



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

FIRST SECTION

**CASE OF ZASURTSEV v. RUSSIA**

*(Application no. 67051/01)*

JUDGMENT

STRASBOURG

27 April 2006

**FINAL**

***27/07/2006***

*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 Zasurtsev v. Russia,**

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs F. TULKENS,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 6 April 2004,

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

**PROCEDURE**

1. The case originated in an application (no. 67051/01) 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, Mr Nikolay Aleksandrovich Zasurtsev (“the applicant”), on 19 December 2000.

2. The applicant was represented by Ms E. Bugayenko, a lawyer practising in Moscow. 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 21 June 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****I. THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1947 and lives in Ruzayevka, Republic of Mordovia.

5. In 1987 the applicant took part in emergency operations at the Chernobyl nuclear plant. As a result he suffered from extensive exposure to radioactive emissions. The applicant underwent medical examination which established the link between his poor health and his involvement in the

Chernobyl events. He was consequently granted status of a disabled person and awarded special monthly benefits from the State.

6. Until March 1999 the applicant received monthly benefits in the amount of 6,685.57 roubles (RUR). However, as from March 1999 the Ruzayevka Department of Social Security decreased the amount of the benefits to RUR 1,915 and as from May 1999 to RUR 525.29 on the grounds that the amount previously paid had been miscalculated.

7. Considering the decrease of the monthly benefits unlawful, in 2000 the applicant, together with two other plaintiffs, instituted proceedings against the Ruzayevka Department of Social Security.

8. On 30 June 2000 the Ruzayevskiy District Court granted the claim and found the decrease of the monthly benefits unlawful. The court awarded the applicant arrears for the period between 1 March 1999 and the date of the judgment in the amount of RUR 95,773.46 (approximately EUR 3,568) and ordered the Ruzayevka Department of Social Security to make monthly payments for his benefit in the amount of RUR 6,685.57 (approximately EUR 252). The judgment was not appealed against and became final.

9. On 3 October 2000 the execution proceedings were instituted.

10. The Prosecutor of the Republic of Mordovia brought an application for supervisory review of the judgment. The application was dated 7 December 2000. The execution proceedings were stayed until the examination of the application. The order to stay the execution proceedings, which referred to the application for supervisory review lodged by the acting Prosecutor of the Republic of Mordovia, was dated 18 October 2000.

11. On 14 December 2000 the Presidium of the Supreme Court of the Republic of Mordovia granted the application. The Presidium quashed the judgment of 30 June 2000 and remitted the case for a fresh examination on the grounds that the first instance court miscalculated the amount of the monthly benefits.

12. On 22 January 2001 the execution proceedings were terminated due to the quashing of the judgment.

13. On 22 March 2001, after the new examination of the case, the Ruzayevskiy District Court dismissed the applicant's claim.

14. On 3 July 2001 the Supreme Court of the Republic of Mordovia upheld the judgment on appeal.

15. On 11 February 2002, following the applicant's request of 8 August 2001, the Acting Chairman of the Supreme Court of the Republic of Mordovia brought an application for supervisory review of the judgments of 22 March and 3 July 2001.

16. On 21 February 2002 the Presidium of the Supreme Court of Mordovia granted the application. The Presidium quashed the judgments of 22 March and 3 July 2001 and remitted the case for a fresh examination on

the grounds that the court's calculation of the amount of the monthly benefits was unlawful.

17. On 1 March 2002 the Ruzayevskiy District Court stayed the proceedings concerning the applicant's claim until the Constitutional Court pronounced on the relevant issue.

18. On 12 July 2002 the Ruzayevskiy District Court renewed the proceedings. It appears that at a certain stage the proceedings concerning the applicant's claim were severed from the proceedings concerning the claims of the other two plaintiffs.

19. On 7 October 2002 the Ruzayevskiy District Court partially granted the applicant's claim.

20. On 3 December 2002 the Supreme Court of the Republic of Mordovia quashed the judgment on appeal and remitted the case for a fresh examination.

21. On 27 January 2003 the Ruzayevskiy District Court partially granted the applicant's claim. The court awarded the applicant arrears in the amount of RUR 471,981.80 (approximately EUR 13,756) and ordered the Ruzayevka Department of Social Security to make monthly payments for his benefit in the amount of RUR 17,443.22 (approximately EUR 508).

22. On 25 March 2003 the Supreme Court of the Republic of Mordovia varied the judgment of 27 January 2003. The court awarded the applicant arrears for the period between 1 March 1999 and 31 December 2002 in the amount of RUR 433,435.04 (approximately EUR 13,012) and ordered the Ruzayevka Department of Social Security to make monthly payments for his benefit in the amount of RUR 20,094.60 (approximately EUR 603). The court calculated the arrears for the whole period by index-linking the amount of the monthly payments to the pensioner's subsistence minimum set yearly by the State Statistics Committee of the Republic of Mordovia.

23. On 8 April 2003 the execution proceedings were instituted. They were closed on 23 December 2003 due to full recovery of the judgment debt.

24. On an unspecified date the applicant applied for supervisory review of the judgments of 27 January and 25 March 2003. On 6 February 2004 the Supreme Court of the Republic of Mordovia dismissed the application.

## II. RELEVANT DOMESTIC LAW AND PRACTICE

### *1. Execution of a judgment*

25. 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.

26. 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.

2. *Supervisory review (Пересмотр в порядке судебного надзора)*

27. 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...”

28. The only further means of recourse was the special supervisory-review procedure that enabled courts to reopen final judgments:

**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.”

29. The power of officials to lodge an application (*protest*) 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 Chamber 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 Chamber 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, regional court, city court, court of an autonomous region or court of an autonomous district, the Public Prosecutor of an autonomous republic, region, city, autonomous region or an autonomous district – against judgments and decisions of district (city) people’s courts and against decisions of civil chambers 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.”

30. 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.

31. 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.

32. 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.

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

**Article 329. Powers of supervisory-review court**

“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 delivery of unlawful judgment, decision or ruling...”

34. 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. THE GOVERNMENT'S REQUEST TO STRIKE OUT THE APPLICATION UNDER ARTICLE 37 OF THE CONVENTION

35. The applicant, in his observations on the admissibility and merits of the case of 8 November 2004, informed the Court that he had refused the settlement of the case on the terms proposed by the Government.

36. The Government, together with their comments on the applicant's claims for just satisfaction submitted on 16 December 2004, invited the Court to strike out the application, in accordance with Article 37 of the Convention, referring to the applicant's refusal to accept the settlement.

37. The Court observes at the outset that the parties were unable to agree on the terms of a friendly settlement of the case. The Court recalls that under certain circumstances an application may indeed be struck out under Article 37 § 1 (c) of the Convention on the basis of a unilateral declaration by the respondent Government even if the applicant wishes the examination of the case to be continued (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, § 76, 6 May 2003). It notes, however, that this procedure is an exceptional one and is not, as such, intended to circumvent the applicant's opposition to a friendly settlement.

38. Furthermore, the Court observes that a distinction must be drawn between, on the one hand, declarations made in the context of strictly confidential friendly-settlement proceedings (Article 38 § 2 of the Convention and Rule 62 § 2 of the Rules of Court) and, on the other hand, unilateral declarations made by a respondent Government in public and adversarial proceedings before the Court.

39. On the facts, the Court observes that the Government failed to submit with the Court any formal statement capable of falling into the latter category and offering a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the case.

40. This being so, the Court rejects the Government's request to strike the application out under Article 37 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

## II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 IN RESPECT OF THE SUPERVISORY REVIEW OF THE RUZAYEVSKIY DISTRICT COURT'S JUDGMENT OF 30 JUNE 2000

41. The applicant complained that the quashing under supervisory review procedure of the Ruzayevskiy District Court's judgment of 30 June 2000 violated his right to a fair trial guaranteed by Article 6 § 1 of the Convention and his right to the peaceful enjoyment of his possessions guaranteed by Article 1 of Protocol No. 1 to the Convention.

Article 6, in so far as relevant, provides 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 provides as follows:

### **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**

42. The Government submitted that on 14 December 2000 the Presidium of the Supreme Court of the Republic of Mordovia acted in accordance with Article 192 of the RSFSR Code on Civil Procedure. It quashed the Ruzayevskiy District Court's judgment of 30 June 2000 because the first instance court had miscalculated the amount of the monthly benefits to be paid to the applicant. In particular, the court had wrongly referred to the applicant's earnings during his participation in the emergency operations at the Chernobyl nuclear plant as a basis for such calculation. Furthermore, the court had failed to provide detailed calculations of the amount due in the judgment. The Government contended that the application for supervisory review had been lodged in order to correct the judicial error and, therefore, in the interests of the applicant himself. They further noted that as a result of the subsequent examination of the applicant's claim the courts had found in his favour and the judgment had been executed. Accordingly, there had

been no interference with his right to peaceful enjoyment of his possessions. The Government concluded that the complaint was manifestly ill-founded.

43. The applicant contested the Government's submissions. He submitted that the Ruzayevskiy District Court's judgment of 30 June 2000 had been reasoned, delivered in accordance with the law and had become final. The applicant noted that in the case of *Ryabykh v. Russia* (no. 52854/99, §§ 51-57, ECHR 2003-IX) the Court found the supervisory review procedure incompatible with Article 6 § 1. He further noted that the RSFSR Code on Civil Procedure provided no time-limits in respect of supervisory review of a final judgment, so that judgments were liable to challenge indefinitely. The applicant averred that the quashing of the Ruzayevskiy District Court's judgment of 30 June 2000 under supervisory review violated the principle of legal certainty. He contended that it also constituted an interference with his rights guaranteed by Article 1 of Protocol No. 1. The applicant noted that according to *Ryabykh v. Russia*, cited above, § 61, "a judgment debt may be regarded as a "possession" for the purposes of Article 1 of Protocol No. 1. ...[Q]uashing 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". In the applicant's view, the supervisory review of the Ruzayevskiy District Court's judgment of 30 June 2000 violated his rights under Article 1 of Protocol No. 1 irrespective of the fact that his claim was eventually partially granted.

44. 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**

45. The parties' submissions on the merits of the complaint are similar to those on the admissibility.

### *1. Article 6 of the Convention*

46. The Court first notes that the dispute as to the amount of the applicant's social benefits in connection with his participation in the emergency operations at the site of the Chernobyl nuclear plant disaster was of a pecuniary nature and indisputably concerned a civil right within the meaning of Article 6 § 1 of the Convention (see *Schuler-Zraggen v. Switzerland*, judgment of 24 June 1993, Series A no. 263, p. 17, § 46; *Massa v. Italy*, judgment of 24 August 1993, Series A no. 265-B, p. 20, § 26; *Süßmann v. Germany*, judgment of 16 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1170, § 42 and *Androsov v. Russia*, no. 63973/00, § 61, 6 October 2005).

47. The Court observes that the issue of the present case is whether the supervisory review procedure permitting a final judgment to be quashed can be considered compatible with Article 6 and, more specifically, whether on the facts of the present case the principle of legal certainty was respected.

48. The Court finds that this case is similar to the case of *Ryabykh v. Russia*, cited above, where it was said, in so far as relevant to the instant case:

“51. ... 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 declares, in its relevant part, 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...

54. The Court notes that the supervisory review of the judgment ... was set in motion by the President of the Belgorod Regional Court – who was not party to the proceedings ... As with the situation under Romanian law examined in *Brumărescu*, 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 of Judgments and Decisions* 1997-II, p. 510, § 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.”

49. Furthermore, the Court has found in this respect in the judgment *Sovtransavto Holding v. Ukraine*, no. 48553/99, § 77, ECHR 2002-VII:

“...judicial systems characterised by the objection (protest) procedure and, therefore, by the risk of final judgments being set aside repeatedly, as occurred in the instant case, are, as such, incompatible with the principle of legal certainty that is one of the fundamental aspects of the rule of law for the purposes of Article 6 § 1 of the Convention, read in the light of *Brumărescu* ...”

50. Turning to the facts of the present case, the Court notes that on 30 June 2000 the Ruzayevskiy District Court partially granted the

applicant's claim and awarded him certain amounts. After the judgment in the applicant's favour had become final and binding, the Prosecutor of the Republic of Mordovia brought an application for its supervisory review. On 14 December 2000 the Presidium of the Supreme Court of the Republic of Mordovia quashed the judgment of 30 June 2000 on the grounds that the lower court miscalculated the amount of the monthly benefits.

51. The Court further notes that as a result of the proceedings following the quashing of the Ruzayevskiy District Court's judgment of 30 June 2000, the applicant's claim was partially granted on 25 March 2003 by the Supreme Court of the Republic of Mordovia. The Court considers, however, that this fact did not by itself efface the effects of legal uncertainty he had to endure after the judgment of 30 June 2000 had been quashed (see *Ryabykh v. Russia*, cited above, § 49 and *Roseltrans v. Russia*, no. 60974/00, § 27, 21 July 2005).

52. Having regard to the circumstances of the present case, the Court does not find any reason for departing from its aforementioned judgments and considers that there has been a violation of Article 6 § 1 in respect of the quashing of the final and binding judgment given in the applicant's case.

## *2. Article 1 of Protocol No. 1 to the Convention*

53. The Court notes that on 30 June 2000 the Ruzayevskiy District Court awarded the applicant pension arrears for the period between 1 March 1999 and the date of the judgment in the amount of RUR 95,773.46 (approximately EUR 3,568) and monthly payments for his benefit in the amount of RUR 6,685.57 (approximately EUR 252). As a result of the proceedings following the supervisory review, on 25 March 2003 the Supreme Court of the Republic of Mordovia awarded the applicant arrears for the period between 1 March 1999 and 31 December 2002 in the amount of RUR 433,435.04 (approximately EUR 13,012) and monthly payments for his benefit in the amount of RUR 20,094.60 (approximately EUR 603). The Court notes that the amount of arrears awarded by the judgment of 25 March 2003 related to a longer period than the amount awarded on 30 June 2000. At the same time, the amount of monthly benefits awarded by the judgment of 25 March 2003 exceeded the one awarded by the judgment of 30 June 2000.

54. Therefore, the award the applicant obtained as a result of the proceedings following the supervisory review exceeded the one under the initial judgment of 30 June 2000.

55. In the circumstances of the present case, the Court does not consider it necessary to rule on the question where there has been a violation of Article 1 of Protocol No. 1.

### III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION IN RESPECT OF LENGTHY NON-EXECUTION OF THE JUDGMENT OF 25 MARCH 2003

56. The applicant complained that the judgment of 25 May 2003 of the Supreme Court of the Republic of Mordovia was not executed in due time. The Court shall examine the complaint under Article 6 of the Convention.

#### A. Admissibility

57. 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. Execution of a judgment given by any court must therefore be regarded as an integral part of the “trial” for the purposes of Article 6 (see *Burdov v. Russia*, no. 59498/00, § 34, ECHR 2002-III, and *Hornsby v. Greece*, judgment of 19 March 1997, *Reports 1997-II*, p. 510, § 40).

58. The Court further observes that a delay in the execution of a judgment may be justified in particular circumstances, but the delay may not be such as to impair the essence of the right protected under Article 6 § 1 (see *Burdov v. Russia*, cited above, § 35).

59. Turning to the instant case, the Court notes that the judgment of the Supreme Court of the Republic of Mordovia of 25 May 2003, which became enforceable on the same date, was fully executed on 23 December 2003. The period in question therefore lasted 6 months and 29 days. Having regard to its case law (see *Grishchenko v. Russia* (dec.), no. 75907/01, 8 July 2004; *Wasserman v. Russia*, no. 15021/02, § 36, 18 November 2004 and *Presnyakov v. Russia* (dec.), no. 41145/02, 10 November 2005), the Court finds that the length of the execution proceedings in the present case did not impair the applicant’s right of access to court.

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

### IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

61. Lastly, the applicant complained about the dismissal on 6 February 2004 of his application for supervisory review of the judgments of 27 January and 25 March 2003.

62. The Court reiterates that according to the established case-law of the Convention organs, Article 6 does not apply to proceedings concerning a failed request to reopen a case. Only the new proceedings, after the reopening has been granted, can be regarded as falling under Article 6 (see, *mutatis mutandis*, *X. v. Austria*, no. 7761/77, Commission decision of 8 May 1978, Decisions and Reports (DR) 14, p. 171 at p. 174; *José María Ruiz Mateos and Others v. Spain*, no. 24469/94, Commission decision of 2 December 1994, DR 79, p. 141 and *Nikitin v. Russia*, no. 50178/99, judgment of 20 July 2004, § 60). Accordingly, the complaint is incompatible *ratione materiae*.

63. It follows that this part of the application must be declared inadmissible, pursuant to Article 35 §§ 3 and 4 of the Convention.

## V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. 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

#### 1. *Pecuniary damage*

65. The applicant claimed RUR 696,354.39 in respect of pecuniary damage. The applicant submitted that the domestic courts had erred in the calculation of the arrears as they had applied wrong methods of indexing.

66. The Government argued that this claim should be rejected as unsubstantiated.

67. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

#### 2. *Non-pecuniary damage*

68. The applicant claimed that he had suffered non-pecuniary damage as a result of the violations of his rights guaranteed by the Convention. He did not quantify the alleged damage.

69. The Government submitted that finding of a violation would constitute adequate just satisfaction in the present case.

70. Having regard to the nature of the breach in this case, 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**

71. The applicant also claimed USD 800 for the costs and expenses incurred before the Court. He submitted that he had paid the above amount as remuneration for his representative and enclosed a receipt for payment on 25 August 2004 of RUR 23,280 (approximately EUR 686) for representation in the proceedings before the Court.

72. The Government made no specific comment in this regard.

73. 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 information in its possession and the above criteria, the Court considers it reasonable to award the sum of RUR 23,280 for the proceedings before the Court.

### **C. Default interest**

74. 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 the supervisory review of the Ruzayevskiy District Court's judgment of 30 June 2000 admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 of the Convention;
3. *Holds* that there is no need to examine the complaint under Article 1 of Protocol No. 1 of the Convention;
4. *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, RUR 23,280 (twenty three thousand two hundred eighty roubles) in respect of costs and expenses, plus any tax that may be chargeable;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 27 April 2004, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN  
Registrar

Christos ROZAKIS  
President