



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

FIRST SECTION

CASE OF SHAPOVALOVA v. RUSSIA

(Application no. 2047/03)

JUDGMENT

STRASBOURG

5 October 2006

FINAL

12/02/2007

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 Shapovalova v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mrs N. VAJIĆ,

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 14 September 2006,

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

PROCEDURE

1. The case originated in an application (no. 2047/03) 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 Liubov Gennadyevna Shapovalova (“the applicant”), on 27 November 2002.

2. The applicant was represented by Mr I. Teliatyev, a lawyer practising in Arkhangelsk. 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 30 September 2005 the Court decided to give notice of 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 1961 and lives in the town of Arkhangelsk in the Arkhangelsk Region.

A. Proceedings concerning child support benefits

5. The applicant sued the Financial Division of the Arkhangelsk Regional administration and the social security services of the Arkhangelsk Region for payment of child support benefits, interest thereon and compensation for non-pecuniary damage.

6. On 5 January 2001 the Lomonosovskiy District Court of Arkhangelsk adjourned the examination of the action and requested the applicant to submit evidence and to clarify her claims. This decision was quashed on appeal by the Arkhangelsk Regional Court on 5 March 2001. The case was remitted for an examination on the merits.

7. On 5 April 2001 the Lomonosovskiy District Court awarded the applicant 490.91 Russian roubles (RUR, approximately 19 euros) in arrears in respect of child support benefits and dismissed the remainder of the claims. The judgment was upheld on appeal on 28 May 2001 and became final.

8. Enforcement proceedings were instituted but the judgment was not enforced because the Arkhangelsk Regional administration lacked necessary funds.

9. On 13 May 2003 the applicant received the sum in full.

B. Proceedings against bailiffs

10. On 2 April 2002 the applicant sued the Arkhangelsk Regional bailiffs' office and the Ministry of Justice for compensation for damage caused by non-enforcement of the judgment of 5 April 2001, as upheld on appeal on 28 May 2001.

11. On 9 April 2002 the Oktyabrskiy District Court disallowed the action because it should have been lodged with a court in Moscow. The decision was quashed on appeal on 27 May 2002 and the matter was remitted for an examination on its merits.

12. On 20 June 2002 the Oktyabrskiy District Court dismissed the applicant's action because the Arkhangelsk Regional administration lacked funds for the enforcement of the judgment concerned and the bailiffs' office was not at fault for non-enforcement. The judgment was upheld on appeal on 22 July 2002.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 ON ACCOUNT OF PROTRACTED NON-ENFORCEMENT OF THE JUDGMENT OF 5 APRIL 2001

13. The applicant complained that the judgment 5 April 2001, as upheld on appeal on 28 May 2001, had not been enforced in good time. The Court considers that this complaint falls to be examined under Article 6 § 1 of the

Convention and Article 1 of Protocol No. 1 (see *Burdov v. Russia*, no. 59498/00, § 26, ECHR 2002-III). 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 within a reasonable time... 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...”

A. Admissibility

14. 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

15. The Government, without providing further explanations, stated that the judgment of 5 April 2001 was enforced in May 2003.

16. The applicant argued that the judgment remained unenforced because the money had been paid by another State authority and not by the Regional Administration.

17. The Court observes that on 5 April 2001 the applicant obtained a judgment in her favour by which she was to receive a certain sum of money from the Arkhangelsk Regional Administration. The judgment became final and enforceable on 28 May 2001. On 13 May 2003 the applicant was paid RUR 490.01, as provided by the judgment of 5 April 2001.

18. The Court notes the applicant's argument that the judgment of 5 April 2001, as upheld on appeal on 28 May 2001, remains unenforced because the money were paid by another State agency and not by the Regional Administration. In this respect, the Court observes that the applicant did not indicate any reason why on 13 May 2003 a State body paid her the same sum as provided by the judgment award. Thus, the Court is not convinced by the applicant's argument and considers that the sum was paid to her with the view to enforce the judgment of 5 April 2001. Therefore, the judgment of 5 April 2001, as upheld on appeal on 28 May

2001, remained unenforced until 13 May 2003, that is for approximately two years.

19. 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 *Burdov v. Russia*, no. 59498/00, § 19 et seq., ECHR 2002-III; *Gizzatova v. Russia*, no. 5124/03, § 19 et seq., 13 January 2005; *Gerasimova v. Russia*, no. 24669/02, § 17 et seq., 13 October 2005).

20. Having examined the material submitted to it, the Court notes that the Government have not put forward any fact or argument capable of justifying the delay in enforcement of the judgment of 5 April 2001. The Court finds that by failing for almost two years to comply with the enforceable judgment in the applicant's favour the domestic authorities impaired the essence of her right to a court and prevented her from receiving the money she had legitimately expected to receive.

21. 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

22. The applicant further complained under Articles 6 of the Convention that her right of access to court had been violated when the courts had refused to accept her actions on 5 January 2001 and 9 April 2002 and that the courts had incorrectly applied domestic law and assessed the facts of the case when determined her action against the bailiffs. However, having regard to all the materials in its possession, the Court 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

23. 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

24. The applicant claimed 15,000 euros (EUR) in respect of non-pecuniary damage.

25. The Government contested the claim, noting that it was unreasonable and excessive.

26. The Court does not exclude that the applicant might have suffered distress and frustration resulting from the State authorities' failure to enforce the judgment 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 (cf. *Poznakhirina v. Russia*, no. 25964/02, § 35, 24 February 2005).

B. Costs and expenses

27. The applicant did not make any claims for the costs and expenses incurred before the domestic courts and before the Court.

28. Accordingly, the Court does not award anything under this head.

C. Default interest

29. 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 delay in enforcement of the judgment of 5 April 2001, as upheld on appeal on 28 May 2001, admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1;
3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant.

Done in English, and notified in writing on 5 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President