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

FIFTH SECTION

DECISION

Application no. 43655/09
Gia PATARIDZE and others
against Georgia

The European Court of Human Rights (Fifth Section), sitting on 19 September 2017 as a Committee composed of:

Síofra O'Leary, *President,*
Nona Tsotsoria,
Lətif Hüseynov, *judges,*

and Anne-Marie Dougin, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 30 July 2009,

Having regard to the declarations submitted by the respondent Government on 30 June 2016, 26 October and 10 May 2017, requesting the Court to strike the application out of the list of cases, and the applicants' replies to those declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. A list of the applicants is set out in the appendix. They are all Georgian nationals and live in Tbilisi.

2. The Georgian Government ("the Government") were successively represented by their Acting Agent, Ms Sh. Mezurnishvili, and their Agent, Mr B. Dzamashvili, of the Ministry of Justice.

3. All three applicants complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 about a delay in the enforcement of a final court decision of 27 February 2006 ordering their reinstatement to jobs at the Ministry of Finance and payment of salary arrears. The periods of delay in question varied, depending on the applicants' particular situations, from between one year and seven months to two years and six months.

4. On 2 March 2016 notice of the application was given to the Government.

THE LAW

A. As regards the first and second applicants

5. After a failure of attempts to reach a friendly settlement, by letters of 24 October 2016 and 10 May 2017, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the complaints made by the first and second applicants (Mr G. Pataridze and Mr O. Jintcharadze). They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

6. To that end, the Government first acknowledged a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. To remedy the situation, the Government further undertook to pay the first and second applicants EUR 4,000 (four thousand euros) each. The Government specified that these sums will be converted into the national currency at the rate applicable on the date of payment, and will be free of any taxes that may be applicable and payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay these sums within the said three-month period, the Government undertook to pay simple interest on it, from the 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.

7. By letters of 26 February and 14 June 2017, the first and second applicants indicated that they were not satisfied with the terms of the unilateral declaration on the ground of insufficiency of the proposed amount of compensation.

8. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular 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".

9. It also reiterates that in certain circumstances, 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 applicants wish the examination of the case to be continued.

10. To this end, the Court has examined the declaration in the light of the principles established in its case-law (see, in particular, *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *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).

11. The Court has established in a number of cases, including those brought against Georgia, its practice concerning complaints about the non-enforcement or delayed enforcement of final court decisions (see, amongst many other authorities, *Burdov v. Russia*, no. 59498/00, §§ 33-42, ECHR 2002-III, and *Amat-G Ltd and Mebaghishvili v. Georgia*, no. 2507/03, §§ 45-63, ECHR 2005-VIII).

12. 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)).

13. 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 (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

B. As regards the third applicant

14. By letters of 30 June 2016 and 26 February 2017, the third applicant (Mr Z. Tordia) and the Government informed the Court that they had reached an appropriate arrangement between themselves. In particular, the former agreed to withdraw all his claims against the Government in exchange for the latter's undertaking to pay him 2,500 Euros (two thousand five hundred euros) in respect of any pecuniary and non-pecuniary damages, costs and expenses.

15. In the relevant declaration submitted to the Court for approval, the Government specified that the above sum will be converted into the national currency at the rate applicable on the date of payment, and will be free of any taxes that may be applicable and payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay these sums within the said three-month period, the Government undertook to pay simple interest on it, from the 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.

16. The Court considers that the matter with respect to the third applicant has been resolved within the meaning of Article 37 § 1 (b) of the Convention.

C. Conclusion

17. 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*).

18. 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 as regards the complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 lodged by the first and second applicants (Mr G. Pataridze and Mr O. Jintcharadze) and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike a part of the application, notably the complaints lodged by the first and second applicants (Mr G. Pataridze and Mr O. Jintcharadze), out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Decides to strike the remainder of the application under Article 37 § 1 (b) of the Convention.

Done in English and notified in writing on 12 October 2017.

Anne-Marie Dougin
Acting Deputy Registrar

Síofra O'Leary
President

APPENDIX

The applicants are all Georgian nationals who live in Tbilisi.

1. Mr Gia PATARIDZE ("the first applicant") was born in 1964.
2. Mr Omar JINTCHARADZE ("the second applicant") was born in 1949.
3. Mr Zurab TORDIA ("the third applicant") was born in 1953.