CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 7656/02
by Liliya Vladimirovna KOLENOVA
against Russia

The European Court of Human Rights (Fourth Section), sitting on 20 June 2006 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr J. CASADEVALL,
Mr G. BONELLO,
Mr A. KOVLER,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Ms L. MIJOVIĆ, *judges*,
and Mr T.L. EARLY, *Section Registrar*,

Having regard to the above application lodged on 17 January 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together.

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Liliya Vladimirovna Kolenova, is a Russian national who was born in 1975 and lives in Kimovsk, Tula Region. She was represented before the Court by Mr R. Ganiyev, a lawyer practising in Kimovsk. The Russian Government ("the Government") were represented

by Mr P. Laptev, the Representative of the Russian Federation at the European Court of Human Rights.

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

On 29 May 1998 the applicant lodged an action before the Kimovsk Town Court against a private insurance company for payment of an index-linked insurance sum and compensation for non-pecuniary damage.

Of the fifteen hearings listed between 21 August 1998 and 13 July 2001, two hearings were adjourned because the applicant did not attend, three hearings were postponed because both parties defaulted, and three hearings were adjourned because the defendant failed to appear.

From 21 July to 11 September 2000 the proceedings were adjourned because the judge was involved in other proceedings.

On 29 November 2000 the Kimovsk Town Court asked the applicant to clarify her claims.

On 16 February 2001 the applicant submitted the amended claims.

On 13 July 2001 the Kimovsk Town Court dismissed the applicant's action.

On 20 December 2001 the Tula Regional Court upheld the judgment on appeal.

COMPLAINT

Without invoking any Convention provision the applicant complained about the excessive length of the proceedings.

THE LAW

The applicant complained that the length of the proceedings had been "unreasonable". The Court considers that this complaint falls to be examined under Article 6 § 1 of the Convention which provides as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing within a reasonable time by [a] ... tribunal established by law."

The Government indicated that the length of the proceedings was reasonable. The applicant had contributed to a considerable extent to the delays in the proceedings, notably she had defaulted on at least five occasions and had failed to produce the amended claims in due time. There had been no periods of inactivity attributable to the domestic authorities.

The applicant did not comment.

The Court notes that the period to be taken into consideration began on 29 May 1998 when the Kimovsk Town Court received the applicant's statement of claim and ended on 20 December 2001 when the Tula Regional Court gave its final judgment. The proceedings thus lasted almost three years and seven months for two levels of jurisdiction.

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 criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

The parties did not argue that the case was a complex one. The Court therefore concludes that the case was of no particular complexity.

Insofar as the behaviour of the applicant is concerned, the Court recalls that at least five hearings were adjourned due to the applicant's failure to appear. Thus, an aggregate delay of approximately three months is attributable to the applicant. Moreover, it took the applicant almost three months, from 29 November 2000 to 16 February 2001, to produce the amended claims upon the town court's request.

As regards the conduct of the authorities, the Court considers that the overall period less the period attributable to the applicant's conduct leaves the authorities responsible for approximately three years and one month. In this respect the Court recalls that only delays attributable to the State may justify a finding of failure to comply with the "reasonable time" requirement (see *Des Fours Walderode v. the Chech Republic* (dec.), no. 40057/98, 4 March 2003).

The Court observes no substantial periods of inactivity on the part of the courts, save for one: on 21 July 2000 the proceedings were adjourned until 11 September 2000 because the judge was involved in other proceedings. Irrespective of the reasons for such adjournment, the delay incurred was negligible.

Apart from the period discussed above, the hearings were scheduled at regular intervals and the parties' requests were examined at the same or at the following hearing. Furthermore, the courts of two levels of jurisdiction were involved in the applicant's case.

Regard being had to all the circumstances of the case, the Court considers that the "reasonable time" requirement has been complied with.

It follows that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention;

Declares the application inadmissible.

T.L. EARLY
Registrar

Nicolas BRATZA
President