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

THIRD SECTION

DECISION

Application no. 9829/11
Zyamil Kamilovich KHANIPOV
against Russia

The European Court of Human Rights (Third Section), sitting on 28 November 2017 as a Committee composed of:

Luis López Guerra, *President,*
Dmitry Dedov,
Jolien Schukking, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 3 January 2011,

Having regard to the declaration submitted by the respondent Government on 26 October 2016 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Zyamil Kamilovich Khanipov, is a Russian national, who was born in 1957 and lives in Yemva, the Komi Republic. He was represented before the Court by Mr E. A. Mezak, a lawyer practising in Syktyvkar.

The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

THE LAW

By a letter of 26 October 2016 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "... the Russian authorities acknowledge the violation of the applicant's rights guaranteed by the Convention. The judgment of the Justice of the Peace of the Emvinskiy Judicial Circuit of the Knyazhpogodstskiy District of the Komi Republic of 10 June 2009 became final on 23 June 2009 and was not enforced to date ...
>
> The authorities are ready to pay the applicant RUB 6960 as compensation for pecuniary damage and EUR 1500 as compensation of non-pecuniary damage.
>
> The authorities therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as 'any other reason' justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.
>
> The sum referred to above which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable and will be converted into the national currency of the Russian Federation at the rate applicable at the date of payment. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> This payment will constitute the final resolution of the case."

By a letter of 16 January 2017, the applicant indicated that he was not satisfied with the terms of the unilateral declaration. He argued that the amount of compensation offered was insufficient.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application."

Thus, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see the principles emerging from the Court's case-law, and in particular the *Tahsin Acar v. Turkey* judgment ((preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI). To this end, the Court has examined the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (cited above, §§ 75-77; *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

In a number of cases against Russia the Court has established its practice concerning complaints about the non-enforcement of domestic judgments given against state and municipal unitary enterprises having the right of economic control (see, for example, *Liseytseva and Maslov v. Russia*, nos. 39483/05 and 40527/10, 9 October 2014; *Voronkov v. Russia*, no. 39678/03, 30 July 2015; and several follow-up cases).

Turning to the amounts proposed, the Court notes, in particular, that in the present case the domestic judgment can no longer be enforced due to the liquidation of the debtor enterprise in 2013 (GUP "Uchrezhdenie M-222/35" was liquidated on 27 May 2013), the Government undertook to pay the applicant the equivalent of the respective judgment debt (RUB 6,960). The Court further notes that the amount proposed in respect of non-pecuniary damage is consistent with the amounts awarded in similar cases (see *Liseytseva and Maslov*, cited above, § 233, and *Voronkov*, cited above, §§ 67-70).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 21 December 2017.

Fatoş Aracı
Deputy Registrar

Luis López Guerra
President