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

FIFTH SECTION

DECISION

Application no. 43486/07
Avtandil SHARADZENIDZE
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 17 September 2007,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS AND PROCEDURE

1. The applicant, Mr Avtandil Sharadzenidze, is a Georgian national, who was born in 1947 and lives in Tbilisi.

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

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

A. As the case stood prior to its communication

4. By virtue of a judgment of the Tbilisi City Court dated 22 May 2006, a formerly State-owned company ("the respondent company") was ordered to pay the applicant 17,100 Georgian Laris (GEL) (approximately 6,900 euros (EUR)).

5. As of 9 July 2007, when the Tbilisi City Court issued a writ for execution, the judgment of 22 May 2006 became enforceable.

6. Relying on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, the applicant complained about his inability to retrieve the judgment debt from the respondent company on account of the enforcement authority's inactivity.

B. Additional circumstances of the case disclosed by the parties' observations

7. On 24 August 2015 notice of the application was given to the Government.

8. The Government submitted documentation which showed that the delay in the retrieval of the judgment debt had been conditioned by the insolvency procedure initiated against the respondent company back in 2006. The applicant had been duly aware of all the progresses made in those insolvency proceedings, and he had received in 2008 official indications that his judgment debt could not be discharged earlier than 2012 due to a high number of creditors preceding him in the relevant waiting list. He had never objected to the suggested payment plan at the domestic level. Subsequently, on 14 December 2012 the applicant had received the first instalment representing approximately 28% of the judgment debt. The remaining amount had been credited onto his account on 4 December 2013. Thus, it was by the latter date that the applicant had received the judgment debt of EUR 6,900 in its entirety.

THE LAW

9. The Government submitted that the application was abusive since the applicant had concealed from the Court the information concerning, firstly, his tacit acceptance of the payment plan proposed in relation to the then on-going insolvency proceedings and, secondly and most importantly, the fact of the retrieval of the judgment debt by 4 December 2013 in its entirety (see paragraph 8 above).

10. The applicant did not dispute that the judgment debt had been discharged in the circumstances described by the Government (see paragraph 8 above). As to his omission to keep the Court informed of the important factual developments, he submitted that he had not been aware of such an obligation towards the Court.

11. The Government commented that the applicant had failed to give a justifiable excuse for his omission to keep the Court informed of the facts of crucial importance for the case at stake.

12. The Court reiterates that incomplete and therefore misleading information may amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see, for instance, *Hadrabova v. the Czech Republic* (dec.), nos. 42165/02 and 466/03, 25 September 2007).

13. In line with the Government's argument, the Court notes that the applicant failed to give a valid explanation for his failure to inform the Court of the fact that he had been aware of and acceptant to the existence of the payment plan for his judgment debt, and that, most importantly, he had received the judgment debt, in accordance with that plan, by 4 December 2013 in its entirety. All those facts took place well before the communication of the present case to the Government. Having regard to the importance of that information for the proper determination of the present case, the Court, drawing parallels with similar cases examined by it in the past, finds that the either deliberate or negligent conduct of the applicant was contrary to the purpose of his right of individual petition as provided for in Article 34 of the Convention (compare, amongst many other authorities, with *Lozinschi v. Moldova* (dec.), no. 33052/05, 4 November 2008; *Khvichia v. Georgia* (dec.), no. 26446/06, 23 June 2009; *Pirtskhalaishvili v. Georgia* (dec.), no. 44328/05, 29 April 2010; *Jovanović v. Serbia* (dec.) [Committee], no. 40348/08, 7 March 2014, and also *Stojnić v. Bosnia and Herzegovina* (dec.), no. 24652/09, 6 October 2015).

14. The application must accordingly be rejected as abusive, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

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

Anne-Marie Dougin Acting Deputy Registrar	Síofra O'Leary President