



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

FIRST SECTION

CASE OF ZAUGOLNOVA v. RUSSIA

(Application no. 1144/03)

JUDGMENT

This version was rectified on 30 March 2006
under Rule 81 of the Rules of the Court

STRASBOURG

15 December 2005

FINAL

12/04/2006

*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 Zaugolnova v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 24 November 2005,

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

PROCEDURE

1. The case originated in an application (no. 1144/03) 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 Nina Stefanovna Zaugolnova, on 2 December 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 4 October 2004 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

4. The applicant was born in 1946 and lives in Neryungri.

5. On 10 April 2002 the Nyuringri Town Court granted the applicant’s civil action against the Neryungri Town police department and awarded her 16,683.23 Russian roubles (“RUR”). On 5 June 2002 the Supreme Court of the Sakha (Yakutiya) Republic upheld the judgment on appeal. On the same day the judgment became final and enforceable.

6. On 3 December 2002 the Nyuringri Town Court issued a writ of execution.

7. On 16 July 2003 the applicant submitted the writ of execution to the Neryungri Town police department.

8. On 8 December 2004 the Neryungri Town Administration transferred RUR 16,683.23 to the applicant's account.

THE LAW

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

9. The applicant complained about non-enforcement of the judgment of 10 April 2002, as upheld on 5 June 2002. The Court considers that the complaint falls to be examined under Article 6 of the Convention and Article 1 of Protocol No. 1. The relevant parts of these provisions 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

10. The Court notes that this complaint 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

11. The Government submitted that on 8 December 2004 the judgment debt had been paid. The judgment of 10 April 2002, as upheld on 5 June 2002, had thus been enforced.

12. The applicant maintained her complaints.

13. The Court observes that on 10 April 2002 the applicant obtained a judgment in her favour against a local police department. On 5 June 2002 the judgment became enforceable. However, it remained unenforced until 8 December 2004, that is for more than two years and five months. It does not appear that the authorities had taken any effort to pay the judgment debt during that period. The Government did not offer any justification for their failure to act.

14. 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 *Gizzatova v. Russia*, no. 5124/03, § 19 et seq., 13 January 2005; *Wasserman v. Russia*, no. 15021/02, § 35 et seq., 18 November 2004; *Burdov v. Russia*, no. 59498/00, § 34 et seq., ECHR 2002-III).

15. Having examined the material submitted to it, the Court notes that the Government have 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 judgment in the applicant's favour the domestic authorities prevented her from receiving the money she could reasonably have expected to receive.

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

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

17. The Court has examined the complaints as submitted by the applicant. However, having regard to all the material in its possession, it finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. 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

18. 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

19. The applicant claimed RUR 3,000,000 in respect of compensation for non-pecuniary damage.

20. The Government considered that the claim was excessive and unsubstantiated.¹

21. The Court accepts that the applicant has suffered distress because of the State authorities' failure to enforce the judgment in her favour within a reasonable time. However, the amount claimed appears excessive. The Court takes into account the amount of the award in the instant case and the fact that the judgment has been enforced. Making its assessment on an equitable basis, the Court awards the applicant EUR 1,500 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

22. The applicant claimed reimbursement of her legal fees, without specifying the amount. She submitted documents relating to postal and copying expenses.

23. The Government considered that the applicant did not show that the expenses had been actually and necessarily incurred.²

24. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 50, plus any tax that may be chargeable on that amount.

C. Default interest

25. The Court considers it appropriate that the default interest 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. *Declares* the complaint concerning non-enforcement of the judgment of 10 April 2002, as upheld on 5 June 2002, admissible and the remainder of the application inadmissible;

¹ Rectified on 30 March 2006.

² Rectified on 30 March 2006.

2. *Holds* that there has been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
 - (i) EUR 1,500 (one thousand and five hundred euros) in respect of non-pecuniary damage;
 - (ii) EUR 50 (fifty euros) in respect of costs and expenses;
 - (iii) any tax that may be chargeable on the above amounts;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 15 December 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President