

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

THIRD SECTION

DECISION

Application no. 15658/09
Tatyana Petrovna STOLYAROVA
against Russia

The European Court of Human Rights (Third Section), sitting on 28 June 2016 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 10 February 2009,

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

The applicant, Ms Tatyana Petrovna Stolyarova, is a Russian national, who was born in 1950 and lives in Voronezh. She was represented before the Court by Mr I. Sivoldayev, a lawyer practising in Voronezh.

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

A. The circumstances of the case

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

1. The civil proceedings concerning division of property

On 18 July 1996 the applicant brought proceedings on behalf of her incapable mother for partition of a house between the owners. The claim was accepted by the Kominternovskiy District Court of Voronezh ("the District Court").

On 17 November 1998 the District Court granted the applicant's claims.

On 17 February 2003 the Presidium of the Voronezh Regional Court ("the Regional Court") quashed the above decision by way of supervisory review and ordered a re-examination of the case.

On 30 May 2008 the District Court granted the applicant's claims in part.

On 11 September 2008 the decision was upheld on appeal.

2. The judgment of 28 April 2000 in the applicant's favour and its enforcement

On 28 April 2000 the District Court ordered the Voronezh regional administration to pay the applicant 7,126.97 Russian roubles (RUB) in child benefits arrears. The judgment became final on 9 May 2000.

On 2 November 2010 the judgment was enforced.

3. The proceedings under the Compensation Act

On 18 May 2010 the Registry of the Court informed the applicant of the new domestic remedy in respect of lengthy judicial proceedings and delayed enforcement of domestic judgments against the State (see the section Relevant Domestic Law below), advising her to make use of it within the six-month time-limit set by the Compensation Act.

By a letter of 1 July 2010 the applicant informed the Court that she had availed herself of the new remedy.

(a) The applicant's claim for compensation in respect of lengthy non-enforcement of the judgment of 28 April 2000

On 20 May 2010 the Regional Court returned the application back to the applicant as being lodged out of time. It considered that the application should have been introduced within six months from the date on which the enforcement proceedings were terminated. The court further noted that the applicant had not asked for an extension of the time-limit.

On 20 August 2010 this decision of the Regional Court was upheld by the Supreme Court of Russia.

(b) The applicant's claim for compensation in respect of excessive length of proceedings concerning division of property

On 19 January 2011 the Regional Court awarded the applicant RUB 100,000 (approximately 2,500 euros) as compensation for the lengthy civil proceedings concerning the property rights to a house. The Regional

Court took into account the period from 18 July 1996 to 11 September 2008 and excluded the time when the case was not pending before the domestic courts. Thus, the aggregate length of proceedings taken into account by the court amounted to seven years and eleven months. During this time the case was considered at three instances.

On 19 April 2011 this decision was upheld by the Supreme Court of Russia.

On 29 April 2011 the amount of compensation was transferred to the applicant's bank account.

B. Relevant domestic law

The relevant domestic law governing compensation for violation of the right to a trial within a reasonable time or right to enforcement of a judgment within a reasonable time ("the Compensation Act"), including the rules of jurisdiction and procedure, and the transitional provisions concerning individuals who complained to the Court about violation of such rights, is summarised in the Court's decisions *Fakhretdinov and Others v. Russia* (nos. 26716/09, 67576/09, 7698/10, §§ 11-16, 23 September 2010), and *Nagovitsyn and Nalgiyev v. Russia* (nos. 27451/09 and 60650/09, §§ 15-20, 23 September 2010).

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention of unreasonable length of the civil proceedings and under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention about the delayed enforcement of the judgment of 28 April 2000.

The applicant further complained that she did not have effective domestic remedies in respect of the excessive length of proceeding and the delayed enforcement of the judgment in her favour.

THE LAW

A. Alleged violation of Article 6 § 1 of the Convention on account of the length of proceedings

The Government submitted that having received on 29 April 2011 the compensation for the lengthy civil proceedings the applicant lost the victim status.

The applicant claimed that she remained a victim of the alleged violation, arguing that the compensation awarded by the Regional Court was not in line with the Court's practice in similar cases.

The Court notes that the applicant successfully used the Compensation Act under its transitional provisions. The domestic courts duly considered the case in line with the Convention criteria and found a violation of the applicant's right to have her case examined within a reasonable time. The Court further observes that the domestic courts' calculation of the overall length of proceedings in the applicant's case as well as the awarded compensation are in line with the Court's practice in similar cases (see *Palacheva v. Russia*, no. 39814/04, § 61, 19 June 2014, and *Fateyenkov and Others v. Russia*, nos. 44099/04, 3444/05, 6694/05, 7964/05, 31778/05, 37766/06, 2172/07, 36801/07, 21452/08, 8825/08, 18 February 2016). The awarded compensation was promptly paid to the applicant (see *Burdov v. Russia (no. 2)*, no. 33509/04, § 99, ECHR 2009).

The Court concludes that the authorities acknowledged the breach of the applicant's rights under the Convention and granted her adequate and sufficient redress. Accordingly, she may no longer claim to be a victim of the violation.

It follows that the application in this part must be rejected, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

B. Alleged violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention on account of delayed enforcement of the judgment of 28 April 2000

The Government submitted that the applicant had failed to use the new domestic remedy available under the Compensation Act.

The applicant maintained her complaint. She contested the procedural rules under the Compensation Act, in particular, the way the provisions about the time-limits for lodging an application were designed.

The Court observes that the application was lodged after the date of delivery of the pilot judgment *Burdov (no. 2)* (cited above) and the applicant was entitled to use the transitional provisions of the Compensation Act during six months after its entry into force. The Court notes that the applicant successfully availed herself of that opportunity as regards her length of proceedings claim.

However, as regards the length of enforcement claim the applicant did not show that she had lodged her application under the transitional provisions of the Compensation Act. Neither does it follow from the documents available in the case-file.

Thus, the complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

C. Alleged violation of Article 13 of the Convention

As to the applicant's complaints of lack of effective remedies, the Court reiterates that this provision applies only to those with an arguable claim under the Convention (see *Silver and Others v. the United Kingdom*, 25 March 1983, § 113, Series A no. 61). Given that the applicant's complaint about the length of proceedings is rejected due to the loss of the victim status and the complaint about delayed enforcement of the judgment of 28 April 2000 is rejected for non-exhaustion of domestic remedies, the complaints under Article 13 should be declared manifestly ill-founded and rejected under Article 35 §§ 3 and 4 of the Convention.

D. Other complaints

The applicant also raised additional complaints.

Having regard to all the material in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols in that part of the application. It follows that the application in this part must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 21 July 2016.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President