



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

FIRST SECTION

DECISION

Application no. 26975/02
Veniamin Mikhaylovich SUMAROKOV
against Russia

The European Court of Human Rights (First Section), sitting on 26 November 2013 as a Committee composed of:

Khanlar Hajiyeu, *President*,

Julia Laffranque,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 21 May 2002,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Veniamin Mikhaylovich Sumarokov, was a Russian national who was born in 1943 and lived in Kirov. He was represented before the Court by Mr N.V. Plyusnin, a lawyer practising in Kirov. On 25 March 2010 Ms Nina Afanasyevna Sumarokova, the applicant's widow, informed the Court that on an unspecified date the applicant had passed away. The Russian Government ("the Government") are represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

A. Application as submitted by the applicant

In 2001 the applicant, a journalist, published five articles in a local newspaper criticising the governor of the Kirov Region. By the final judgment of 20 December 2001 the Kirov Regional Court found the applicant to be liable for dissemination of untrue information about the governor. The applicant complained under Article 10 that the State authorities had interfered with his right to freedom of expression and that

this inference had not been prescribed by law and had not been necessary in a democratic society.

On 29 December 2006 the applicant had passed away. The Court was not informed thereof at that point.

On 7 May 2008 the complaint under Article 10 was communicated to the Government, who submitted their observations on the admissibility and merits.

B. Correspondence with the applicant's representative

The Government's observations were forwarded to the applicant's representative, who was invited to submit his observations. No reply was received to the Registry's letter. By letter dated 26 January 2009 sent by registered post, the applicant's representative was notified that the period allowed for submission of the applicant's observations had expired on 19 November 2008 and that no extension of time had been requested. The applicant's representative's attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. The applicant's representative received this letter on 9 February 2009. However, no response has been received.

C. Correspondence with the applicant's widow

On 25 March 2010 the applicant's widow informed the Court that the applicant, her husband, had passed away and stated, without further details, that the Court "had been informed thereof in 2007". The Court did not receive any such letter, neither from the representative nor from any other next-t-kin, including the widow.

Those submissions were sent to the Government who made further comments in reply, objecting to the applicant's widow's standing and requesting to strike the application out from the Court's list of cases. In the meantime, by a letter dated 13 April 2010 the Court requested the applicant's widow to submit, by 18 May 2010, a copy of her letter of unspecified date of 2007 informing the Court of the applicant's death. By the same letter the Court's communication letter and the Government's observations had been sent to her in case she had not received them. The applicant's widow has never provided a reply to the Court's request.

THE LAW

The Court notes that the representative appointed by the applicant had timeously received the correspondence in the case but have never replied to it despite the strike-out warnings. On the other hand, the Court notes that by her letter of 25 March 2010 the applicant's widow may be understood to express her intention to maintain the case in her late husband's stead and a wish to present the case herself.

The Court notes the Government's objection as regards the applicant's widow's lack of the legitimate interest in pursuing the application. The Court reiterates that it has to consider whether or not the persons wishing to pursue the proceedings were the applicant's close relatives. Moreover, as a second criterion, the Court has to examine whether the rights concerned were transferable (see, *mutatis mutandis*, *Vääri v. Estonia* (dec.), no. 8702/04, 8 July 2008, and *Stankevich v. Ukraine* (dec.), no. 48814/07, 26 May 2009). It is for the heir who wishes to pursue the proceedings before the Court to substantiate his or her standing to do so (see, for example, *Belskiy v. Russia* (dec.), no. 23593/03, 26 November 2009). The Court notes that the applicant's widow has never provided the Court with any minimum documents, such as the death certificate in respect of the applicant, or a marriage certificate, in support of her letter. Further, in the absence of any evidence of the contrary, the Court does not lose sight of the fact that she only informed the Court of the developments in the case in 2010, that is at least three years after the applicant had passed away. Therefore, the Court considers that she failed to substantiate her standing to pursue the case in her late husband's stead (see, *mutatis mutandis*, *Belskiy*, cited above).

In any event, even assuming that the applicant's widow did have standing to maintain the case, the application should be struck out of the list for the following reason. The Court notes that on 13 April 2010 the applicant's widow was requested to submit a copy of the letter, sent at some point in 2007 by an unspecified person, informing the Court of the applicant's death. However, she has not replied to the Court's letter by 18 May 2010, as requested, and did not apply for an extension of that time-limit. Otherwise, she has not sent any correspondence to the Court since 25 March 2010.

The Court considers that, in these circumstances, the applicant's widow may be regarded as no longer wishing to pursue the application in her late husband's stead, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President