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

FIFTH SECTION

DECISION

Application no. 31294/22
JSC WALLMILL SERVICES
against Georgia

The European Court of Human Rights (Fifth Section), sitting on 10 October 2024 as a Committee composed of:

Mykola Gnatovskyy, *President,*
Lado Chanturia,
Úna Ní Raifeartaigh*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 31294/22) against Georgia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 23 May 2022 by JSC Wallmill Services, a company registered in Panama ("the applicant"), which was represented by Mr A. Adeishvili, a lawyer practising in Sucy-en-Brie (France);

the decision to give notice of the complaint concerning the length of civil proceedings to the Georgian Government ("the Government"), represented by their Agent, Mr B. Dzamashvili, of the Ministry of Justice, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the length of the civil proceedings instituted against the applicant by four individuals ("the plaintiffs"). The proceedings started on 8 October 2013 and ended with the Supreme Court's inadmissibility decision dated 1 February 2022. The applicant relied on Article 6 of the Convention.

2. On 8 October 2013 the plaintiffs instituted proceedings before the Tbilisi City Court. They claimed that they had previously held a considerable

amount of shares in private companies and had been coerced by third parties into alienating those shares in favour of the applicant in April 2011.

3. On 16 July 2014 the Tbilisi City Court found that the plaintiffs had been coerced into ceding their shares in two companies in favour of the applicant through an intermediary, and that the applicant had failed to show that the sums indicated in the relevant contracts had ever been paid by it. The court thus declared the purchase agreements in respect of the shares in the relevant companies null and void. It ordered the return of the property, including 68 percent of shares in one of the companies, to the previous owners. As it appears from the case file material, between 1 January 2013 and 31 December 2022 the company in question registered a taxable turnover in the amount of 5,555,485.97 Georgian laris (approximately 1,854,898 Euros (EUR)).

4. On 19 August 2014 the applicant lodged an appeal.

5. On 28 March 2015 one of the plaintiffs, B.Kh., was killed by unidentified individuals.

6. On 13 May 2015 the Tbilisi Court of Appeal suspended the civil proceedings, in accordance with the rules provided for in the Code of Civil Procedure. The appeal court based the decision on the need to have B.Kh.'s successor identified.

7. On 16 February 2016 the appellate court decided that a hearing was to be held on 17 March 2016 to assess the feasibility of resuming the civil proceedings. However, the term of office of the presiding judge expired on 15 March 2016, leading to a reassignment of the case to a different judge. No hearing was scheduled following the reassignment. It does not appear that the parties requested the resumption of proceedings in 2016.

8. In December 2017 B.Kh.'s wife applied to the appellate court indicating that she had been among B.Kh.'s legal heirs and requested that the proceedings be resumed with her as his successor. On 20 December 2017 the Tbilisi Court of Appeal sought information from a notary public to identify the legal heirs of B.Kh. The notary public responded on 12 February 2018, providing a list of such individuals. It appears that these individuals also submitted requests, on various dates in 2018, to be recognised as B.Kh.'s legal successors in the proceedings against the applicant.

9. On 10 January 2019 the Tbilisi Court of Appeal resumed the proceedings recognising four individuals as B.Kh.'s successors.

10. On 10 June 2019 the applicant lodged an interlocutory appeal against the above decision on the grounds that the legal time-limit of one year for resuming the proceedings had passed, requiring the courts to leave the matter unexamined. The Supreme Court delivered its decision on the matter on 26 December 2019. It stated, among other things, that the said time-limit had applied to instances where it had been impossible to reveal a potential successor and not cases, like the present one, where there had been multiple contenders. It thus noted the existence of judicial disputes among B.Kh.'s

heirs to determine their share in his inheritance and concluded that the fact of exceeding the one-year time-limit to determine B.Kh.'s legal successors and resume the proceedings had been objectively justified.

11. The Tbilisi Court of Appeal resumed the proceedings following the Supreme Court's decision of 26 December 2019.

12. On 20 June 2021 the Tbilisi Court of Appeal delivered its judgment upholding the lower court's findings (see paragraph 3 above). It is unclear how many hearings were held between the resumption of the proceedings and the delivery of the appellate court's judgment.

13. On 1 February 2022 the Supreme Court found the applicant's appeal inadmissible.

THE COURT'S ASSESSMENT

14. The applicant submitted that the length of the civil proceedings had been in breach of the "reasonable time" requirement under Article 6 § 1 of the Convention, especially considering the protraction of those proceedings at the appellate stage.

15. The Government submitted, among other arguments, that the complaint had been manifestly ill-founded given that there had been objective difficulties preventing the appellate court from adjudicating the matter in a speedy manner. Alternatively, the applicant had not suffered a significant disadvantage, within the meaning of Article 35 § 3 (b) of the Convention. Namely, the Government pointed to the fact that the length of the proceedings instituted against the applicant had enabled the latter to profit from its shares in a company for longer than it would have done so in case of speedier proceedings.

16. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Gazsó v. Hungary*, no. 48322/12, § 15, 16 July 2015; and *Topallaj v. Albania*, no. 32913/03, § 75, 21 April 2016).

17. The Court also takes note of the principles developed in its case-law concerning the criterion of "significant disadvantage" (see *Korolev v. Russia* (dec.), no. 25551/05, ECHR 2010; *Giusti v. Italy*, no. 13175/03, §§ 24-36, 18 October 2011; and *Bartolo v. Malta* (dec.), no. 40761/19, § 22, 7 September 2021).

18. Turning to the circumstances of the present case, the Court observes that the proceedings in the present case lasted 8 years, 3 months and 24 days (see paragraph 1 above). Within this context, the applicant was a respondent in civil proceedings initiated by multiple individuals who claimed that they had been coerced into alienating their shares in certain companies in the

applicant's favour – a serious accusation raising complex factual and legal issues. Despite such complexity, the first-instance court and the Supreme Court adjudicated the matter without undue delay: within ten and four months respectively.

19. By contrast, the proceedings before the appellate court lasted slightly over six years and ten months. In this regard, the Court takes note of the objective elements which accounted, at least in large part, for such a protraction of the proceedings at the appellate stage. Namely, the death of one of the plaintiffs triggered the procedure for appointing his legal successor. This had been a complicated matter, as affirmed by the Supreme Court, owing to the existence of multiple contenders and separate judicial proceedings in that respect (see paragraph 10 above).

20. Additionally, even assuming that there may have been certain delays in the proceedings before the appellate court for which the above element could not account (for instance, between February 2016 and December 2017 and then between December 2019 and June 2021 – see paragraphs 7-8 and 12 above), the Court cannot overlook the fact that the civil proceedings in question established that the plaintiffs had been coerced by third parties into alienating their shares in the applicant's favour, and that the latter had failed to provide any proof of having paid the sums indicated in the relevant contracts (see paragraph 3 above). The applicant's ownership rights over the disputed property were thus annulled. The Court also takes into account the argument that the applicant must have been able to benefit from the income generated by such property (see paragraphs 3 and 15 above).

21. Having regard to the foregoing considerations, and setting aside the questions of the applicant's victim status or whether it suffered a significant disadvantage within the meaning of Article 35 § 3 (b) of the Convention, the Court cannot but conclude, considering the complexity of the matter at domestic level and what was at stake for the applicant (see paragraphs 3 and 19-20 above), that the complaint concerning the length of the civil proceedings is manifestly ill-founded, in the particular circumstances of the present case.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 November 2024.

Martina Keller Deputy Registrar	Mykola Gnatovskyy President