



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

FIRST SECTION

DECISION

Application no. 5257/06
Vladimir Vasilyevich KODENTSOV against Russia
and 2 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 6 May 2014 as a Committee composed of:

Mirjana Lazarova Trajkovska, *President*,

Linos-Alexandre Sicilianos,

Ksenija Turković, *judges*,

and André Wampach, *Deputy Section Registrar*,

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

Having regard to the above applications lodged on the dates shown in the Annex,

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

Having deliberated, decides as follows:

THE FACTS

The applicants are three Russian nationals, whose names, dates of birth and places of residence are shown in the Appendix.

The Russian Government (“the Government”) were represented by their Agent, Mr Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

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

The two first applicants are victims of the Chernobyl nuclear disaster. Under domestic law they were entitled to social security benefits. Because the authorities had failed to pay the benefits in full or in time, the applicants sought relief through the domestic courts. The courts found for the

applicants, the judgments became binding, but their full enforcement was delayed. Details of the judgments are shown in the Appendix.

The third applicant was awarded his legal costs to be paid by the Department of Culture for Volzhskiy. Details of the judgment are shown in the Appendix.

COMPLAINTS

The applicants complained that by reason of the delayed enforcement of the judgments in their favour, their rights under Article 6 of the Convention and Article 1 of Protocol No. 1 had been violated.

One of the applicants also complained that the State had failed in its obligation to increase monthly compensation payments in line with inflation. On account of this failure, the applicant had to seek an adjustment of his compensation through the domestic courts.

THE LAW

The Court will examine the complaints regarding the delayed enforcement of the judgments and the State's failure to adjust the compensation payments in line with inflation under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, the relevant parts of which read as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

Article 1 of Protocol No. 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

The Court reiterates at the outset that as from 4 May 2009, the date on which the pilot judgment in *Burdov (no. 2)* (cited above) became final, it adjourned the adversarial proceedings on all applications lodged with the Court in which the applicants complained of non-enforcement or delayed

enforcement of domestic judgments ordering monetary payments by State authorities pending the adoption of domestic remedial measures. However, such adjournment is without prejudice to the Court's power at any moment to declare inadmissible any such case (*ibid.*, § 146).

The Court also notes that the present cases were communicated to the respondent State on 7 September 2012 with a view to their settlement in line with the above-mentioned pilot judgment. The Government argued in response, however, that the complaints were inadmissible because the domestic judgments had been enforced within a reasonable time.

The applicants maintained their complaints.

The Court reiterates that an unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III). To decide if the delay was reasonable, it will first look at the time it took the authorities to execute the judgment, the complexity of the enforcement proceedings, the conduct of the applicant and the authorities, and the nature of the award (see *Raylyan v. Russia*, no. 22000/03, § 31, 15 February 2007).

In the present applications, the period of enforcement was less than a year. Having regard to this fact and the Court's case-law in similar cases, and taking into account the other circumstances of the present cases, the Court considers that this period did not fall short of the requirements of the Convention (see, for example, *Belkin and Others v. Russia* (dec.), nos. 14330/07 et al., 5 February 2009).

In relation to the complaint regarding the State's failure to adjust compensation payments in line with inflation, the Court observes that the domestic judgments awarding compensation did not indicate any specific method for adjustment but rather placed a general obligation on the domestic authorities to increase monthly payments in line with inflation. In the event of a dispute arising out of the scope of that obligation or the manner of its discharge, it was open to the applicant to seek a judicial determination of the matter. However, such proceedings would result in a separate award which would obviously fall outside the scope of the present case (see *Aleksentseva and Others v. Russia*, nos. 75025/01 et al., § 23, 17 January 2008).

It follows that the complaints regarding the delayed enforcement of the judgments and the State's failure to adjust the compensation payments in line with inflation are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

In application no. 9303/07 the applicant also made other complaints, relying on various Articles of the Convention.

However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that these parts of the applications are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Declares the applications inadmissible.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Judgment of	Binding on	Enforced on	Period
1.	5257/06	23/11/2005	Vladimir Vasilyevich KODENTSOV 11/12/1949 Belaya Kalitva	03/04/2006 Belokalitvinskiy Town Court	14/04/2006	18/12/2006	9 months
				01/11/2006 Belokalitvinskiy Town Court	25/12/2006	03/12/2007	11 months
2.	22644/06	23/03/2006	Vasiliy Ivanovich TSUKANOV 04/01/1950 Gorodovikovsk	26/01/2007 Gorodovikovskiy District Court of the Kalmyk Republic	15/03/2007	unspecified date in September 2007	5 months
				03/04/2007 Gorodovikovskiy District Court of the Kalmyk Republic	05/06/2008	unspecified date in December 2008	7 months
3.	9303/07	12/01/2007	Lidiya Vasilyevna TIMOSHINA 14/07/1939 Volgograd	08/02/2005 Justice of the Peace of the 64 th Court Circuit of Volzhskiy	31/05/2005	13/10/2005	5 months