



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

FIRST SECTION

DECISION

Application no. 20009/07
Lev Borisovich YURYEV
against Russia

The European Court of Human Rights (First Section), sitting on 1 July 2014 as a Committee composed of:

Khanlar Hajiyev, *President*,

Erik Møse,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 6 April 2007,

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 28 August 2013 requesting the Court to strike the application out of the list of cases and the applicant's reply to this declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Lev Borisovich Yuryev, was a Russian national, who was born in 1938 and lived in Voronezh. The applicant died on 26 December 2011. By a letter of 11 February 2013 his daughter Ms Natalya Skladchikova informed of her intent to pursue the proceedings before the Court. Ms Skladchikova is represented by I.V. Sivoldayev, a lawyer practicing 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 application was lodged with the Court before 15 January 2009, the date of the delivery of the pilot judgment (*Burdov (no. 2)*, cited above).

The facts of the cases, as submitted by the parties, may be summarised as follows. On 4 December 2000 the Levoberezhniy District Court of Voronezh took a decision in favour of the applicant and his wife (Mrs Galina Yurievna Yuryeva). The applicant was awarded 1,1145.70 Russian roubles (RUB) and his wife was awarded RUB 960.70 as pension allocations. The decision became final on 15 December 2000. It was enforced in the part related to payments to the applicant on 22 December 2005. After the death of his wife on 29 July 2005, the applicant pursued the enforcement proceedings on her behalf. The decision in the part related to the payments to Mrs Yuryeva was enforced on 22 February 2007.

COMPLAINTS

The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 about the delayed enforcement of the judgment in favour of Mrs Yuryeva.

He also made a complaint under Article 6 of the Convention and Article 1 of Protocol No. 1 about the delayed enforcement of the same judgment in his favour.

THE LAW

In line with the *Burdov (no. 2)* pilot judgment, cited above, the Government informed the Court that the domestic court decision had been enforced and submitted a unilateral declaration aimed at resolving the issue of delayed enforcement. By this declaration the Russian authorities acknowledged the lengthy enforcement of the judgment in favour of Mrs Yuryeva. They also declared that they were ready to pay the applicant 3,468 euros for 6 years 2 months and 7 days of delay in enforcement of the judgment in respect of non-pecuniary damages. The remainder of the declaration read as follows:

“The authorities therefore invite the Court to strike the application 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 ..., 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’s successor disagreed on the ground that the compensation amount offered by the Government was insufficient. 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 (point 7 of the operative part) 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 (point 8 of the operative part):

“... 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 them 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 the judgment in favour of the applicant’s wife is explicitly acknowledged by the Government. The Court also notes that the domestic judgment debt was paid to the applicant and that the compensation offered by the Government for non-pecuniary damage are comparable with Court awards in similar cases, taking account, *inter alia*, of the delays in the particular case (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 for the applicant's complaint of the delayed enforcement of the judgment in his favour, the Court reiterates that in cases of non-enforcement six months run from the date of execution of the judgment (see, among many others, *Gorokhov and Rusyayev v. Russia*, no. 38305/02, § 27, 17 March 2005). It is not disputed that the judgment of 4 December 2000 was fully enforced on 22 December 2005. However, the applicant only lodged his application with the Court on 6 April 2007, which is more than six months from the enforcement date. It follows that the complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

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 part of the application concerning the applicant's complaint about the delayed enforcement of the judgment in favour of Mrs Yuryeva out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the application inadmissible.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President