



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

FIRST SECTION

DECISION

Application no. 36932/05
Sergey Borisovich ZUYEV against Russia
and 2 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 14 February 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Khanlar Hajiyev,

Julia Laffranque, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above applications,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases and the applicants' replies to those declarations,

Having deliberated, decides as follows:

THE FACTS

The applicants are Russian nationals whose names and dates of birth are tabulated in the appendix. Mr Zuyev was represented before the Court by Mr S. Martemyanov, a lawyer practising in Shakhty, Rostov Region. 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 cases, as submitted by the parties, may be summarised as follows.

Mr Zuyev and Ms Taranova were parties to civil proceedings. The proceedings concerning Mr Zuyev lasted from 16 June 2001 to 18 May 2005, that is approximately three years and eleven months at two levels of jurisdiction. The proceedings concerning Ms Taranova lasted from 7 May 1998 to 10 August 2005, that is approximately seven years and three months at two levels of jurisdiction.

On an unspecified date in April 2000 Mr Tuyeв was charged with aggravated rape. By a judgment of the Obninsk Town Court of the Kaluga Region of 22 August 2000 he was acquitted of his charges. On 6 December 2000 the Presidium of the Kaluga Regional Court reversed his acquittal in supervisory review and remitted the case to the first instance. He was finally convicted of rape on 23 June 2005, as upheld on appeal on 19 August 2005. Accordingly, the criminal proceedings against him lasted approximately five years and one month at two levels of jurisdiction.

COMPLAINTS

The applicants complained about the length of the proceedings in their cases.

Mr Tuyeв additionally complained under Article 6 of a biased court, his absence at the supervisory instance's hearing and the court's failure to notify him in due time of the prosecutor's application for supervisory review, to summon attesting witnesses and to let him study the case-file after the prosecutor's amendment of the bill of indictment, as well as late serving of the final version of the bill of indictment. He also complained under Article 4 of Protocol No. 7 that he had been tried twice on the same charges in violation of the invoked provision.

Ms Taranova also complained under Article 6 and Article 1 of Protocol No. 1 about the outcome of the proceedings.

Mr Zuyev additionally invoked Article 14 of the Convention without specifying his complaint.

THE LAW

I. JOINDER OF APPLICATIONS

Given that the applications at hand concern similar complaints and raise identical issues under the Convention, the Court decides to consider them in a single decision.

II. COMPLAINT OF UNREASONABLE LENGTH OF THE PROCEEDINGS

The applicants complained about excessive length of the proceedings in their cases. They relied on Article 6 § 1 of the Convention which, in so far as relevant, provides as follows:

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

or

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

The Government submitted unilateral declarations aimed at resolving this issue. By these declarations the Russian authorities acknowledged explicitly or in substance that the length of the proceedings in the applicants' cases had not complied with the “reasonable time” requirement set down in Article 6 of the Convention. They also declared that they were ready to pay the applicants the sums tabulated in the appendix. The remainder of the declarations read as follows:

“The authorities therefore invite the Court to strike [the applications] 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 [sums tabulated below], which [are] to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. [They] 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 [these sums] within the said three-month period, the Government undertake to pay simple interest on [them] 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.”

Mr Zuyev did not submit any comments on the Government's unilateral declaration. Mr Zuyev and Ms Taranova disagreed with the Government's suggestion to strike their cases out, insisting on examination of the rest of their complaints.

The Court reiterates that under Article 37 of the Convention it may at any stage of the proceedings strike an application out of its list of cases where the circumstances lead to the conclusions specified under (a), (b), or (c) 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.”

To this end, the Court will examine carefully the declarations in the light of the principles emerging from its case-law.

The Court is satisfied that the excessive length of the proceedings in the applicants' cases is acknowledged by the Government. The Court also notes that the compensations offered are comparable with Court awards in similar cases, taking account, *inter alia*, of the specific delays in the proceedings in each particular case. The Court therefore considers that it is no longer justified to continue the examination of this complaint.

As to whether the respect for human rights as defined in the Convention and the protocols thereto requires the Court to continue the examination of the present applications, it notes that the Convention organs have consistently interpreted Articles 37 and 38 of the Convention as compelling them to continue the examination of a case, notwithstanding its settlement by the parties or the existence of any other ground for striking the case out of its list. A further examination of a case was thus found to be necessary when it raised questions of a general character affecting the observance of the Convention (see *Tyrer v. the United Kingdom*, no. 5856/72, Commission's report of 14 December 1976, Series B 24, p. 2, § 2).

Such questions of a general character would arise, for example, where there is a need to clarify the States' obligations under the Convention or to induce the respondent State to resolve a structural deficiency affecting other persons in the same position as the applicant. The Court has thus been frequently led, under Articles 37 and 38, to verify that the general problem raised by the case had been or was being remedied and that similar legal issues had been resolved by the Court in other cases (see, among many others, *Can v. Austria*, 30 September 1985, §§ 15-18, Series A no. 96, and *Léger v. France* (striking out) [GC], no. 19324/02, § 51, 30 March 2009).

The Court does not see any compelling reason of public order to warrant examination of the present applications on the merits. Firstly, the Court has on numerous occasions determined issues analogous to those arising in the instant cases and ascertained in great detail the States' obligations under the Convention in that respect (see, among many others, *Kudła v. Poland* [GC],

no. 30210/96, §§ 131 and 160, ECHR 2000-XI; *Kormacheva v. Russia*, no. 53084/99, §§ 57 and 64, 29 January 2004). Secondly, on 4 May 2010 the Russian authorities introduced a new domestic remedy against unreasonable length of court proceedings, which was deemed *prima facie* effective by the Court and now requires to be exhausted (see *Fakhretdinov and Others v. Russia* (dec.), no. 26716/09, 23 September 2010). As a consequence, an examination on the merits of the present complaint would not bring any new element in this regard.

Accordingly, in so far as the complaint about the length of proceedings is concerned, the applications should be struck out of the list.

III. OTHER COMPLAINTS

The Court has considered the remaining complaints as submitted by the applicants. 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 the application in this part is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

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

Decides to join the applications;

Decides to strike the applications in the part concerning the complaint of unreasonable length of the proceedings out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the applications inadmissible.

André Wampach
Deputy Registrar

Peer Lorenzen
President

APPENDIX

No	Application No	Lodged on	Applicant's name and date of birth	Compensation offered (euros)
1.	36932/05	06/09/2005	Sergey Borisovich ZUYEV 12/05/1961	1,500
2.	43716/05	09/11/2005	Vera Andreyevna TARANOVA 27/07/1939	3,000
3.	11718/06	17/02/2006	Aleksandr Vladimirovich TUYEV 31/10/1968	2,400