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

FIFTH SECTION

DECISION

Application no. 40099/09
Liana DATUNASHVILI
against Georgia

The European Court of Human Rights (Fifth Section), sitting on 19 September 2017 as a Committee composed of:

Síofra O'Leary, *President,*
Nona Tsotsoria,
Lətif Hüseynov, *judges,*

and Anne-Marie Dougin, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 29 June 2009,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Liana Datunashvili, is a Georgian national, who was born in 1964 and lives in Tbilisi.

2. The Georgian Government ("the Government") were successively represented by their Acting Agent, Ms Sh. Mezurnishvili, and their Agent, Mr B. Dzamashvili, of the Ministry of Justice.

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

A. As the case stood prior to its communication

4. By virtue of a judgment of the Mtatsminda-Krtsanisi District Court dated 22 April 2003, a State agency ("the respondent agency") was ordered to pay the applicant 14,276 Georgian Laris (GEL) (approximately

5,600 euros (EUR)) in a lump sum as well as a monthly disability allowance of GEL 347 (approximately EUR 153).

5. As of 2 July 2003, when the District Court issued a writ for execution, the judgment of 22 April 2003 became enforceable.

6. Relying on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, the applicant complained about her inability to retrieve the lump sum awarded by the judgment of 22 April 2003, and that the respondent agency had further withheld from her the disability pension for the period of some thirty months.

B. Additional circumstances of the case disclosed by the parties' observations

7. On 7 December 2015 notice of the application was given to the Government.

8. Subsequently, the Government submitted documentation which showed that the delay in the payment of the lump sum and the monthly payments had been conditioned by the fact of the liquidation of the respondent agency in 2007. After the liquidation, it was necessary for the applicant to undertake additional legal steps in order to identify a legal successor to the respondent agency. The applicant had done so by initiating a legal procedure on 22 January 2008. Already by 2 June 2008, the relevant legal procedure had led to the designation of the Ministry of Economic Development as the legal successor to the respondent agency. However it was as late as 20 March 2009 that the applicant had requested for the first time the Ministry to discharge the judgment debt in her favour. The Ministry had honoured that obligation on 10 September 2009 by crediting GEL 26,100 (approximately EUR 10,500) onto the applicant's account. The latter amount included both the outstanding lump sum and the accumulation of the disability pension withheld from the applicant for the duration of thirty-two months.

9. Although this particular question was beyond the scope of the communicated complaints, the Government further produced documents showing that the payment of the monthly disability pension had been maintained without any disruption since September 2009 up to day.

THE LAW

10. The Government argued that the application was abusive since the applicant had concealed from the Court the information concerning the retrieval of the judgment debt by 10 September 2009 (see paragraph 8 above).

11. The applicant did not dispute that the judgment debt had been discharged in the circumstances described by the Government. As to her omission to keep the Court informed of the important factual developments, she remained silent on that point.

12. The Government commented that the applicant had failed to give a justifiable excuse for her omission to keep the Court informed of the facts of crucial importance for the case at stake.

13. The Court reiterates that incomplete and therefore misleading information may amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see, for instance, *Hadrabova v. the Czech Republic* (dec.), nos. 42165/02 and 466/03, 25 September 2007).

14. In line with the Government's argument, the Court notes that the applicant failed to give a valid explanation for her failure to inform the Court of the fact that she had received the judgment debt in its entirety by 10 September 2009. That fact had occurred just a few months after the introduction of her application with the Court and well before its communication to the Government. Having regard to the importance of that information for the proper determination of the present case, the Court, drawing parallels with similar cases examined by it in the past, finds that the either deliberate or negligent conduct of the applicant was contrary to the purpose of her right of individual petition as provided for in Article 34 of the Convention (compare, amongst many other authorities, with *Lozinschi v. Moldova* (dec.), no. 33052/05, 4 November 2008; *Khvichia v. Georgia* (dec.), no. 26446/06, 23 June 2009; *Pirtskhalaishvili v. Georgia* (dec.), no. 44328/05, 29 April 2010; *Jovanović v. Serbia* (dec.) [Committee], no. 40348/08, 7 March 2014, and also *Stojnić v. Bosnia and Herzegovina* (dec.), no. 24652/09, 6 October 2015).

15. The application must accordingly be rejected as abusive, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 12 October 2017.

Anne-Marie Dougin
Acting Deputy Registrar

Síofra O'Leary
President