CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

CASE OF UGLANOVA v. RUSSIA

(Application no. 3852/02)

JUDGMENT

STRASBOURG

21 September 2006

FINAL

21/12/2006

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 Uglanova 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 N. VAJIĆ,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr D. SPIELMANN, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 31 August 2006,

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

PROCEDURE

1. The case originated in an application (no. 3852/02) 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 Galina Ivanovna Uglanova, on 17 December 2001.

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 16 February 2004 the Court decided to communicate the application to the Government. On 30 August 2005 the Court put additional questions to the parties and decided, under the provisions of Article 29 § 3 of the Convention, 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 1941 and lives in Irkutsk.

A. First examination of the case

5. On 6 August 1996 the applicant brought a civil action against Ms B. contesting the will of her late husband made in favour of Ms B. Ms B. counterclaimed, seeking to annul the applicant's title in her late husband's flat.

6. On 6 May 1998 the Sverdlovskiy District Court of Irkutsk dismissed the applicant's claim and found for Ms B. On 30 December 1998 the Irkutsk Regional Court upheld that judgment on appeal.

B. Supervisory review and the second examination of the case

7. Further to the applicant's complaint to a prosecutor's office, on 17 May 1999 the Presidium of the Irkutsk Regional Court quashed the judgments of 6 May and 30 December 1998 and remitted the case for a new examination.

8. On 23 December 1999 the Sverdlovskiy District Court of Irkutsk granted the applicant's claim in full. The other party did not lodge an appeal and the judgment became final on 5 January 2000.

C. Supervisory review and the third examination of the case

9. On an unspecified date the president of the Irkutsk Regional Court lodged an application for supervisory review. On 1 August 2000 the applicant submitted her observations on the application.

10. On 7 August 2000 the Presidium of the Irkutsk Regional Court quashed the judgment of 23 December 1999 and remitted the case for a new examination. It found that the first-instance court had failed to examine some of the applicant's claims and had not elucidated discrepancies in witnesses' testimony.

11. On 14 February 2001 the Sverdlovskiy District Court of Irkutsk found for the applicant. It declared the will void and granted the applicant's request for an extension of the time-limit for accepting the inheritance. Ms B.'s claim for declaring the applicant's title void, was rejected.

12. On 22 June 2001 the Irkutsk Regional Court upheld that judgment on appeal.

D. Supervisory review and the fourth examination of the case

13. On an unspecified date, acting on a complaint by Ms B., the President of the Irkutsk Regional Court introduced a new application for supervisory review.

14. On 30 July 2001 the Presidium of the Irkutsk Regional Court granted the president's application, quashed the judgments of 14 February and

22 June 2001 and remitted the case for a new examination. The ground for the quashing was the first-instance court's failure to make good the procedural defects identified in the Presidium's decision of 7 August 2000.

15. On 30 September 2002 the Sverdlovskiy District Court of Irkutsk dismissed the applicant's claims and found for Ms B. Assessing the evidence in the case, the District Court noted, in particular, that Ms L. Uglanova, resident in another city, had not appeared before the court but had submitted a written statement to that effect and explanations on the merits of the claim.

16. On 27 December 2002 the Irkutsk Regional Court quashed the judgment of 30 September 2002 on procedural grounds and remitted the case for a new examination by the first-instance court.

E. Supervisory review and the fifth examination of the case

17. On an unspecified date Ms B.'s representative lodged an application for supervisory review with the Irkutsk Regional Court.

18. On 7 April 2003 the Presidium of the Irkutsk Regional Court quashed the appeal judgment of 27 December 2002 and reinstated the first-instance judgment of 30 September 2002. It found that the first-instance court had implemented the previous decisions of the Presidium and correctly applied the civil- and family-law substantive provisions; in these circumstances, the appeal court had had no lawful grounds to quash its judgment.

19. On 1 September 2003 the Supreme Court of the Russian Federation refused the applicant's request to institute supervisory review of the judgment of 7 April 2003.

F. Applicant's attempts to expedite the proceedings

20. Throughout the proceedings the applicant lodged a considerable number of complaints about the excessive length of the proceedings in her case.

21. She complained to the presidents of the Sverdlovskiy District Court of Irkutsk and of the Irkutsk Regional Court, to the Human Rights Commission of the Irkutsk Governor, to the Irkutsk Regional Judges' Qualifications Board and the Supreme Judges' Qualifications Board, to the Supreme Court of the Russian Federation, to the Legislative Assembly of the Irkutsk Region, to the Ombudsman and to the President of the Russian Federation.

22. On 20 December 2000 the Irkutsk Regional Judges' Qualifications Board requested the president of the Sverdlovskiy District Court to take measures to expedite proceedings in the applicant's case "having regard to the fact that significant delays had already occurred".

23. On 24 January 2001 the Irkutsk Regional Judges' Qualifications Board informed the applicant that non-compliance with procedural time-limits in her case had been objectively justified and the judge had not had personal interest in delaying the examination.

24. On 22 January 2001 the Irkutsk Regional Court reported the case progress to the Supreme Court of the Russian Federation which had made a request following the applicant's complaint. The Regional Court wrote that delays had been caused by certain interested parties' repeated failures to appear.

25. On 26 June 2002 the Irkutsk Regional Court ordered the president of the Sverdlovskiy District Court to take measures for expedited examination of the applicant's case.

THE LAW

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

26. The applicant complained under Article 6 § 1 of the Convention that the proceedings in her case had been too long. Article 6 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..."

A. Admissibility

27. The Court observes that the applicant introduced her claim on 6 August 1996, however, it only has competence *ratione temporis* to examine the period after 5 May 1998 when the Convention entered into force in respect of Russia. The proceedings ended on 7 April 2003. As it is appropriate to take into account only the periods when the matter was actually pending before the courts (see *Skorobogatova v. Russia*, no. 33914/02, § 39, 1 December 2005, with further references), the Court finds that in the post-ratification period the proceedings lasted four years and three months.

28. The Court finds 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

29. The Government submitted that the case had been a complex one because it had been necessary to establish whether the applicant had had a joint household with the testator. Referring to the text of the judgment of 30 September 2002 (see paragraph 15 above), the Government claimed that a complicating factor had been the applicant's daughter's refusal to attend hearings; the daughter had asked to consider the matter in her absence and annul her mother's title in the contested flat. A further proof of the complexity of the case was the fact that the first-instance court had issued four judgments which has been subsequently quashed as unlawful by the supervisory-review court.

30. The applicant claimed that the domestic courts had protracted the examination of the case. Excessive delays were noted, in particular, in the letters of the Irkutsk Regional Judges' Qualifications Board and the Supreme Judges' Qualifications Board. The Government mistakenly considered that Ms L. Uglanova was her daugther; in fact, she was a daughter of her former husband.

31. 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 following criteria: the complexity of the case, the conduct of the applicant and 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).

32. The case was an inheritance dispute. Only two parties were involved and the courts were called upon to determine whether the applicant had had a joint household with her husband and had thereby acquired a legal claim to a part of the inheritance. Accordingly, the complexity of the case was not sufficient, in itself, to account for the length of the proceedings.

33. As to the applicant's conduct, it does not appear that she contributed to the prolongation of the proceedings. She cannot be held responsible for the conduct of Ms L. Uglanova, an adult person and a third party in the case. In any event, it does not follow from the judgment of 30 September 2002 that Ms L. Uglanova's absence had led to any delays. It appears that the District Court had been satisfied with her written submissions on the merits of the claim.

34. Furthermore, in so far as the conduct of the authorities is concerned, the Court does not share the Government's view that the repeated quashing of lower courts' judgments by the supervisory-review instance attested to the complexity of the case. It observes that one judgment was set aside because of the first-instance court's failure to examine evidence thoroughly; the Presidium of the Regional Court identified procedural defects that rendered the judgment unlawful and instructed the lower court to remedy these breaches during a new examination (see paragraph 10 above).

However, it appears that the first-instance court failed to implement these instructions and a subsequent judgment was set aside because of the same procedural defects that had been previously identified (see paragraph 14 above). The resulting delay of more than three years is entirely attributable to the conduct of the domestic authorities. The Court reiterates in this connection that in principle the involvement of numerous instances does not absolve the judicial authorities of complying with the reasonable-time requirement of Article 6 § 1 (see *Litoselitis v. Greece*, no 62771/00, § 32, 5 February 2004).

35. In the light of above considerations, the Court holds that that the applicant's case was not heard within a "reasonable time". There has accordingly been a violation of Article 6 § 1 of the Convention.

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

36. The applicant further complained under Article 1 of Protocol No. 1 that in the absence of a final judicial decision she could not use the contested property.

37. The Court observes that on 7 April 2003 the Presidium of the Irkutsk Regional Court reinstated the judgment of the Sverdlovskiy District Court of 30 September 2002 whereby the applicant's claim to the contested property was finally dismissed. The Court further reiterates that in a dispute between private parties the decisions of the domestic courts do not generally give rise to an interference with property rights under Article 1 of Protocol No. 1 as it is their function to determine the nature and extent of the parties' mutual duties and obligations (see *The Governor and Company of the Bank of Scotland v. the United Kingdom*, no. 37857/97, Commission decision of 21 October 1998). There is nothing in the present case that would warrant a departure from that principle.

38. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

39. 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

40. The applicant claimed 835,000 Russian roubles (RUR) in respect of pecuniary damage, representing the approximate value of a renovated and furnished one-room flat in Irkutsk. She further claimed RUR 1,500,000 in respect of non-pecuniary damage.

41. The Government considered that there was no causal link between the alleged violation and the claimed damages and that the amount was, in any event, excessive.

42. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it accepts that the applicant suffered distress and frustration because of excessive delays in the proceedings. Making its assessment on an equitable basis, it awards the applicant EUR 2,400 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

43. The applicant also claimed RUR 25,000 for the costs and expenses incurred in the domestic and Strasbourg proceedings. She submitted one postal receipt for RUR 123.90.

44. The Government pointed out that the applicant did not furnish documents in support of her claim.

45. 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 EUR 30 covering costs under all heads, plus any tax that may be chargeable on that amount.

C. Default interest

46. 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 excessive length of proceedings admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of 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, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:

(i) EUR 2,400 (two thousand four hundred euros) in respect of non-pecuniary damage;

(ii) EUR 30 (thirty 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 21 September 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President