



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

FIRST SECTION

DECISION

Application no. 9517/08

Raisa Mikhaylovna RODNISHCHEVA and Yefim Sergeyevich
RODNISHCHEV
against Russia

The European Court of Human Rights (First Section), sitting on 28 May 2013 as a Committee composed of:

Khanlar Hajiyev, *President*,

Julia Laffranque,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 26 May 2006,

Having regard to the decision to apply the pilot-judgment procedure taken in the case of *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009),

Having regard to the declaration submitted by the respondent Government on 26 April 2012 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

THE FACTS

The first applicant, Mrs Raisa Mikhaylovna Rodnishcheva, is a Russian national, born on 15 January 1941, who lives in Voronezh. The second applicant, Mr Yefim Sergeyevich Rodnishchev, was a Russian national, born on 14 April 1930, who also lived in Voronezh. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

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

The applicants sued the Committee of Social Protection of Population of the Administration of Levoberezhniy District of Voronezh for indexation of delayed pensions. On 8 September 2000, the Levoberezhniy District Court of Voronezh granted the applicants' claims. Mr Rodnishchev was awarded 1,213.27 Russian roubles (RUB) and Mrs Rodnishcheva was awarded RUB 1,179.92. The judgments became final and enforceable on 18 September 2000. On 2 December 2005, the applicants received the amounts awarded to them by the court. The delay in enforcement constituted 5 years 2 months.

COMPLAINTS

The applicants complained under Article 6 of the Convention and Article 1 of Protocol No. 1 about the delayed enforcement of the judgment in their favour.

THE LAW

A. The application of Mr Rodnishchev

On 14 December 2011 the Court gave notice of the application to the Government.

On 26 April 2012 the Government informed the Court that Mr Rodnishchev had died on 9 September 2006. They asked the Court to strike his application out of its list of cases and terminate the proceedings should his legal successor not join the proceedings.

On 15 May 2012 the Court wrote to the applicant's widow asking her to indicate if she wished to pursue the proceedings in respect of her late husband. No reply followed.

It has been the Court's practice to strike applications out of the list of cases under Article 37 § 1 of the Convention in the absence of any heir or close relative who has expressed the wish to pursue an application (see *Léger v. France* (striking out) [GC], no. 19324/02, § 44, 30 March 2009, with further references). From the developments set out above it appears that Mr Rodnishchev died in the course of the proceedings. No heirs or close relatives have expressed the wish to pursue the application on his behalf. As the Court finds no special circumstances regarding respect for human rights which require the continued examination of the case (contrast

Karner v. Austria, no. 40016/98, §§ 24-28, ECHR 2003-IX), it considers it appropriate to strike the application of Mr Rodnishchev out of its list of cases under Article 37 § 1 (c) of the Convention.

B. The application of Mrs Rodnishcheva

On 26 April 2012, in line with the *Burdov (no. 2)* pilot judgment cited above, the Government informed the Court of the payment of the domestic court award in favour of Mrs Rodnishcheva and submitted a unilateral declaration aimed at resolving the issues raised by her application. By this declaration the Russian authorities acknowledged the lengthy enforcement of the judgment in the applicant's favour. They also declared that they were ready to pay the applicant a sum of 2,900 euros as just satisfaction, plus any tax that may be chargeable on the amount. The remainder of the declaration read as follows:

“The authorities therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as “any other reason” justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.

The sum referred to above, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it from 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.

This payment will constitute the final resolution of the case.”

The applicant did not provide any comment on the unilateral declaration.

The Court recalls 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.”

Article 37 § 1 *in fine* states:

“However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.”

The Court recalls that in its pilot judgment cited above it ordered the Russian Federation to:

“... grant [adequate and sufficient] redress, within one year from the date on which the judgment [became] final, to all victims of non-payment or unreasonably delayed

payment by State authorities of a judgment debt in their favour who [had] lodged their applications with the Court before the delivery of the present judgment and whose applications [had been] communicated to the Government under Rule 54 § 2 (b) of the Rules of the Court.”

In the same judgment the Court also held that:

“... pending the adoption of the above measures, the Court [would] adjourn, for one year from the date on which the judgment [became] final, the proceedings in all cases concerning solely the non-enforcement and/or delayed enforcement of domestic judgments ordering monetary payments by the State authorities, without prejudice to the Court’s power at any moment to declare inadmissible any such case or to strike it out of its list following a friendly settlement between the parties or the resolution of the matter by other means in accordance with Articles 37 or 39 of the Convention.”

Having examined the terms of the Government’s declaration, the Court understands it as intending to give the applicant redress in line with the pilot judgment (see *Burdov (no. 2)*, cited above, §§ 127 and 145 and point 7 of the operative part).

The Court is satisfied that the excessive length of the execution of judgment in the applicant’s favour is explicitly acknowledged by the Government. It notes that the domestic judgment debt was paid to the applicant and that the compensation offered by the Government for non-pecuniary damage is comparable with Court awards in similar cases (see *Burdov (no. 2)*, cited above, §§ 99 and 154).

The Court therefore considers that it is no longer justified to continue the examination of the application, nor is it required by respect for human rights as defined in the Convention and the protocols thereto. Accordingly, the application should be struck out of the list.

As regards the question of implementation of the Government’s undertaking, the Committee of Ministers remains competent to supervise this matter in accordance with Article 46 of the Convention (see the Committee’s decisions of 14-15 September 2009 (CM/Del/Dec(2009)1065) and Interim Resolution CM/ResDH(2009)158 concerning the implementation of the *Burdov (no. 2)* judgment). In any event the Court’s present ruling is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the present application to the list of cases (see *E.G. and Others v. Poland (dec.)*, no. 50425/99, § 29, ECHR 2008 (extracts)).

For these reasons, the Court unanimously

Decides to strike the application in respect of late Mr Rodnishchev out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application in respect of Mrs Rodnischcheva out of its list of cases in accordance with Article 37 § 1 (c) of the Convention on the basis of the unilateral declaration.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President