



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

THIRD SECTION

CASE OF MAYMAGO AND OTHERS v. RUSSIA

(Applications nos. 56354/07 and 2 others – see appended list)

JUDGMENT

STRASBOURG

22 June 2021

This judgment is final but it may be subject to editorial revision.

In the case of Maymago and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Georgios A. Serghides, *President*,

María Elósegui,

Andreas Zünd, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 56354/07, 66556/11 and 35736/12) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Russian nationals (“the applicants”) on the various dates indicated in the appended table;

the decision to give notice to the Russian Government (“the Government”) of the complaints concerning the right to stand for election and to declare inadmissible the remainder of the applications;

the parties’ observations;

the decision to reject the Government’s objection to examination of the applications by a Committee;

Having deliberated in private on 1 June 2021,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. This case concerns the applicants’ allegations of a breach of their respective right to stand for election on account of annulment of their candidacy registrations for election to the respective legislative assemblies of three constituent subjects of the Russian Federation. The decision-making process of the domestic courts examining the applicants’ appeals against the annulments decisions was not accompanied by adequate and sufficient safeguards against arbitrariness.

THE FACTS

2. The applicants’ personal details are indicated in the appended table.

3. The Government were represented by Mr M. Galperin, Representative of the Russian Federation to the European Court of Human Rights.

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

I. APPLICATION No. 56354/07

5. Mr Maymago (“the first applicant”) stood for the election of the Krasnoyarsk Regional Legislative Assembly (“the Krasnoyarsk LA”) to be

held on 15 April 2007. His candidacy was registered by the Precinct Electoral Commission (PEC) (*участковая избирательная комиссия (УИК)*) of precinct no. 23 on 14 February 2007.

6. On 9 and 10 March 2007 the applicant, three other individuals registered as candidates for the election to the Krasnoyarsk LA in constituencies other than that of the first applicant, and their staff visited the villages of Khatanga and Dudinka, respectively, where they held a meeting with residents, in the course of which the four men spoke complimentary of each other's qualities. Immediately after the meetings, a music band from Krasnoyarsk called "Yakhont" gave free-of-charge concerts under the headline "'Yakhont' against drugs". The band members did not say anything to support the candidacy of Mr Maymago in the course of their performances.

7. Mr Ts., another candidate to the Krasnoyarsk LA election registered in constituency no. 23, lodged a complaint with the PEC of constituency no. 23 arguing that Mr Maymago had spent more than 5% of his statutory electoral fund on campaigning (*«предвыборная агитация»*) even though the domestic law set a 5% limit for such expenses. He referred to the cost of train and plane tickets to Dudinka for eleven persons and to the costs of the concert of the Yakhont band. Mr Ts. did not provide any proof to the fact that the money from Mr Maymago's electoral fund had been used to pay for the tickets or to pay to the band. Instead he had mentioned the average fee that the Yakhont band would charge as estimated by the Krasnoyarsk Regional Philharmonic Service, 449,840 Russian roubles (RUB) (at the material time, approximately 13,025 euros). The Yakhont band had no formal affiliation with the Krasnoyarsk Regional Philharmonic Service.

8. The PEC, relying on the information provided by Mr Ts. regarding the estimate of the Yakhont band's fee and other expenses allegedly incurred, declared the meetings with residents of Khatanga and Dudinka and the concerts to be "campaigning events".

9. Mr Ts. requested the Court of the Taymyr (Dolgano-Nenetskiy) Autonomous Region ("the Taymyr Court") to annul Mr Maymago's candidacy registration.

10. The Taymyr Court refused to postpone a scheduled hearing despite the applicant's request to reschedule on health grounds.

11. On 9 April 2007 the Taymyr Court held a hearing in the absence of the applicant; the latter was not represented. The Taymyr Court did not seek to establish whether Mr Maymago or any third parties had in fact paid the Yakhont band, and if so, how much, and whether Mr Maymago or any third parties had used the statutory election fund to pay the band but relied on the estimate of a fee provided by Mr Ts. The Taymyr Court granted Mr Ts.'s request and annulled Mr Maymago's candidacy registration, ordering an immediate execution of the judgment.

12. The applicant appealed arguing, in particular, that the Taymyr Court had arbitrarily concluded that the Yakhont band had in fact been paid the amount estimated by the Philharmonic Service despite the absence of any documentary evidence.

13. On 14 April 2007 the Supreme Court of Russia (“the Supreme Court”) upheld the Taymyr Court’s judgment leaving the first applicant’s points of appeal unaddressed. It declared the immediate execution unlawful while noting that this had not violated any personal right of Mr Maymago.

II. APPLICATION No. 66556/11

14. Ms Popova (“the second applicant”), willing to stand for the election to the Tambov Regional Legislative Assembly (“the Tambov LA”) to be held on 13 March 2011, collected 346 signatures in support of her candidacy (316 signatures being a statutory requirement for a candidacy registration).

15. The PEC of Znamenskiy constituency no. 3 set up a working group composed of five members, including a police graphology expert, and randomly checked 20% of the signatures submitted by Ms Popova, that is, sixty-three, and declared eleven of them invalid: two – on the grounds that they had been “unreliable” (that is, carried out by a person in the name of another person), and nine – as “void” (that is, collected in breach of the rules and procedure for collecting signatures). Of the latter nine signatures, four were declared void because they appeared on the page that bore handwritten corrections in the “date” field, and five – because the person who had collected them had not mentioned “the administrative district” in his home address (an administrative district being a category that is very rarely used in a postal address within the Russian territory). The PEC working group noted that, in any event, the number of valid signatures (335) exceeded the statutory requirement and recommended the second applicant’s registration as a candidate. A few days later the PEC invited Ms Popova to correct certain details in her documents, in particular, to rectify the information regarding her place of work, to supplement information regarding her bank account and to provide a full copy of her passport. The applicant having made the corrections, on 3 February 2011 the PEC registered Ms Popova’s candidacy.

16. On 9 February 2011 Ms L., another candidate for the Tambov LA election registered in Znamenskiy constituency no. 3, requested the Tambov Regional Court (“the Tambov Court”) to annul Ms Popova’s candidacy registration.

17. On 18 February 2011 the Tambov Court examined Ms L.’s request. Relying on the findings of the PEC working group (see paragraph 15 above), it referred, in particular, to the fact that the number of “defective” signatures identified by the PEC had exceeded 10 %, contrary to the

domestic laws. The Tambov Court refused to reconsider the PEC's findings stating that "the domestic law did not provide for such a procedure of verification of the collected signatures" and annulled Ms Popova's candidacy registration.

18. The second applicant appealed arguing, in particular, that the failure to mention the "administrative district" in the home address of the collector had not affected the validity of the five contested signatures as the other elements of the collector's home address had been clearly sufficient to identify the person in question and his place of residence; moreover, the same collector had added the administrative district when writing down his address on other signature sheets submitted together with the one containing the five contested signatures. She argued that the Tambov Court's approach had been overly formalistic and had infringed upon her right to stand for election as the annulment of the candidacy registration had been too harsh a measure.

19. On 4 March 2011 the Supreme Court upheld the Tambov Court's judgment leaving the arguments raised in Ms Popova's points of appeal unaddressed.

III. APPLICATION No. 35736/12

20. Mr Sysoyev ("the third applicant") stood for the election to the Stavropol Regional Legislative Assembly ("the Stavropol LA") to be held on 4 December 2011. He submitted documents concerning the property he owned. The PEC of constituency no. 5 informed him that some data had been presented in a form that differed from the standard one. The third applicant submitted corrected documents. On 14 October 2011 the PEC of constituency no. 5 registered his candidacy.

21. Mr A., another candidate for the Stavropol LA election registered in constituency no. 5, requested the Stavropol Regional Court ("the Stavropol Court") to annul the third applicant's candidacy registration on the grounds that the information regarding Mr Sysoyev's property had not been presented in the correct form (the third applicant had included information about his bank accounts, amount of his savings and securities in the "Property" field, whereas that information should have been included in other specifically dedicated separate fields). Mr A. also stated that the third applicant had incorrectly stated his employer and occupation in the form: Mr Sysoyev had written "The Stavropol LA, member of the Stavropol LA" instead of "The Stavropol State LA, member of the Stavropol State LA on a full-time basis".

22. On 2 November 2011 the Stavropol Court granted Mr A.'s request on the grounds that the third applicant, when filling in a candidacy application form, had submitted the information on his property in the

wrong fields of and had wrongly described his place of work and occupation.

23. The third applicant appealed arguing that the annulment of his candidacy registration had been unlawful as the shortcomings imputed to him had not been grounds for annulment under the relevant domestic law, which contained an exhaustive list of such grounds.

24. On 17 November 2011 the Supreme Court upheld the Stavropol Court's judgment briefly noting that Mr Sysovey had incorrectly filled in the fields of the form concerning his property. The Supreme Court did not address the applicant's arguments regarding the "place of work and occupation" field of the form.

THE LAW

I. JOINDER OF THE APPLICATIONS

25. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF PROTOCOL No. 1 TO THE CONVENTION

26. The applicants complained about a violation of their right to stand for election guaranteed by Article 3 of Protocol No. 1 to the Convention. Mr Maymago also invoked Article 13 of the Convention.

27. The Court considers that this complaint falls to be examined only under Article 3 of Protocol No. 1 (see *Davydov and Others v. Russia*, no. 75947/11, §§ 199-200, 30 May 2017), which reads as follows:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

A. Admissibility

28. The Government considered the applicants' complaint ill-founded.

29. The applicants maintained their complaint.

30. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

31. The applicants maintained that there had been a breach of their right to stand for election.

32. The Government referred to the subsidiarity principle and argued that domestic laws governing elections must be complied with to the letter, otherwise the rights of other candidates standing for election in the same constituency as the applicants would have been breached.

33. The general principles established in the Court's case-law regarding Article 3 of Protocol No. 1 have been summarised in *Tahirov v. Azerbaijan*, no. 31953/11, §§ 53-57, 11 June 2015; *Yabloko Russian United Democratic Party and Others v. Russia*, no. 18860/07, §§ 65-71, 8 November 2016; *Davydov and Others*, cited above, §§ 271-77; and *Mugemangango v. Belgium* [GC], no. 310/15, §§ 67-73, 10 July 2020.

34. In particular, the Court reiterates that Article 3 of Protocol No. 1 contains certain positive obligations of a procedural character, in particular requiring the existence of a domestic system for the effective examination of individual complaints and appeals in matters concerning electoral rights (see *Mugemangango*, cited above, § 69). For the examination of such appeals to be effective, the decision-making process concerning challenges to election results must be accompanied by adequate and sufficient safeguards ensuring, in particular, that any arbitrariness can be avoided. In particular, the decisions in question must be taken by a body which can provide sufficient guarantees of its impartiality. Similarly, the discretion enjoyed by the body concerned must not be excessive; it must be circumscribed with sufficient precision by the provisions of domestic law. Lastly, the procedure must be such as to guarantee a fair, objective and sufficiently reasoned decision (*ibid.*, § 70).

35. The Court considers that the task incumbent on it is to establish whether, as regards each of the three applicants, the procedures for verifying the compliance with eligibility requirements were conducted in a manner affording sufficient safeguards against an arbitrary decision (see *Tahirov*, cited above, § 59). In doing so, it will confine its analysis to the grounds that were ultimately endorsed by the domestic courts upholding the annulment of the applicants' respective candidacy registrations (see *Krasnov and Skuratov v. Russia*, nos. 17864/04 and 21396/04, § 57, 19 July 2007).

36. The Taymyr Court decided to annul Mr Maymago's candidacy registration following a hearing held in his absence and in the absence of any representation of his interests. Notably, it did so without attempting to establish the basic facts that were pivotal in the context of the proceedings at hand: whether the Yakhont band had been paid at all; whether the band's fee as estimated by the Philharmonic Service had corresponded to the fees actually charged; or whether the band's performance had been paid for from Mr Maymago's statutory election fund (see paragraphs 10-11 above).

37. The Tambov Court sitting on the request to annul Ms Popova's candidacy registration accepted the conclusions of the PEC of Znamenskiy constituency no. 3 regarding the annulled signatures at face value and

dismissed the second applicant's objections noting that under domestic law there had been no "procedure of verification of the collected signatures" (see paragraph 17 above). Yet the Court considers it highly unlikely that the collector of signatures in support of Ms Popova's candidacy had acted in bad faith trying to conceal his identity when he had not mentioned "the administrative district" before the name of his home city (see paragraph 15 above), especially in view of the fact that he had noted down the administrative district in his home address on other signature sheets submitted to the same electoral commission (see paragraph 18 above). To consider five signatures void because of such a trivial departure from the formal rules that had had no bearing whatsoever on the truthfulness of the information contained in the impugned signature lists is grossly disproportionate.

38. The Stavropol Court, in its turn, annulled Mr Sysoyev's candidacy registration on account of the latter's failure to indicate the information about his income and assets in several fields, to add a formulaic descriptor to his job title and to add the word "State" when naming the regional legislative assembly (see paragraph 21 above). The Court emphasises that the accuracy of the information provided by the third applicant was at no time called into doubt; it was never alleged that the information in question was incomplete, or that the third applicant knowingly misrepresented any details (contrast *Krasnov and Skuratov* cited above, §§ 48-51). The Court considers that it could not be seriously maintained that the difference between the positions of a "member of the Stavropol LA" and of a "member of the Stavropol State LA on a full-time basis" was capable of misleading the voters (*ibid.*, § 62).

39. In the Court's view, the defects in Ms Popova's and Mr Sysoyev's candidacy registration forms were obviously clerical in nature and insignificant to the point of irrelevance. As such, they could have been rectified without resorting to such a stringent measure as a candidacy registration annulment. The domestic courts were competent, under both federal and regional legislation, to perform independent and effective evaluations of allegations of breaches of the right to free and fair elections (see *Davydov and Others*, cited above, § 333). Yet the Tambov and Stavropol Courts granted the requests for candidacy annulment by the applicants' competitors using a formalistic approach and without attempting to perform any balancing exercise of the competing interests. The Court reiterates in this connection that it is a fundamental corollary of the rule of law, that rights prescribed in legislative acts must be effective and practical, and not theoretical and illusory (see *Tahirov*, cited above, § 67).

40. Most strikingly, the Supreme Court in all three sets of proceedings at hand failed to address the applicants' arguments raised in the points of appeal (see paragraphs 13, 19 and 24 above).

41. In view of the above considerations, the Court cannot but conclude that the decision-making process as regards each applicant's challenge to the decision to annul their candidacy registration was not accompanied by adequate and sufficient safeguards ensuring that any arbitrariness can be avoided (see *Mugemangango*, cited above, § 70).

42. The foregoing considerations are sufficient to enable the Court to conclude that the applicants' right to stand for election was not respected given that the procedures for verifying the compliance with eligibility requirements did not afford sufficient safeguards against an arbitrary decision (see, for similar reasoning, *Davydov and Others*, cited above, § 336).

43. There has accordingly been a violation of Article 3 of Protocol No. 1 to the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

44. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

45. Mr Maymago and Ms Popova did not submit any claims for just satisfaction, while Mr Sysoyev sought 10,000 euros (EUR) in compensation of non-pecuniary damage. The Government found the amount claimed to be excessive.

46. The Court agrees that the applicants are victims of a violation of the right to free elections and that such a finding can lead to an award compensating for non-pecuniary damage. It thus awards Mr Sysoyev EUR 5,000, plus any tax that may be chargeable, in respect of non-pecuniary damage,

47. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning Article 3 of Protocol No. 1 to the Convention admissible and the remainder of the applications inadmissible;
3. *Holds* that there has been a violation of Article 3 of Protocol No. 1 to the Convention;

4. *Holds*

- (a) that the respondent State is to pay the third applicant, Mr Sysoyev, within three months, EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 22 June 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Georgios A. Serghides
President

MAYMAGO AND OTHERS v. RUSSIA JUDGMENT

APPENDIX

List of applications

Application no.	Case name Lodged on	Applicant Year of Birth Place of Residence Nationality
56354/07	<i>Maymago v. Russia</i> 06/10/2007	Nikolay Nikolayevich MAYMAGO 1966 Dudinka Russian
66556/11	<i>Popova v. Russia</i> 02/09/2011	Irina Stepanovna POPOVA 1952 Tambov Russian
35736/12	<i>Sysoyev v. Russia</i> 16/05/2012	Aleksandr Mikhaylovich SYSOYEV 1958 Yessentuki Russian Represented by Boris Borisovich DYAKONOV, lawyer practicing in Stavropol