



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

FIRST SECTION

DECISION

Applications nos. 7559/06 and 23446/07
Nikolay Vasilyevich KALININ against Russia
and Pavel Aleksandrovich DEREVSHCHIKOV against Russia

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

Khanlar Hajiyeu, *President*,

Erik Møse,

Dmitry Dedov, *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 10 January 2006 and 15 May 2007 respectively,

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 applicant in the first case, Mr Nikolay Vasilyevich Kalinin, is a Russian national born in 1932 and living in Fryazino, near Moscow.

The applicant in the second case, Mr Derevshchikov Pavel Aleksandrovich, was born on 22 February 1982 and lives in Bryansk. He was represented before the Court by Mr V.V. Sharovarin, a lawyer practising in Bryansk.

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 first applicant is a pensioner. He sued the Pension Fund of the Russian Federation (PFR) for Fryazino for refusing to pay him the pension

benefits that were due to him and compensation. By a judgment of 5 June 2001 the Shchelkovo Town Court of the Moscow Region granted the applicant's claim in part. He was awarded as from 1 June 2001 a monthly pension and a lump sum of 5,391.35 Russian roubles (RUB) in respect of the arrears. On 28 June 2001 the judgment was amended on appeal before the Moscow Regional Court and became final and enforceable. It was executed on 23 October 2001.

The second applicant applied to the Administration of Internal Affairs for the Bryansk Region for a veteran certificate entitling him to certain social security benefits. The certificate was given to the applicant during the hearing but the Administration refused to pay him compensation. By a judgment of 28 November 2005 the Sovetskiy District Court of Bryansk awarded him compensation of RUB 1,100 per month. On 28 December 2006 the judgment was upheld by the Bryansk Regional Court and became final and enforceable. It was executed on 17 September 2007.

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.

The first applicant also complained that the State had failed in its obligation to increase monthly compensation payments in line with inflation.

THE LAW

Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and examine them in a single decision.

The Court will examine the complaints regarding the delayed enforcement of the judgments and the State's alleged 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 14 December 2011 and 14 January 2013 respectively 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. Thus, as regards the first applicant, the judgment of 5 June 2001 became final on 28 June 2001 and was executed on 23 October 2001, within four months. As to his complaint regarding an erroneous calculation of his pension, the Government insisted that their calculations had been correct. As regards the second applicant, the judgment of 28 November 2005 became final on 28 December 2006. It was executed on 17 September 2007, within less than nine months.

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 raised by the applicants regarding the delayed enforcement of the judgments and the State's alleged 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.

The applicants also made other complaints, relying on Article 6 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.

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

Khanlar Hajiyev
President