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

FIFTH SECTION

DECISION

Application no. 33201/07
Robert DIAKONIDZE
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 28 June 2007,

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 AND PROCEDURE

1. The applicant, Mr Robert Diakonidze, is a Georgian national, who was born in 1945 and lives in Tbilisi. He was represented before the Court by Mr D. Dekanoidze, a lawyer practising in Tbilisi.

2. The Georgian Government ("the Government") were represented by their Agent, Mr L. Meskhoradze, 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 Vake-Saburtalo District Court dated 4 May 2004, the Ministry of Finance was ordered to pay the applicant 28,102 United States dollars (approximately 23,300 euros (EUR)).

5. The judgment of 4 May 2004 became final on 31 January 2007, when the Supreme Court irrevocably terminated, by its decision, the civil proceedings.

6. On 14 February 2007 the Tbilisi City Court issued a writ of execution, thus rendering the judgment of 4 May 2004 enforceable from that date onwards.

7. Relying on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, the applicant complained about his inability to retrieve the judgment debt from the respondent Ministry.

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

8. On 14 January 2015 notice of the application was given to the Government.

9. The Government submitted documentation which showed that, following negotiations with the enforcement authority, the applicant had agreed on 16 April 2008 in writing that the judgment debt would be paid to him in three instalments over the period of three months. Those instalments had occurred on 22 April, 27 May and 2 June 2008. Thus, it was by the latter date that the applicant had received the judgment debt of EUR 23,300 in its entirety.

THE LAW

10. The Government submitted that the application was abusive since the applicant had concealed from the Court the information concerning, first, his agreement to the payment plan proposed by the Ministry of Finance and, secondly and most importantly, the fact of the retrieval of the judgment debt by 2 June 2008 in its entirety.

11. The applicant did not dispute that the judgment debt had been discharged in the circumstances described by the Government (see paragraph 9 above). He did not provide any explanation as to why he had failed to inform the Court of those developments earlier.

12. The Government commented that the applicant had failed to give a justifiable excuse for his 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 his failure to inform the Court of the fact that he had first agreed to receive the judgment debt in several instalments and that, most importantly, he had retrieved the debt in its entirety by 2 June 2008 (see paragraph 9 above). All those facts took place well before the communication of the present case to the Government. Having regard to the significance 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 his 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