lodged a complaint with a court, seeking to cancel the registration of Mr Antonenko because he had allegedly omitted to enter a part of his income on his property declaration and because he had used his official position for electoral campaigning.

At 10.40 p.m. on 15 December 2001 the Moscow City Court delivered the judgment, by which Mr Antonenko's registration was cancelled.

At 7.45 a.m. on the following day (the voting day) district electoral commission no. 5 issued the decision to strike Mr Antonenko's name out of the list of candidates. While the striking-out of his name on the information stand was carried out without further delay, the manual correction of the voting ballots was not completed until 8.30 a.m.

The applicant had come to the voting box at 8.15 a.m. and cast his vote for Mr Antonenko before his name was struck out of the ballot. The ballot was, accordingly, declared invalid and not counted.

The applicant and other private persons in a similar situation complained to a court about a violation of their right to vote.

On 29 March 2002 the Moscow City Court dismissed the complaint. It found that the registration of Mr Antonenko had been cancelled by a judicial decision on the day preceding the voting day and the district electoral commission had implemented it. In the court's assessment, the fact that eight persons had voted for Mr Antonenko and their ballots had been subsequently found invalid was not, in itself, a sufficient ground for cancelling the election results. The electoral commission counted over 60,000 ballots, of which approximately 40,000 votes were cast for the elected candidate, whereas his most successful competitor obtained some 8,000 votes. In these circumstances, the eight votes cast for Mr Antonenko could not affect the results of the elections.

On 17 May 2002 the Supreme Court of the Russian Federation upheld the judgment of 29 March 2002 on appeal.

B. Proceedings before the Court

On 21 January 2005 the application was communicated to the respondent Government.

On 16 May 2005 the Government's observations on the admissibility and merits of the application were received and the applicant was invited to submit written observations in reply by 6 July 2005.

On 13 June 2005 the English version of the Government's observations was forwarded to the applicant. The time-limit for the submission of his observations in reply remained unaffected.

As the applicant's observations in reply had not been received by 6 July 2005, on 21 July 2005 the applicant was advised by registered mail that the failure to submit observations might result in the strike-out of the application.

The applicant did not reply. The registered letter of 21 July 2005 was returned as "not claimed".

THE LAW

The Court recalls Article 37 of the Convention which, in the relevant part, reads as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> (a) the applicant does not intend to pursue his application;
>
> ...
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

The Court notes that the applicant was advised that he was to submit written observations on the admissibility and merits of the case. No response has been received to date and the applicant did not inform the Court of his new contact details if he had moved. The Court infers therefrom that the applicant does not intend to pursue the application (Article 37 § 1 (a) of the Convention). Furthermore, it 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 (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention and to strike the application out of its list of cases.

Søren NIELSEN
Registrar

Christos ROZAKIS
President