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

THIRD SECTION

DECISION

Application no. 34684/20
Andrey Ivanovich YEROKHIN
against Russia

The European Court of Human Rights (Third Section), sitting on 30 August 2022 as a Committee composed of:

Georgios A. Serghides*, President,*
Anja Seibert-Fohr*,*
Peeter Roosma*, judges,*
and Olga Chernishova, *Deputy Section Registrar*,

Having regard to the above application lodged on 16 June 2020,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The case concerns alleged failure of the authorities to secure enforcement of the judgment determining the applicant's contact with his son.

2. The applicant, Mr Andrey Ivanovich Yerokhin, is a Russian national, who was born in 1967 and lives in Shakhty.

3. The Russian Government ("the Government") were initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in this office, Mr M. Vinogradov.

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

5. In September 2013 the applicant married Ms D.Ye. The couple divorced in September 2016. They have two children: son I. born in August 2015 and daughter Ye. born in February 2017.

6. On 11 May 2017 the Shakhty City Court ("the City Court") determined the contact schedule between the applicant and his son I.: every Tuesday between 1 September and 15 May from 4 p.m. to 6 p.m. and between 16 May and 31 August – from 6 p.m. to 8 p.m., as well as every Sunday from 10 a.m.

to 5 p.m. The arrangement was put in place until the child's reaching the age of three on 24 August 2018. The judgment became final on 27 July 2017.

7. On 24 August 2017 the Shakhty City Bailiffs' Service instituted the enforcement proceedings. During the proceedings in question the applicant never applied for the presence of a bailiff during his meetings with the child.

8. On 23 January and 3 May 2018 the applicant applied to the Bailiffs' Service for the institution of administrative proceedings against D.Ye. on account of her having breached the contact arrangement on 21 January (the child was ill) and 3 May 2018 (nobody opened the door). According to the applicant, he received no reply.

9. On 29 January 2018 D.Ye. explained to the bailiff that on 21 January 2018 I. had been sick, of which she had informed the applicant by telephone. She provided the relevant medical certificate. On the same date the bailiff decided against the institution of administrative proceedings against D.Ye. on account of the above episode of non-enforcement.

10. On 19 June 2018 D.Ye. informed the bailiff that she and the applicant had reached an oral agreement, in accordance with which from 29 May to 3 June 2018 I. had been staying with the applicant, and from 3 June to 10 June 2018 – with her. I. had been further staying with the applicant since 10 June 2018, the latter breaching the agreement as to the boy's return to D.Ye. on 17 June 2018. The applicant did not contest that.

11. On 21 June 2018 D.Ye. informed the bailiff that she would be out of town from 22 June to 1 July 2018.

12. On 27 June 2018 the enforcement proceedings were discontinued. The applicant found out about this decision in November 2018.

13. On 28 June and 10 July the applicant applied to the Bailiffs' Service for granting him access to the enforcement material. According to the applicant, no reply followed.

14. In August 2018 D.Ye. together with the children moved to Krasnodar, and in July 2019 – to Bataysk, Rostov Region.

15. On 23 January 2019 the applicant challenged before the City Court the bailiff's decision of 27 June 2018 (see paragraph 12 above) and the bailiff's alleged failure to respond to his requests of 23 January, 3 May, 28 June and 10 July 2018 (see paragraphs 8 and 13 above).

16. On 30 January 2019 the City Court granted the applicant's claim in the part concerning the bailiff's failure to react to his request of 3 May 2018. As regards the remaining requests of 23 January, 28 June and 10 July 2018, the City Court held that bailiff Ch. had examined them on 29 January, 11 July and 23 July 2018, respectively, and sent relevant replies to the applicant, which was confirmed by the Bailiffs' Service's internal records of outgoing mail. As regards the discontinuation of the enforcement proceedings, the City Court held that, since the applicant had found out about the decision of 27 June 2018 in November 2018, he had missed the statutory time-limit for challenging its lawfulness before the court. In any event, between 27 June

and 24 August 2018 the applicant did not apply to the bailiff for assistance in his contacts with the child.

17. On 15 May 2019 the Rostov Regional Court ("the Regional Court") upheld the above judgment on appeal.

18. On 13 August 2019 a judge of the Regional Court refused to refer the applicant's cassation appeal to the Presidium of that court for examination.

19. A second cassation appeal by the applicant was rejected on 8 November 2019 by a judge of the Supreme Court of the Russian Federation.

20. After the expiration of the contact arrangement in August 2018 (see paragraph 6 above), the applicant did not apply to the court for the establishment of a new contact schedule or for the removal of any obstacles in his communication with his son. He never complained about D.Ye.'s hindering his contact with his daughter Ye. The applicant had no contact with his children between August 2018 and December 2019.

21. On 18 June 2021 D.Ye. informed the Government, in connection with the present application, that the applicant had contact with the children in December 2019, on unspecified date in spring 2020, in August 2020 and April 2021. He took no further initiatives to meet the children.

22. The applicant's complaint under Article 8 of the Convention about the failure of the domestic authorities to secure the applicant's contact with his son was communicated to the Government.

THE LAW

23. The Government submitted that the application was lodged outside the six-month time-limit under Article 35 § 1 of the Convention.

24. The Court does not consider it necessary to examine the objection raised by the Government, as the complaint is in any event inadmissible for the following reasons.

25. The Court reiterates that in cases concerning the implementation of the contact rights of one of the parents, Article 8 includes a parent's right to the taking of measures with a view to his being reunited with his child and an obligation on the national authorities to facilitate such reunion (see *Kacper Nowakowski v. Poland*, no. 32407/13, § 74, 10 January 2017, with further references). However, the State's obligation to facilitate the reunion between a parent and a child does not arise unless the issue of the alleged impossibility to implement contact rights in respect of the child is brought to the attention of the competent domestic authorities by one of the child's parents.

26. In the present case the enforcement proceedings were instituted at the applicant's request on 24 August 2017. At no point in the proceedings the applicant sought the bailiff's presence during his visits with his son.

27. It appears that on two occasions the child's mother had allegedly prevented the applicant's contact with the child – on 21 January and 3 May

2018 – following which the applicant sought the application of coercive measures against her and alleged to have received no reply from the bailiff. While the City Court acknowledged that the bailiff had indeed failed to react to the applicant's request of 3 May 2018, no omission on behalf of the bailiff was found in connection with the alleged incident of non-enforcement of 21 January 2018.

28. The applicant did not allege any further instances when the bailiff would fail to assist him in securing his contact with his son. His allegations regarding the failure of the bailiff to react to his requests for being granted access to the enforcement material proved to be unsubstantiated.

29. As to the bailiff's decision of 27 June 2018 to discontinue the enforcement proceedings, the City Court held that the applicant had failed to comply with the statutory time-limit for raising this issue before the domestic authorities. The applicant did not bring to the attention of the bailiff any alleged instance of D.Ye.'s failure to grant him access to the child in the period between the termination of the enforcement proceedings in June 2018 and the expiration of the contact schedule in August 2018 (see paragraph 16 above).

30. Aside from the contact arrangement established by the judgment of 11 May 2017 the applicant enjoyed additional contact with his son in accordance with his oral agreement with the child's mother (see paragraph 10 above).

31. Having regard to the foregoing, the Court considers that a single omission by the bailiff in handling the enforcement of the applicant's contact with his son does not amount to a breach of the State's positive obligation under Article 8 of the Convention to assist the applicant in securing contact with his son.

32. It follows that the complaint is manifestly ill-founded and must be rejected in accordance with 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 22 September 2022.

Olga Chernishova
Deputy Registrar

Georgios A. Serghides
President