



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

FIRST SECTION

CASE OF RYABYKH v. RUSSIA

(Application no. 52854/99)

JUDGMENT

STRASBOURG

24 July 2003

FINAL

03/12/2003

In the case of Ryabykh v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,

Mr G. BONELLO,

Mrs F. TULKENS,

Mr E. LEVITS,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER, *judges*,

and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 3 July 2003,

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

PROCEDURE

1. The case originated in an application (no. 52854/99) 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 a Russian national, Ms Anna Ivanovna Ryabykh ("the applicant"), on 19 August 1999.

2. The Russian Government ("the Government") were represented by Mr P.A. Laptev, Representative of the Russian Federation in the European Court of Human Rights.

3. The applicant alleged that her rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 had been breached by the State's reluctance to compensate her for the financial loss she had suffered as a result of inflation, and by the fact that a compensation award made in her favour by a domestic court had been set aside under the supervisory review procedure.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 21 February 2002 the Chamber declared the application admissible.

6. The applicant and the Government each filed observations on the merits (Rule 59 § 1). The Chamber decided, after consulting the parties, that no hearing on the merits was required (Rule 59 § 2 *in fine*). The parties then replied in writing to each other's observations.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1949 and lives in Ninovka, a village in the Belgorod region of Russia.

A. Original litigation

8. On an unspecified date the applicant brought proceedings against the Novooskolskiy branch of the Savings Bank of Russia, the Savings Bank of Russia and the State. She claimed that the value of her personal savings that had accrued in her accounts by 1991 had significantly dropped following the economic reforms. Her savings were the result of decades of hard work, and she had intended to buy a flat with the money. However, the State had not revalued the amounts on deposit to offset the effects of inflation, as it had been required to do by the Law on revaluation and protection of the savings of citizens of the Russian Federation enacted on 10 May 1995 (Федеральный закон «О восстановлении и защите сбережений граждан Российской Федерации» – “the Savings Act”).

1. First judgment of the District Court

9. On 30 December 1997 the Novooskolskiy District Court, presided over by Judge Lebedinskaya, found in the applicant's favour and awarded her 129,544,106 roubles¹ (RUR) payable by the State treasury. The court rejected the defendants' main argument that the reimbursement scheme under the Savings Act could not be implemented in practice since no special secondary legislation had been passed. Noting that the Savings Act recognised the guaranteed deposits as the State's internal debt and that the State had not introduced the necessary rules in time to enable the debt to be repaid, the court held that the defendants were liable under the civil law.

10. On 28 February 1998 the judgment was set aside on appeal by the Belgorod Regional Court and the case remitted for a retrial.

1. The amount is indicated without regard to the denomination of 1998. In accordance with the Presidential Decree “on the modification of the face value of Russian currency and standards of value” of 4 August 1997, 1,000 old roubles became 1 new rouble as of 1 January 1998.

2. Second judgment of the District Court

11. On 8 June 1998 the Novooskolskiy District Court, sitting in the same composition, delivered a judgment similar to its judgment of 30 December 1997. The award, however, was readjusted to RUR 133,963.70. No appeal was lodged against the judgment and it became final ten days later, on 18 June 1998.

12. Enforcement proceedings commenced on 18 January 1999.

B. Supervisory review and further proceedings

1. Supervisory review

13. On an unspecified date in 1999, while the enforcement proceedings were in progress, the President of the Belgorod Regional Court lodged an application for supervisory review (протест в порядке надзора) of the judgment of 8 June 1998, on the ground that it conflicted with substantive laws.

14. The application was examined on 19 March 1999 by the Presidium of the Belgorod Regional Court. Having accepted the reasons set out in the application, the Presidium set aside the judgment of 8 June 1998 and dismissed the applicant's claims altogether. The applicant was not informed that the application for supervisory review had been lodged, or invited to attend the hearing before the Presidium.

15. On 17 June 1999 the enforcement proceedings were discontinued.

16. On 4 January 2001 a deputy president of the Supreme Court lodged an application for supervisory review of the judgment of the Presidium of 19 March 1999.

17. On 22 January 2001 the Supreme Court granted the application for supervisory review. It upheld the reasons given by the Presidium for setting aside the judgment of 8 June 1998, but ruled that the applicant's case should not have been dismissed in full, as she had thereby been unjustly deprived of the right to seek reimbursement of the money. It also acknowledged that the applicant's right to be informed that the Presidium was reviewing her case had not been respected. The case was remitted to the Novooskolskiy District Court for a fresh examination.

2. Third judgment of the District Court

18. On 4 June 2001 the same composition of the Novooskolskiy District Court delivered its third judgment in the applicant's favour. The award included RUR 188,724 as compensation for devaluation and RUR 60,000 in respect of non-pecuniary damage. The court stated that the government's systematic delaying of its obligation to revalue the applicant's savings had caused her moral suffering and anguish.

19. On 14 August 2001 the judgment was set aside on appeal by the Belgorod Regional Court and the case remitted for re-examination.

3. Fourth judgment of the District Court

20. On 19 September 2001 the Novooskolskiy District Court, sitting in the same composition, once again reaffirmed its position by awarding compensation in the same amount as in its judgment of 4 June 2001.

21. On 30 October 2001 the appellate court quashed the judgment and remitted the case for a fresh examination by the Novooskolskiy District Court. As it was permitted to do by Article 305-2 of the Code of Civil Procedure, it ordered that the case should be retried by a different bench.

4. Fifth judgment of the District Court

22. On 27 February 2002 the Novooskolskiy District Court, presided over by Judge Ziminov, dismissed the applicant's case on the ground that her claims had no basis in law.

23. On 2 April 2002 that judgment was upheld by the Belgorod Regional Court.

24. On 8 May 2002 the Presidium of the Belgorod Regional Court quashed the judgment following an application by the President of the Regional Court for supervisory review. The Presidium held that the courts below had disregarded the applicant's fundamental rights under the Constitution and the Convention.

5. Sixth judgment of the District Court

25. On 10 June 2002 the Novooskolskiy District Court, sitting in the same composition, delivered a new judgment in which, having regard, *inter alia*, to Article 1 of Protocol No. 1 to the Convention, it granted the applicant's claim in part and awarded her RUR 231,059.19.

26. The defendants' appeal was dismissed on 16 July 2002 by the Belgorod Regional Court, following which the judgment of 10 June 2002 became final.

6. Settlement agreement

27. On 1 November 2002 the applicant and a deputy president of the government of the Belgorod Region signed a settlement agreement, in which the applicant promised to abandon her claims arising out of the judgment of 10 June 2002 for a consideration of RUR 248,724. On the same day the agreement was approved by the Novooskolskiy District Court in a consent order, as requested by the parties.

28. On 6 November 2002 the applicant lodged an application with the Belgorod Regional Court to have the consent order of 1 November 2002 set aside.

29. On 19 November 2002 the applicant withdrew that application. She said that the government had bought her a flat in Novyi Oskol for RUR 330,000, and that she had no more claims against the State.

30. On 23 March 2003 the applicant informed the Court that the price of the flat did not cover the damage sustained by her because the money she had had in her savings account in 1991, if converted into United States dollars, would exceed the price of the flat. The applicant asked the Court for an order enabling her to recover the difference from the State.

II. RELEVANT DOMESTIC LAW

31. Under the 1964 Code of Civil Procedure, which was in force at the material time, judgments became final as follows:

Article 208 Coming into force of judgments

“Court judgments shall become legally binding on the expiration of the time-limit for lodging a cassation appeal if no such appeal has been lodged. If the judgment is not quashed following a cassation appeal, it shall become legally binding when the higher court delivers its decision. ...”

32. The only further means of recourse was the special supervisory review procedure that enabled courts to reopen final judgments (пересмотр в порядке судебного надзора):

Article 319 Judgments, decisions and rulings amenable to supervisory review

“Final judgments, decisions and rulings of all Russian courts shall be amenable to supervisory review on an application lodged by the officials listed in Article 320 of the Code.”

33. The power of officials to lodge an application (протест) depended on their rank and territorial jurisdiction:

Article 320 Officials who may initiate supervisory review

“Applications may be lodged by:

(1) the Prosecutor General – against judgments, decisions and rulings of any court;

(2) the President of the Supreme Court – against rulings of the Presidium of the Supreme Court and judgments and decisions of the Civil Division of the Supreme Court acting as a court of first instance;

(3) Deputy Prosecutors General – against judgments, decisions and rulings of any court other than rulings of the Presidium of the Supreme Court;

(4) Vice-Presidents of the Supreme Court – against judgments and decisions of the Civil Division of the Supreme Court acting as a court of first instance;

(5) the Prosecutor General, Deputy Prosecutor General, the President and Vice-Presidents of the Supreme Court – against judgments, decisions and rulings of any court other than rulings of the Presidium of the Supreme Court;

(6) the President of the Supreme Court of an autonomous republic, a regional court, a city court, a court of an autonomous region or a court of an autonomous district, the public prosecutor of an autonomous republic, a region, a city, an autonomous region or an autonomous district – against judgments and decisions of district (city) people's courts and against decisions of civil divisions of, respectively, the Supreme Court of an autonomous republic, regional court, city court, court of an autonomous region or court of an autonomous district that examined the case on appeal.”

34. The power to lodge such applications was discretionary, that is to say it was solely for the official concerned to decide whether or not a particular case warranted supervisory review.

35. Under Article 322 officials listed in Article 320 who considered that a case deserved closer examination could, in certain circumstances, obtain the case file in order to establish whether good grounds for lodging an application existed.

36. Article 323 of the Code empowered the relevant officials to stay the execution of the judgment, decision or ruling in question until the supervisory review proceedings had been completed.

37. Article 324 of the Code provided that the official concerned should draft the application and forward it – in sufficient copies for each of the parties – with the case file to the relevant court.

38. Article 325 read as follows:

“The parties ... shall be served copies of the application. If circumstances so require, the parties ... shall be informed of the time and place of the hearing.

The copies of the application shall be served on the parties by the court [examining the application]. The court shall give the parties sufficient time before the hearing to submit a written reply to the application and any additional material.”

39. Under Article 328 of the Code, proceedings on an application for supervisory review were normally oral and the parties were invited to make comments once the judge concerned had reported to the court.

40. Courts hearing applications for supervisory review had extensive jurisdiction in respect of final judgments:

Article 329

Powers of supervisory review courts

“The court that examines an application for supervisory review may:

(1) uphold the judgment, decision or ruling and dismiss the application;

(2) quash all or part of the judgment, decision or ruling and order a fresh examination of the case at first or cassation instance;

(3) quash all or part of the judgment, decision or ruling and terminate the proceedings or leave the claim undecided;

(4) uphold any of the previous judgments, decisions or rulings in the case;

(5) quash or vary the judgment of the court of first or cassation instance or of a court that has carried out supervisory review and deliver a new judgment without remitting the case for re-examination if substantive laws have been erroneously construed and applied.”

41. The grounds for setting aside final judgments were as follows:

Article 330

Grounds for setting aside judgments on supervisory review

“...

(1) wrongful application or interpretation of substantive laws;

(2) significant breach of procedural rules which led to the delivery of an unlawful judgment, decision or ruling ...”

42. There was no time-limit for lodging an application for supervisory review, and, in principle, such applications could be lodged at any time after a judgment had become final.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

43. The applicant complained that the decision of the Presidium of the Belgorod Regional Court of 19 March 1999, which set aside a final judgment in her favour, had violated Article 6 § 1 of the Convention. She also complained under the same Article that the proceedings before the Presidium of the Belgorod Regional Court had been unfair in that she had not been informed that the application for supervisory review had been lodged or invited to attend the hearing. She had not learnt of the Presidium's decision until five months after it had been given.

The relevant part of Article 6 § 1 reads as follows:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...”

A. Whether the applicant is still a “victim”

44. When declaring the case admissible, the Court considered the question whether the applicant could claim to be a victim of the alleged breaches of the Convention. As a number of events have taken place since then – in particular, the judgment of the Novooskolskiy District Court of 10 June 2002 and the acquisition of the flat – the Court must return to this question.

45. It appears from the chronology of events set out above that the State has made efforts to remedy the applicant's situation, first by delivering a judgment requiring her savings to be restored to their real value, and subsequently, by purchasing a flat for her.

46. However, it is not the State's failure to reinstate the applicant's savings which lies at the heart of the complaint under Article 6 (see *X v. Germany*, no. 8724/79, Commission decision of 6 March 1980, Decisions and Reports 20, p. 226; *Rudzinska v. Poland* (dec.), no. 45223/99, ECHR 1999-VI; *Gayduk and Others v. Ukraine* (dec.), nos. 45526/99 et seq., ECHR 2002-VI; or, as a more recent authority, *Appolonov v. Russia* (dec.), no. 67578/01, 29 August 2002). Under this provision the Court is instead concerned with the effect the supervisory review procedure had on the applicant's rights under the Convention.

47. In this connection, the Court reiterates that a decision or measure favourable to the applicant is not in principle sufficient to deprive him or her of his or her status as a “victim” unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Amuur v. France*, judgment of 25 June 1996, *Reports of Judgments and Decisions* 1996-III, p. 846, § 36, and *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI).

48. It is true that the applicant's claim to have her savings revalued was ultimately granted. However, that does not mean that the State was mindful of the breach of the applicant's right to benefit from the judgment of 8 June 1998 as soon as it became enforceable.

49. In other words, the fact that the applicant's claims were ultimately satisfied does not by itself efface the effects of the legal uncertainty which she had to endure for three years after the final judgment of 8 June 1998 was quashed (see *Brumărescu v. Romania* [GC], no. 28342/95, § 50, ECHR 1999-VII).

50. In these circumstances, the Court considers that the applicant continues to have standing as a “victim” to complain that the decision of the Presidium of the Belgorod Regional Court of 19 March 1999 and the ensuing events violated her rights under Article 6 § 1.

B. Supervisory review procedure: substantive issues

51. With regard to the substance of the complaint, the Court reiterates that the right to a fair hearing before a tribunal as guaranteed by Article 6 § 1 of the Convention must be interpreted in the light of the Preamble to the Convention, which, in its relevant part, declares the rule of law to be part of the common heritage of the Contracting States. One of the fundamental aspects of the rule of law is the principle of legal certainty, which requires, among other things, that where the courts have finally determined an issue, their ruling should not be called into question (see *Brumărescu*, cited above, § 61).

52. Legal certainty presupposes respect for the principle of *res judicata* (ibid., § 62), that is the principle of the finality of judgments. This principle underlines that no party is entitled to seek a review of a final and binding judgment merely for the purpose of obtaining a rehearing and a fresh determination of the case. Higher courts' power of review should be exercised to correct judicial errors and miscarriages of justice, but not to carry out a fresh examination. The review should not be treated as an appeal in disguise, and the mere possibility of there being two views on the subject is not a ground for re-examination. A departure from that principle is justified only when made necessary by circumstances of a substantial and compelling character.

53. In the applicant's case, however, the judgment of 8 June 1998 was overturned on 19 March 1999 by the Presidium of the Belgorod Regional Court on the ground that Judge Lebedinskaya of the Novooskolskiy District Court had misinterpreted relevant laws. The Presidium dismissed the applicant's claims and closed the matter, thus setting at naught an entire judicial process which had ended in a decision that was legally binding under Article 208 of the Code of Civil Procedure and in respect of which enforcement proceedings had commenced.

54. The Court notes that the supervisory review of the judgment of 8 June 1998 was set in motion by the President of the Belgorod Regional Court – who was not a party to the proceedings – in whom such power was vested by Articles 319 and 320 of the Code of Civil Procedure. As with the situation under Romanian law examined in *Brumărescu*, cited above, the exercise of this power by the President was not subject to any time-limit, so that judgments were liable to challenge indefinitely.

55. The Court reiterates that Article 6 § 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal. In this way it embodies the “right to a court”, of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect. However, that right would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party. It would be

inconceivable that Article 6 § 1 should describe in detail procedural guarantees afforded to litigants – proceedings that are fair, public and expeditious – without protecting the implementation of judicial decisions; to construe Article 6 as being concerned exclusively with access to a court and the conduct of proceedings would be likely to lead to situations incompatible with the principle of the rule of law which the Contracting States undertook to respect when they ratified the Convention (see *Hornsby v. Greece*, judgment of 19 March 1997, *Reports* 1997-II, pp. 510-11, § 40).

56. The Court considers that the right of a litigant to a court would be equally illusory if a Contracting State's legal system allowed a judicial decision which had become final and binding to be quashed by a higher court on an application made by a State official.

57. By using the supervisory review procedure to set aside the judgment of 8 June 1998, the Presidium of the Belgorod Regional Court infringed the principle of legal certainty and the applicant's "right to a court" under Article 6 § 1 of the Convention.

58. There has accordingly been a violation of that Article.

C. Supervisory review procedure: procedural issues

59. With regard to the complaint about the procedural defects of the hearing before the Presidium of the Belgorod Regional Court, the Court finds that, having concluded that there has been an infringement of the applicant's "right to a court" by the very use of the supervisory review procedure, it is not necessary to consider whether the procedural guarantees of Article 6 of the Convention were available in those proceedings.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1

60. The applicant further complained that the State had not revalued her savings and that the supervisory review of her case and the quashing of the judgment in her favour had violated Article 1 of Protocol No. 1. That provision reads as follows:

"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."

61. The Court reiterates that a judgment debt may be regarded as a "possession" for the purposes of Article 1 of Protocol No. 1 (see, among

other authorities, *Burdov v. Russia*, no. 59498/00, § 40, ECHR 2002-III, and the cases cited therein). Furthermore, quashing such a judgment after it has become final and unappealable will constitute an interference with the judgment beneficiary's right to the peaceful enjoyment of that possession (see *Brumărescu*, cited above, § 74).

62. However, in the judgment of 8 June 1998 the applicant was awarded RUR 133,963.70. After the application for supervisory review was granted, the applicant's case was re-examined four more times, ending with a settlement under which the State provided the applicant with a flat worth RUR 330,000. This amount significantly exceeded (even after inflation is taken into account) the amount she was initially entitled to and was allegedly arbitrarily deprived of as a result of the supervisory review procedure.

63. Moreover, the Court observes that it has previously examined in detail complaints arising out of the State's failure to revalue deposits in the Savings Bank (see *Appolonov*, cited above) and found that they did not disclose any appearance of a violation of Article 1 of Protocol No. 1. In that case the Court pointed out that, although Mr Appolonov's savings decreased due to inflation, Article 1 of Protocol No. 1 did not oblige the State to maintain the purchasing power of sums deposited with financial institutions. Nor did the Savings Act, as interpreted by the domestic courts, establish for the State an enforceable obligation to compensate for losses caused by inflation. The Court sees no reason to deviate from that finding in the present case.

64. It follows that there has been no violation of Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

65. 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.”

66. The Court points out that under Rule 60 of the Rules of Court any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, “failing which the Chamber may reject the claim in whole or in part”.

67. In the instant case, on 1 March 2002, after the application was declared admissible, the applicant was invited to submit her claims for just satisfaction. She did not submit any such claims within the required time-limit.

68. In these circumstances, the Court makes no award under Article 41 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of the applicant's right to a fair trial and the right to a court as guaranteed by Article 6 § 1 of the Convention in that the final judgment was quashed on supervisory review;
2. *Holds* that it is not necessary to consider the allegation of procedural unfairness of the supervisory review proceedings;
3. *Holds* that there has been no violation of Article 1 of Protocol No. 1.

Done in English, and notified in writing on 24 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President