



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

FIRST SECTION

CASE OF PYRIKOV v. RUSSIA

(Application no. 2703/02)

JUDGMENT

STRASBOURG

8 June 2006

FINAL

08/09/2006

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 Pyrikov 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 18 May 2006,

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

PROCEDURE

1. The case originated in an application (no. 2703/02) 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, Mr Petr Nikolayevich Pyrikov (“the applicant”), on 24 December 2001.

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

3. On 12 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**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1949 and lives in the Tula Region.

A. Labour dispute

5. In December 1997 the applicant was dismissed from his position.

6. On 17 December 1997, according to the applicant, and 18 February 1998, according to the Government, the applicant and three other persons

lodged an action against their former employer, a private company, for payment of wage arrears and compensation for non-pecuniary damage.

7. On 13 May 1998 the Aleksin Town Court allowed the claim in part.

8. The parties did not appeal and the judgment became final.

9. On 27 September 1999 the Presidium of the Tula Regional Court granted the applicant's request for a supervisory review, quashed the judgment of 13 May 1998 and remitted the case for a new examination.

10. In February 2000 the applicant asked the Aleksin Town Court to examine his action in separate proceedings. The Town Court granted his request and adjourned the proceedings until 10 April 2000.

11. The hearing of 10 April 2000 was adjourned until 21 August 2000 because the defendant did not attend.

12. On 21 August 2000 the proceedings were stayed for one month because the applicant asked for additional time to amend his claims.

13. On 25 September 2000 the Aleksin Town Court allowed the applicant's claim in part.

14. That judgment was quashed on appeal by the Tula Regional Court on 10 April 2000. The case was remitted for a new examination.

15. Of the eleven hearings listed between September 2001 and April 2003, two hearings were adjourned because the judge was on sick leave, seven hearings were adjourned because the defendant did not attend or asked to stay the proceedings and two hearings were postponed at the applicant's request.

16. On 18 April 2003 Aleksin Town Court allowed the applicant's claim in part.

17. The judgment of 18 April 2003 was not appealed against and became final.

B. Dispute concerning unemployment benefits

18. On 11 October 2001 the Sovetskiy District Court of Tula granted the applicant's action against the Ministry of Finance for outstanding unemployment benefits and awarded him 2,828.32 Russian roubles (RUR, approximately 103 euros).

19. On 16 April 2002 the Tula Regional Court upheld the judgment on appeal.

20. On 29 May 2002 the applicant filed a writ of execution to the Ministry of Finance, but the judgment was not enforced.

21. On 2 December 2004 the judgment was enforced in full.

C. Access to information

22. On several occasions the applicant asked the Ministry of Finance for provision of unspecified information. No response followed.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1

23. The applicant complained that the prolonged non-enforcement of the judgment of 11 October 2001, as upheld on appeal by the Tula Regional Court on 16 April 2002, violated his right to the peaceful enjoyment of possessions under Article 1 of Protocol No. 1. The relevant parts of this provision read 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.”

A. Admissibility

24. The Government did not invoke any grounds for inadmissibility.

25. 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

26. The Government claimed that the debt to the applicant had been fully paid in December 2004.

27. The applicant argued that the judgment remained unenforced for more than two and a half years and that the domestic authorities did not pay him any compensation.

28. The Court observes that on 11 October 2001 the applicant obtained a judgment in his favour by which he was to be paid a certain sum of money by the Ministry of Finance. The judgment became final and enforceable on 16 April 2002. However, it was only enforced on 2 December 2004. It follows that the judgment of 11 October 2001 remained without enforcement for approximately two years and seven months.

29. The Court has frequently found violations of Article 1 of Protocol No. 1 in cases raising issues similar to the one in the present case (see *Burdov v. Russia*, no. 59498/00, § 35, ECHR 2002-III.; *Wasserman v. Russia*, no. 15021/02, § 35 et seq., 18 November 2004; and *Gerasimova v. Russia*, no. 24669/02, § 17 et seq., 13 October 2005).

30. 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 more than thirty months to comply with the enforceable judgment in the applicant's favour the domestic authorities prevented him from receiving the money he could reasonably have expected to receive.

31. There has accordingly been a violation of Article 1 of Protocol No. 1.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION ON ACCOUNT OF EXCESSIVE LENGTH OF THE PROCEEDINGS

32. The applicant complained that the proceedings against his former employer were excessively long. The Court considers that this complaint falls to be examined under Article 6 § 1 of the Convention which provides as follows:

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

33. The Government argued that the length of the proceedings had been reasonable. Hearings had been held and the decisions had been taken at regular intervals by the first instance court and on appeal. The applicant had repeatedly asked for an adjournment of the proceedings because he wanted to obtain additional evidence or to amend his claims.

34. The applicant averred that delays in the proceedings had resulted from the judges' inactivity and the defendant's failure to attend the hearings.

35. The Court considers it appropriate to take into account only the periods when the case was actually pending before the courts, that is the periods when there was no effective judgment in the determination of the merits of the applicant's dispute and when the authorities were under an obligation to pass such a judgment. The periods during which the domestic courts decided whether or not to re-open the case should also be excluded since Article 6 does not apply to such proceedings (see, for example, *Skorobogatova v. Russia*, no. 33914/02, § 39, 1 December 2005).

36. Turning to the facts of the present case, the Court observes that the proceedings may be divided into two periods. The first period commenced when the applicant lodged his action before the Aleksin Town Court. It ended on 13 May 1998 with the judgment of the Aleksin Town Court. Of that period the Court has competence *ratione temporis* to examine eight days, as the Convention entered into force in respect of Russia on 5 May 1998. The second period began on 27 September 1999 with the supervisory-review judgment and ended on 18 April 2003.

37. The parties did not argue that the case was complex. The Court agrees that the case was of no particular complexity.

38. Insofar as the applicant's conduct is concerned, the Court notes that between 8 February and 10 April 2000 the proceedings were stayed upon the applicant's request because he wanted his claim to be considered separately from those of other plaintiffs. Moreover, the proceedings were stayed upon the applicant's request on three other occasions, resulting in aggregated delay of about four months.

39. As regards the conduct of the authorities, the Court considers that the overall period, less the period attributable to the applicant's conduct, leaves the authorities accountable for approximately three years and one month.

40. The Court observes no substantial periods of the courts' inactivity. On the contrary, the hearings were scheduled at regular intervals and the parties' requests were examined at the same or in the following hearing. The Court also does not lose sight of the fact that the courts of three levels of jurisdiction were involved in the applicant's case. The domestic courts examined the merits of the applicant's case four times and did not idle.

41. Having regard to the above, the Court concludes that the length of the civil proceedings in the present case did not exceed the "reasonable time" set out in Article 6 § 1 of the Convention. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 § 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION ON ACCOUNT OF UNFAIRNESS OF THE PROCEEDINGS

42. The applicant complained under Articles 3, 6, 10 and 17 of the Convention that the proceedings, leading up to the judgment of the Aleksin Town Court of 18 April 2003, had been unfair because the courts had committed serious errors of fact and had wrongly assessed evidence.

43. With regard to the judicial decision of which the applicant complained, the Court reiterates that, in accordance with Article 19 of the Convention, its only task is to ensure the observance of the obligations undertaken by the Parties in the Convention. In particular, it is not competent to deal with an application alleging that errors of law or fact have been committed by domestic courts, except when it considers that such errors might have involved a possible violation of any of the rights and freedoms set out in the Convention in respect of which the applicant has complied with all other criteria of admissibility, set out in the Convention. The Court refers on this point to its established case-law (see *Schenk v. Switzerland*, judgment of 12 July 1988, Series A no. 140, p. 29, § 45).

44. In so far as the applicant complained that the proceedings in various ways were unfair, the Court notes that he did not appeal against the first-instance judgment of 18 April 2003 to a higher-instance court in order to obtain redress in this respect. It follows that this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

IV. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

45. The applicant complained under Article 10 of the Convention that the Ministry of Finance had not provided him with certain information.

46. The Court observes that the applicant did not raise this issue before the domestic court in the proceedings concerned. It follows that this complaint must also be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. 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

48. The applicant claimed 988,035.24 Russian roubles (RUR) in respect of pecuniary damage, of which RUR 985,206.92 was the amount due to him by his former employer and RUR 2,828.32 was the debt of the Ministry of Finance. He also claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

49. The Government considered the claim to be excessive, unreasonable and premature. The Government submitted that the applicant had not produced any evidence of non-pecuniary damage and that the finding of a violation would in itself constitute a sufficient just satisfaction.

50. The Court does not discern any causal link between the violation found and the pecuniary damage alleged by the applicant against his former employer; it therefore rejects this claim. As regards the pecuniary damage claimed by the applicant against the Ministry of Finance, the Court notes that the sum awarded has now been paid. Furthermore, the applicant did not provide any supporting documents to substantiate any other pecuniary claim in this respect. The Court therefore decides to reject the applicant's claims under this head.

51. On the other hand, the Court accepts that the applicant suffered distress because of the State authorities' failure to enforce the judgment of 11 October 2001, as upheld by the Tula Regional Court on 16 April 2002. However, the amount claimed appears excessive. The Court takes into account the amount and nature of the award in the instant case, that is payment of unemployment benefits which have been the applicant's primary source of income, and the period of the authorities' inactivity. Making its assessment on an equitable basis, it awards the applicant

EUR 1,100 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Default interest

52. 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 11 October 2001, as upheld on appeal by the Tula Regional Court on 16 April 2002, admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
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, EUR 1,100 (one thousand one hundred euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of the settlement, 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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 June 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President