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

THIRD SECTION

DECISION

Application no. 23558/06
Yevdokiya Ivanovna KOLTAKOVA
against Russia

The European Court of Human Rights (Third Section), sitting on 17 January 2017 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 7 April 2006,

Having regard to the decision to apply the pilot-judgement procedure taken in the case of *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009),

Having regard to the declaration submitted by the respondent Government on 7 June 2010 requesting the Court to strike the application out of the list of cases and the applicant's daughter's reply to that declaration,

Having deliberated, decides as follows:

THE FACTS AND PROCEDURE

The applicant, Ms Yevdokiya Ivanovna Koltakova, was a Russian national, who was born in 1953 and lived in Nizhneye Turovo, the Vononezh Region.

On 20 July 2007 Ms Koltakova died. Her daughter, Ms Karpova, born in 1953 and living in Voronezh, expressed the intention to continue the proceedings before the Court.

The applicant was represented before the Court by Mr I.V. Sivoldayev, a lawyer practising in Voronezh, and so is Ms Karpova.

The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights.

A. Facts

The applicant successfully sued the authorities and was awarded pension arrears and court fees by the judgment of 15 November 2000. The judgment became final on 27 November 2000 and was executed on 8 December 2005, i.e. with the delay of approximately five years and one month.

According to the representative, Ms Karpova, who lived at a different address in Voronezh, learned in August 2008 that her mother had lodged an application with the Court from the neighbours who had forwarded the Court's communication letter to her. On 21 September 2008 she informed the Court of her intention to maintain the case in her late mother's stead. She submitted the power of attorney, a copy of the death certificate, a copy of the passport, a birth certificate, and a divorce certificate evidencing the change of her family name.

B. Relevant domestic law

The relevant domestic law governing succession is summarized in the Court's decision *Belskiy v. Russia* (dec.), no. 23593/03, 26 November 2009.

COMPLAINTS

The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about the delayed enforcement of the binding and enforceable judgment rendered in her favour.

THE LAW

Referring to *Belskiy* (cited above), the Government contested that Ms Karpova had standing in the proceedings before the Court as she did not show that she had accepted the succession after the applicant's death. They further argued that she was not a party to the domestic proceedings and could not be regarded as a victim.

Ms Karpova argued in reply that she was entitled to pursue the proceedings in her mother's stead as her close relative. She referred to the Court's case law, including *Kozyyakova and Gureyev v. Russia*, no. 16108/06, 26 April 2007; *Arapovy v. Russia*, no. 16115/06, 29 November 2007; as well as *Streltsov and other "Novocherkassk military pensioners" cases v. Russia*, nos. 8549/06 and 86 others, 29 July 2010. She stated, without submitting any supporting documents, that she was the

applicant's only successor. Ms Karpova also noted that since the applicant's retirement she took care of her mother as Article 38 § 3 of the Constitution of the Russian Federation provided that children were under obligation to take care of their parents. Ms Karpova submitted her birth certificate and a copy of the passport containing her address.

Where the applicant has died after the application was lodged, the Court has accepted that the next-of-kin or heir may in principle pursue the application, provided that he or she has sufficient interest in the case (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 97, ECHR 2014, with further references). Furthermore, in several Russian cases concerning non-enforcement of court judgments in the applicant's favour, the Court recognised the right of the relatives of the deceased applicant to pursue the application (see *Shiryayeva v. Russia*, no. 21417/04, 13 July 2006, and *Shvedov v. Russia*, no. 69306/01, 20 October 2005). The Court has also established that it is for the heir who wishes to pursue the proceedings before the Court to substantiate his or her standing to do so (see *Belskiy*, and *Streltsov and other "Novocherkassk military pensioners" cases,* both cited above).

The Court further observes that it has adopted a flexible approach as regards the latter requirement to substantiate the standing, and it has accepted various evidence submitted by the applicants' relatives wishing to maintain the late relatives' claims. However, the applicant's daughter in the present case, requested to provide comments on the standing issue, failed to submit any relevant document or information, apart from the birth certificate.

Having claimed to be the applicant's only heir, Ms Karpova did not provide any document, such as a succession certificate, to confirm acceptance of the late applicant's succession (see *Belskiy*, cited above; *Rista and Others v. Albania* [Committee], nos. 5207/10, 24468/10, 36228/10, 39492/10, 39495/10, 40751/10 and 48522/10, § 34, 17 March 2016; and *Shurygina and Others v. Russia* [Committee], nos. 2982/05, 5991/05, 9546/05 and 24130/06, § 16, 15 March 2016; see further, by contrast, *Shiryayeva,* cited above) or even any statement confirming that she had accepted the succession after her deceased mother (see, by contrast, *Kotova and Others v. Russia*, nos. 3585/08 and 16 others, 21 June 2016), or any other documents or detailed information which could be of relevance in her particular case (see, by contrast, *Andreyeva v. Russia* (dec.), no. 76737/01, 16 October 2003, and, for instance, *Streltsov and other "Novocherkassk military pensioners" cases,* cited above, § 37). Ms Karpova confined her argument to a mere reference to the provision of the Russian Constitution obliging her to take care of her mother, but had not submitted any documents or details relevant for her individual situation. The Court finds nothing in the file to suggest that Ms Karpova had encountered any

difficulty in obtaining any of the above documents or providing details in respect of her claim.

In these circumstances, the Court cannot conclude that Ms Karpova has met the requirement to substantiate her standing in the proceedings before the Court.

Nor does the Court consider that "respect for human rights as defined in the Convention and the Protocols" requires the examination of the application, despite the applicant's death.

In these circumstances the Court considers that it is no longer justified to continue the examination of the application and concludes pursuant to Article 37 § 1 (c) of the Convention that the application should be struck out of its list of cases.

For these reasons, the Court, unanimously,

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 9 February 2017.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President