



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

FIRST SECTION

CASE OF VOKHMINA v. RUSSIA

(Application no. 26384/02)

JUDGMENT

STRASBOURG

9 June 2005

FINAL

09/09/2005

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Vokhmina v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mrs F. TULKENS,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mr D. SPIELMANN, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 19 May 2005,

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

PROCEDURE

1. The case originated in an application (no. 26384/02) 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 Raisa Yevdokimovna Vokhmina ("the applicant"), on 30 May 2002.

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

3. On 30 October 2003 the Court decided to communicate the complaint concerning the length of proceedings to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

4. The applicant was born in 1937 and lives in Moscow.

5. On 26 March 1999 she bought a plot of land and a summer house in Michurinsk.

6. On 13 January 2000 a dealer who had assisted her in buying the property instituted proceedings against her, claiming recovery of a debt totalling 1,000 US dollars.

7. On 24 April 2000 the Michurinskiy Town Court of the Tambov Region dismissed the claim.

8. On 29 May 2000 the Tambov Regional Court quashed the judgment and remitted the case to the Michurinskiy Town Court for a fresh examination.

9. On 7 September 2000 the applicant filed an application for the case to be transferred to the Perovo District Court of Moscow.

10. On 15 September 2000 the Michurinskiy Town Court granted the application and transferred the case. On 20 September 2000 the case file was sent to the Perovo District Court. On 15 November 2000 the plaintiff filed a complaint against the transfer of the case.

11. On 14 December 2000 the Michurinskiy Town Court requested the Perovo District Court to confirm receipt of the case file. On 25 December 2000 and 15 February 2001 the Michurinskiy Town Court requested the Perovo District Court to send the case file back so that the plaintiff's complaint could be examined. On 21 February 2001 the Perovo District Court replied that it could not return the case file because the case in question had not been registered with it in the period 2000-2001. On 2 April 2001 the Michurinskiy Town Court again repeated the request. On 7 May 2001 the Perovo District Court returned the case file to the Michurinskiy Town Court.

12. On 12 July 2001, following an application for supervisory review lodged by a member of the Presidium, the Presidium of the Tambov Regional Court quashed the Michurinskiy Town Court's ruling of 15 September 2000 concerning transfer of the case to the Perovo District Court of Moscow on the ground, *inter alia*, that the plaintiff had not been duly notified of the hearing.

13. According to the Government, two hearings were fixed by the Michurinskiy Town Court for 28 August and 13 September 2001, but the applicant did not appear at either hearing. It is not clear whether these were hearings on the merits or whether the court was merely dealing with certain procedural issues.

14. On 28 January 2002, following another application for supervisory review lodged by the Deputy Chairman of the Supreme Court of Russia, the Supreme Court of Russia quashed the ruling of 12 July 2001 on the grounds that the applicant had not been duly notified of the hearing, and remitted the case to the Tambov Regional Court for a fresh examination.

15. On 21 March 2002 the Presidium of the Tambov Regional Court again quashed the ruling of the Michurinskiy Town Court of 15 September 2000.

16. On 25 April 2002 the applicant filed an application with the Michurinskiy Town Court, requesting that the case be transferred to the Perovo District Court.

17. In September 2002 the applicant lodged an application with the Chairman of the Supreme Court requesting supervisory review of the ruling of 21 March 2002. On 19 February 2003 the Supreme Court returned the application without consideration, as a number of procedural requirements had not been fulfilled.

18. Two hearings on the merits were fixed by the Michurinskiy Town Court for 15 and 22 August 2003. The parties did not appear at either of

those hearings. On the latter date the court decided to leave the claim without consideration. That ruling was not appealed against.

THE LAW

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

19. The applicant complained that the proceedings had been unreasonably long. The Court will examine the applicant's complaint under Article 6 § 1 of the Convention, which reads as follows:

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

20. The period to be taken into consideration began on 13 January 2000 and ended on 22 August 2003. It thus lasted 3 years, 7 months and 9 days.

A. Admissibility

21. The Government did not make any submissions on this point.

22. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other grounds for declaring it inadmissible have been established. It must therefore be declared admissible.

B. Merits

23. The Government did not make any submissions on this point.

24. The applicant submitted that the case had not been particularly complex and that the proceedings had therefore been unreasonably long.

25. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

(a) Complexity of the case

26. The Court considers that the case was not particularly difficult to determine. Consequently, it takes the view that an overall period of 3 years, 7 months and 9 days could not, in itself, be deemed to satisfy the “reasonable time” requirement in Article 6 § 1 of the Convention.

(b) Conduct of the applicant

27. The Court notes that the Government failed to make any submissions concerning the merits of the complaint. In the statement of facts submitted by the Government it is indicated that the applicant failed to appear at the hearings of 28 August and 13 September 2001 and at the hearings held on 15 and 22 August 2003. This is not contested by the applicant. However, as regards the hearings of 28 August and 13 September 2001, there is no evidence that hearings on the merits were scheduled for these dates. In any event, there is no indication that they were adjourned on account of the applicant's failure to appear, or that such failure otherwise contributed to the length of the proceedings. As regards the hearing of 15 August 2003, when both parties were absent, although that hearing appears to have been scheduled precisely to examine the merits of the case, there is likewise no evidence that the hearing was adjourned on account of the applicant's failure to attend it. On 22 August 2003 the proceedings were closed. Accordingly, the Court is unable to find that the applicant was responsible for any delays in the proceedings.

(c) Conduct of the domestic authorities

28. The Court observes that for 3 years, 2 months and 24 days, i.e. between 29 May 2000 and 22 August 2003, no examination took place of the merits of the case. The domestic courts took more than a year and a half to rule on the applicant's application to transfer the case from one court to another. After that application had been first granted by a ruling of 15 September 2000, it was quashed under supervisory review almost a year later, on 12 July 2001, on account of the court's failure to notify the plaintiff of the hearing in the proceedings for the transfer. This ruling was also quashed under supervisory review six months later on account of the court's failure to notify the applicant of the hearing of 12 July 2001. As a result of the fresh examination, the ruling of 15 September 2000 was again quashed on 21 March 2002. The Court further notes that there was a period of over eight months' inactivity by the courts, between 20 September 2000 and 28 May 2001, when they were unable to account for the case file's location.

29. It follows that the above delay was caused by repeated procedural omissions by the domestic courts.

(d) Conclusion

30. In the absence of any explanation for the length of the proceedings in the present case, the Court finds that it did not satisfy the “reasonable time” requirement. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

A. Admissibility

31. The applicant complained that, under domestic law, the case should have been examined by the Perovo District Court of Moscow, since she was resident in the territory under that court's jurisdiction. The Court will examine this complaint under Article 6 § 1 of the Convention.

32. The Court recalls that Article 6 guarantees a right to a fair hearing by a tribunal established by law. The Convention does not guarantee, as such, a right to have a case examined by a particular court. The Court notes that the Michurinskiy Town Court of the Tambov Region accepted the claim against the applicant for examination in accordance with domestic jurisdictional rules. There is no evidence that the tribunal was not “established by law” or that the proceedings were not “fair” within the meaning of Article 6.

33. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

34. 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.”

A. Damage

35. The applicant claimed 5,000 euros (EUR) in compensation for non-pecuniary damage. She claimed that she was a pensioner with a monthly income of EUR 50 and that the unreasonable length of the proceedings had adversely affected her.

36. The Government considered this claim to be excessive and unreasonable.

37. Having regard to the nature of the breach in this case and the outcome of the domestic proceedings, making its assessment on an equitable basis, the Court finds that the finding of a violation constitutes in

itself sufficient just satisfaction for the non-pecuniary damage, if any, sustained by the applicant.

B. Costs and expenses

38. The applicant did not make any claims in respect of the costs and expenses incurred before the domestic courts and before the Court.

39. Accordingly, the Court made no award under this head.

FOR THESE REASONS, THE COURT

1. *Declares* unanimously the complaint concerning the length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* by four votes to three that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* unanimously that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;
4. *Dismisses* unanimously the applicant's claim for just satisfaction.

Done in English, and notified in writing on 9 June 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the dissenting opinion of Mr Rozakis, Mrs Vajić and Mrs Botoucharova is annexed to this judgment.

C.L.R.
S.N.

DISSENTING OPINION OF JUDGES ROZAKIS, VAJIĆ AND BOTOCHAROVA

We have voted against the finding of a violation in the present case in spite of the procedural imbroglio that led to delays in the proceedings. The reasons for which we depart from the position of the majority are the following:

a) Although admittedly a number of delays detected in the domestic proceedings were attributable to the national authorities, still the applicant contributed to some of them, in particular by not appearing at several hearings.

b) The dispute before the domestic tribunals arose as a result of a request made by a dealer who had assisted the applicant in buying a piece of property claiming the recovery from the applicant of a debt amounting to USD 1,000. In view of the nature of the subject-matter of these proceedings we believe that the applicant has not suffered any particular stress due to their protracted character.

Taking all these elements together, as well as the outcome of the proceedings, we cannot reach the conclusion that there has been a violation of the Convention in the present case.