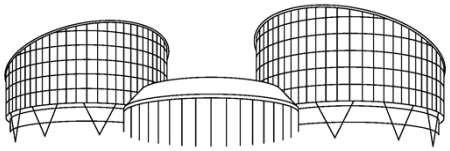

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 31466/06
David Davidovich DEMETRASHVILI
against Russia

The European Court of Human Rights (Third Section), sitting on 2 February 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 10 July 2006,

Having deliberated, decides as follows:

FACTS

The applicant, Mr David Davidovich Demetrashvili, is a Georgian national, who was born in 1972 and lives in Tyumen. He is represented before the Court by Ms Oksana Tyzhnikh, a lawyer practicing in Tyumen. The Russian Government (hereinafter "the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights.

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

The applicant arrived in Russia on an unspecified date prior to 2000 and settled there together with his family. The applicant got married to Ms I., a Russian national. They are parents to two children born in March 2000 and March 2001. In July 2002 the applicant was given a residence permit.

A. Administrative offence proceedings

On 14 December 2004 the Russian authorities imposed a fine on the applicant because he had not obtained residence registration within three days of his arrival, in breach of the Foreign Nationals Act.

On 17 January 2005 the authorities imposed another fine on the applicant on the same grounds.

The applicant sought judicial review of the above decisions. By a judgment of 24 November 2005 a court annulled the decisions of 14 December 2004 and 17 January 2005, noting that the applicant had a residence permit, which remained valid until 2007.

B. Removal order under section 25.10 of the Entry Procedure Act

On 25 January 2005 the Federal Security Service considered that the applicant's presence in Russia was undesirable and ordered his removal from the country with a five year re-entry ban (the exclusion order) on the basis of protection of national security. The order also indicated that the applicant's residence permit should be annulled and that he should leave Russia within fifteen days or, in the case of non-compliance, be subject to deportation. The applicant was informed of the order on 15 August 2005.

The applicant left Russia on 25 September 2005.

In the meantime, on an unspecified date in the end of 2005, the applicant's representative brought proceedings under Chapter 25 of the Code of Civil Procedure before the Tsentralniy District Court of Tyumen, challenging the exclusion order.

On 19 January 2006 the District Court upheld the exclusion order.

The applicant's representative appealed. On 22 March 2006 the Regional Court upheld the judgment of 19 January 2006. At the appeal hearing, the applicant's representative was afforded an opportunity to see a copy of the information which served as basis for the exclusion order.

C. Non-renewal of the residence permit

In December 2004 the applicant sought renewal of his residence permit due to renewal of his national passport.

On 15 August 2005 the Visa Office of the Tyumen regional department of the Interior refused to renew the applicant's residence permit with reference to the exclusion order issued by the Federal Security Service.

The applicant appealed the refusal to the Tsentralniy District Court of Tyumen. On 8 December 2005, the District Court upheld the exclusion order.

On 30 January 2006 the Tyumen Regional Court upheld the decision of the District Court.

COMPLAINTS

The applicant complained under Article 8 of the Convention that the exclusion order and subsequent five-year re-entry ban as well as the annulment of his residence permit violated his right for respect to private and family life. Referring to Article 6 of the Convention and Article 1 of Protocol No. 7 to the Convention he complained of unfairness of the related proceedings.

THE LAW

On 28 August 2013 the applicant's complaints were communicated to the Government, who submitted their observations on the admissibility and merits of the application. The observations were forwarded to the applicant, who was invited to submit his own observations by 11 March 2014. No reply was received to the Registry's letter.

On 25 August 2015 the Court received the applicant's lawyer's just satisfaction claim asking for reimbursement of costs and expenses incurred by her in connection with the proceedings before the Court. No observations on the admissibility and merits of the application were enclosed.

By letter dated 24 September 2015, sent by registered post, the applicant and his representative were notified that the period allowed for submission of his observations had expired on 11 March 2014 and that no extension of time had been requested. They were invited to provide by 22 October 2015 explanations for the belated submission of the just satisfaction claim. Their attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. The applicant's representative received this letter on 12 October 2015. However, no response has been received.

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.

Done in English and notified in writing on 3 March 2016.

Marialena Tsirli
Deputy Registrar

Helena Jäderblom
President