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

FIRST SECTION

DECISION

Application no 17963/14
Georgi MARGAROV
against Armenia

The European Court of Human Rights (First Section), sitting on 15 November 2016 as a committee composed of:

Ledi Bianku, *President,*
Aleš Pejchal,
Armen Harutyunyan, *judges,*
and Renata Degener, *Deputy Section Registrar,*

Having regard to the above application lodged on 17 February 2014,

Having regard to the decision to grant priority to the above application under Rule 41 of the Rules of Court.

Having regard to the factual information obtained from the Respondent Government and the comments submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Georgi Margarov, is an Armenian national who was born in 1927 and lives in Yerevan.

A. The circumstances of the case

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

3. From 1941 until 1946 the applicant worked as secretary of the Dmanisi Town Council Executive Committee of People's Deputies. Thereafter, he served in the Soviet Army from 1950 until 1983.

4. By decision of 23 April 2001 of the Central Military-medical Commission of the Ministry of Defence of Armenia ("the CMMC") the

applicant was granted the status of disabled veteran, which entitled him to certain benefits.

5. By letter of 18 July 2007 the Head of the CMMC requested the Military Commissar of Armenia to annul the CMMC's decision of 23 April 2001. The applicant's pension was reduced and he was deprived of his benefits.

6. The applicant lodged a claim with the Administrative Court, seeking to annul the administrative act of 18 July 2007 and to oblige the Ministry of Defence to recalculate his pension on the basis of a higher military rank and also to take into account his career outside the military. He also sought compensation for the pension that had been underpaid.

7. On 7 August 2012 the Administrative Court partially granted the applicant's claims. The court obliged the Ministry of Defence to recalculate the applicant's pension based on a higher military rank and make a lump-sum payment in respect of the underpaid pension in this regard. It further obliged the Ministry of Defence to recalculate the applicant's pension taking into account his career outside the military, and make a lump-sum payment for the pension which had been underpaid. Lastly, it ruled that the Ministry of Defence should pay the part of the applicant's pension which had not been paid to him as a result of the letter of 18 July 2007 (see paragraph 5 above).

8. The Ministry of Defence appealed against the judgment.

9. On 17 January 2013 the Administrative Court of Appeal partially quashed the judgment of 7 August 2012. It rejected the applicant's claim concerning recalculation of his pension based on a higher military rank and upheld the remainder of the Administrative Court's ruling.

10. The applicant lodged an appeal on points of law.

11. By decision of 13 March 2013, the Court of Cassation declared the applicant's appeal on points of law inadmissible for lack of merit.

12. On 24 January 2013 the Administrative Court issued a writ of execution, which stated that the Ministry of Defence should make a lump-sum payment of the amounts of pension not paid as a result of the letter of 18 July 2007. Furthermore, the Ministry of Defence was ordered to recalculate the applicant's pension taking into account the years of his service outside the military and make a lump-sum payment for the pension which had been underpaid in this respect.

13. On 14 March 2013 the Department for Execution of Judicial Acts ("the DEJA") instituted enforcement proceedings.

14. On 18 April 2014 the DEJA terminated the enforcement proceedings on the ground that the requirements of the writ of execution had been satisfied. The decision to terminate the enforcement proceedings stated that the amount of AMD 575,920, which constituted the payment in respect of the pension not paid as a result of the letter of 18 July 2007, had been transferred to the DEJA's bank account and the applicant had been invited

to receive this amount. As regards the payment of pension taking into account the applicant's career outside the military, an amount of AMD 475,821 had been paid to the applicant in June 2013.

15. In May 2014 the applicant contested the decision to terminate the enforcement proceedings before the Administrative Court, claiming that the judgment of 7 August 2012 was not properly enforced in that the decision of 23 April 2001 had not been effected by the Ministry of Defence.

16. In December 2015 the applicant informed the Court that the examination of his claim before the Administrative Court had been postponed several times for various formalistic reasons and that he had eventually renounced his claim in November 2015.

17. As submitted by the Respondent Government in response to a request for information from the Court, by decision of 18 November 2015 the Administrative Court terminated the examination of the applicant's claim based on his representative's written request of 3 November 2015. In particular, the applicant's representative, who had been authorised by him to, *inter alia*, withdraw his claims before the domestic courts, had requested that the Administrative Court discontinue the examination of the claim on the ground that the Ministry of Defence had corrected the miscalculations of the amounts due to the applicant.

18. The Administrative Court's decision of 18 November 2015 whereby the proceedings were terminated was not appealed against and became final on 22 December 2015.

COMPLAINT

19. The applicant complained under Article 6 § 1 of the Convention of the ineffective execution of the judgment of the Administrative Court of 7 August 2012.

20. In his letter of 20 July 2016 the applicant submitted that in November 2015 the Ministry of Defence had recalculated the amounts due to him according to the judgment but he nevertheless requested the Court to continue the examination of his application and to award him non-pecuniary damages for the delayed execution of the judgment.

THE LAW

21. The applicant complained under Article 6 § 1 of the Convention that the judgment of the Administrative Court of 7 August 2012 was only partially enforced. He further complained of the delayed execution of the judgment in question, which had caused him significant inconvenience.

Article 6 § 1 of the Convention, in so far as relevant, provides:

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

22. Having regard to the general principles established in its case-law as regards the enforcement of final domestic courts' decisions (see *Hornsby v. Greece*, 19 March 1997, § 40, *Reports of Judgments and Decisions* 1997-II; *Burdov v. Russia*, no. 59498/00, § 34, ECHR 2002-III), the Court considers that the complaint should be declared inadmissible as manifestly ill-founded for the reasons set out below.

23. The Court notes that in accordance with the writ of execution issued by the Administrative Court on 24 January 2013, the Ministry of Defence was under an obligation to recalculate the applicant's pension taking into account the years of his service outside the military and make two lump-sum payments to him: one in the amount of pension not paid to him following the letter of 18 July 2007 and another one in the amount of pension underpaid to him as a result of not taking into account his career outside the military (see paragraph 12 above). The enforcement of the judgment of 7 August 2012 was terminated on the ground that the relevant payments due to the applicant according to the writ of execution had been made by the Ministry of Defence.

24. The Court further notes that the applicant subsequently challenged the decision to terminate the enforcement proceedings before the Administrative Court, claiming that the judgment in his favour had not been properly executed. However, the applicant's representative, acting upon the power of attorney issued by him, withdrew his claim on the ground that the Ministry of Defence had corrected the miscalculations of the amounts due to the applicant.

25. In the circumstances where the amounts of unpaid pension due to the applicant according to the writ of the execution had been redeemed by the Ministry of Defence and the applicant himself renounced his claim whereby he sought to dispute the manner in which the judgment in his favour had been enforced, the Court considers that the complaint concerning the non-enforcement of the judgment should be declared inadmissible as manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

26. As regards the subsequent complaint concerning the length of the enforcement proceedings, the Court notes that this complaint was introduced by the applicant on 20 July 2016, whereas the judgment debt had been enforced at the latest by 3 November 2015, the date on which the applicant's representative lodged a written request with the Administrative Court asking for the examination of the applicant's claim to be discontinued on the ground that the Ministry of Defence had corrected the miscalculations.

27. It follows that this complaint was introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.Done in English and notified in writing on 8 December 2016.

Renata Degener	Ledi Bianku
Deputy Registrar	President