



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

FIRST SECTION

CASE OF SKACHEDUBOVA v. RUSSIA

(Application no. 55885/00)

JUDGMENT

STRASBOURG

1 December 2005

FINAL

01/03/2006

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 Skachedubova v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mrs N. VAJIĆ,

Mrs S. BOTOCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 10 November 2005,

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

PROCEDURE

1. The case originated in an application (no. 55885/00) 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 Ms Svetlana Mikhailovna Skachedubova, a Russian national, on 27 August 1999.

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

3. On 30 September 2003 the Court decided to communicate the application 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

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1974 and lives in Salsk, Rostov Region.

5. In September 1996 the applicant was awarded by the Salsk Social Security Service (*Управление соцзащиты г. Сальска*) a monthly child allowance in respect of her son who was born on 26 July 1996.

6. In June 1998, having received no payments, the applicant brought proceedings before the Salsk City Court (*Сальский городской суд*) requesting the payment of outstanding sums for one year and ten months.

7. By a judgment of 7 October 1998 the City Court allowed the applicant's claim and ordered the Salsk Social Security Service to pay her 1,886.13 roubles (RUR).

8. After the judgment gained legal force on 17 October 1998, the Salsk Bailiff's Service (*Служба судебных приставов по Сальскому району*) instituted proceedings to enforce the judgment. However, as the defendant lacked proper funding the judgment could not be executed.

9. On 31 January 2000 the Rostov Regional Department of Justice (*Главное управление юстиции Ростовской области*) replied to the applicant's complaint concerning the non-execution of the judgment in her favour that the budgetary situation of the Salsk Social Security Service had not significantly improved and that due to the large number of similar claims totalling 291 the applicant had to wait for her turn on the waiting list where her position was no. 118.

10. On 10 September 2001 the sum of RUR 1,886.13 was transferred to the applicant's bank account.

11. On 3 December 2003 the applicant informed the Court that since she had received no payments of child allowance for 1998 and 1999, she had lodged a claim against the Financial Department of the Salsk Administration (*Финансовое Управление Администрации г. Сальска и Сальского района*). On 12 September 2002 the Second District Court of Salsk (*Судебный участок № 2 г. Сальска и Сальского района*) had allowed the applicant's claim and had ordered the Financial Department to pay her RUR 12,133.84, comprising the arrears of child allowance, indexed due to inflation, and the court fees. On 15 October 2002 the applicant had turned to the Salsk Bailiff's Service (*Служба судебных приставов г. Сальска*) in order to have the judgment executed. In August 2003 she had been paid RUR 2,404.21.

II. RELEVANT DOMESTIC LAW

12. Section 9 of the Federal Law on Enforcement Proceedings of 21 July 1997 provides that a bailiff's order on the institution of enforcement proceedings must fix a time-limit for the defendant's voluntary compliance with a writ of execution. The time-limit may not exceed five days. The bailiff must also warn the defendant that coercive action will follow, should the defendant fail to comply with the time-limit.

13. Under Section 13 of the Law, the enforcement proceedings should be completed within two months of the receipt of the writ of enforcement by the bailiff.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

14. The applicant complained about the prolonged non-enforcement of the judgments in her favour. The court will examine this complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention. These Articles, in so far as relevant, read as follows:

Article 6 § 1

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

Article 1 of Protocol No. 1

“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.”

A. Admissibility

15. The Government contested the admissibility of the application on the ground that the applicant was no longer a victim. They submitted that the judgment concerning the amount of RUR 1,886.13 had been executed. Furthermore, in August 2003 the applicant had been paid the rest of the arrears of the social allowance, RUR 2,404.21. According to the applicant’s confirmation, signed on 29 December 2003, she did not have any further claims against the Social Security Service or the Financial Department.

16. The applicant did not accept that she had lost victim status. She submitted that her confirmation, referred to above, related only to the fact that she had received the sums of RUR 1,886.13 and RUR 2,404.21 and that she did not claim these amounts from the Social Security Service or the Financial Department. However, she recalled that it had taken two years and ten months to execute the judgment of 7 October 1998 and that the judgment of 12 September 2002 had been executed only in part.

17. The Court considers that the mere fact that the authorities complied with the judgment of 7 October 1998 after a substantial delay cannot be viewed in this case as automatically depriving the applicant of her victim status under the Convention (see, e.g., *Petrushko v. Russia*, no. 36494/02, § 16, 24 February 2005). Furthermore, according to the information available to the Court, the judgment of 12 September 2002 has not been fully executed. The Court accordingly rejects the Government's objection as to the loss of victim status.

18. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

19. The Government advanced no arguments on the merits of the application.

20. The applicant maintained her complaints.

21. The Court observes that the judgment of 7 October 1998 remained inoperative for more than two years and ten months. The judgment of 12 September 2002 was executed only in part after a delay of 11 months. No justification was advanced by the Government for these delays.

22. The Court has frequently found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in cases raising issues similar to the ones in the present case (see, among other authorities, *Burdov v. Russia*, no. 59498/00, ECHR 2002-III and, more recently, *Petrushko*, cited above, or *Poznakhirina v. Russia*, no. 25964/02, 24 February 2005).

23. Having examined the material submitted to it, the Court notes that the Government did not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court finds that by failing for years to comply with the enforceable judgments in the applicant's favour the domestic authorities prevented her from receiving the money she could reasonably have expected to receive.

24. There has accordingly been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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.”

26. The applicant claimed compensation for the damage caused to her. In respect of non-pecuniary damage she requested that an award be made in the usual amount in similar matters. She referred to the case of *Burdov* (cited above), where the Court awarded 3,000 euros (EUR) for non-pecuniary damage. As regards pecuniary damage, she claimed RUR 9,729.63, the part of the award in the judgment of 12 September 2002 which had not been executed.

27. The Government did not comment specifically on the applicant's claim for damage beyond submitting that the applicant had been paid the arrears of the child allowance.

28. The Court recalls that the most appropriate form of redress in respect of a violation of Article 6 is to ensure that the applicant as far as possible is put in the position he would have been had the requirements of Article 6 not been disregarded (see *Piersack v. Belgium* (Article 50), judgment of 26 October 1984, Series A no. 85, p. 16, § 12, and, *mutatis mutandis*, *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003). The Court finds that in the present case this principle applies as well, having regard to the violations found. It therefore considers that the Government shall secure, by appropriate means, the enforcement of the award made by the domestic courts. For this reason the Court does not find it necessary to make an award for pecuniary damage.

29. As regards the compensation for non-pecuniary damage, the Court would not exclude that the applicant might have suffered distress and frustration resulting from the State authorities' failure to enforce the judgments in her favour. However, having regard to the nature of the breach in this case and making its assessment on an equitable basis, the Court considers that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant (see, in a similar context, *Poznakhirina*, cited above, § 35).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
4. *Holds* that the respondent State, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the

Convention, shall secure, by appropriate means, the enforcement of the award made by the domestic court;

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

Done in English, and notified in writing on 1 December 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President