



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

FIRST SECTION

CASE OF GLAZKOV v. RUSSIA

(Application no. 10929/03)

JUDGMENT

STRASBOURG

12 October 2006

FINAL

12/01/2007

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 Glazkov 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 21 September 2006,

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

PROCEDURE

1. The case originated in an application (no. 10929/03) 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, Mr Stanislav Ivanovich Glazkov ("the applicant"), on 19 February 2003.

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

3. On 13 December 2004 the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

4. On 21 September 2006 the Court dismissed the Government's objection concerning the application of Article 29 § 3 of the Convention.

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1958 and lives in Moscow.

6. On 11 September 1996 he was injured in a traffic accident. He was found to have suffered light bodily injury.

7. On 24 February 1997 the applicant brought proceedings, in the Tushinskiy District Court of Moscow, for damages against an individual,

who had been found guilty of causing the accident and subjected to administrative liability by a decision of the police of 26 September 1996.

8. In letters dated 9 January and 2 July 1998 the applicant complained to the Ministry of Justice about the lack of any developments in his case.

9. On 6 July 1999 the District Court ordered the applicant's medical examination to be carried out by the Moscow City Bureau of Forensic Medical Examinations. The decision was not executed.

10. On 11 January 2001 the District Court again ordered the applicant's medical examination by the Forensic Medical Examination Bureau of the Public Health Committee of the Government of Moscow. Pursuant to this decision, the examination was carried out from 24 January to 9 February 2001. The experts' report of 9 February 2001 no. 8 stated that it would be possible to answer the questions put by the court only after the applicant's in-patient examination with a view to determine the causation between the accident on 11 September 1996 and his present health condition.

11. On 28 June 2001 the District Court ordered the applicant's in-patient examination.

12. On 20 January 2003 the District Court ordered the expert assessment of the applicant's state of health and its connection with the accident, to be carried out by the Forensic Medical Examination Bureau of the Public Health Committee of the Government of Moscow.

13. Following the applicant's requests the District Court demanded various medical institutions to issue the applicant's medical records needed for the expert assessment.

14. On 14 March 2003 the applicant complained to the Moscow City Court about the delay in the proceedings in his case.

15. The applicant's expert medical examination ordered by the decision of the District Court of 20 January 2003 was carried out by the Forensic Medical Examination Bureau of the Public Health Committee of the Government of Moscow from 16 March 2005 to 18 March 2005. The experts' report of 18 March 2005 no. 22 confirmed that the applicant had suffered light bodily injury in the accident on 11 September 1996 and that his present health condition had no connection with the accident.

16. On 18 April 2005 the applicant submitted additional claims and the court adjourned the hearing to 4 May 2005 in order to allow the defendant to get acquainted with the new claims.

17. On 4 May 2005 the Tushinskiy District Court of Moscow examined the case and delivered a judgment in which it granted the applicant's claims in part. It ordered the defendant to pay the applicant compensation in respect of the health damage, moral harm and costs.

18. The applicant and the defendant appealed against the judgment.

19. On 6 June 2005 the Moscow City Court dismissed the appeals and upheld the judgment.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

20. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, provided in Article 6 § 1 of the Convention. He also complained under Article 13 of the Convention about the lack of an effective remedy against the excessive length of the proceedings. The relevant parts of Articles 6 § 1 and 13 read as follows:

Article 6 § 1:

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

Article 13:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

21. The Government submitted that the applicant had several times extended the scope of his claims, requested repeated medical examinations, and altered the nature of the injuries allegedly suffered in the traffic accident. As a result, the courts of different levels of jurisdiction had had to order the applicant's repeated medical examinations, request his medical records from various medical institutions where he had undergone treatment, which had adversely affected the length of the proceedings. On 4 May 2005 the Tushinskiy District Court of Moscow had granted the applicant's claims in part. Therefore, the applicant had fully availed himself of the effective remedy for the legal protection of his rights. He had failed to prove the inefficiency of the domestic proceedings in his case. The length of the proceedings had been explained by the complexity of the case and a large number of comprehensive examinations. The domestic courts had taken all legitimate measures for ensuring the applicant's access to a court and for examining his case within the shortest possible time. The Government concluded that the applicant was not a victim of a violation of Articles 6 § 1 and 13 of the Convention. They also argued, in their observations of 5 May 2005, that the application was premature as the judgment had not yet come into effect.

22. The applicant disagreed. He submitted that he could not be blamed for enlarging the scope of his claims three times because of the increase, with time, of his actual medical and legal costs. His requests for the repeated medical examination had been based on the experts'

recommendation in their report of 2001. The case had not been complex. The first expert report had indicated, in February 2001, a need for the applicant's simple in-patient examination to enable the experts to answer the questions put by the court. The court could have ordered the in-patient examination and the expert assessment without delay in which case it could have finished the proceedings in 2001.

23. The Court notes that the period to be taken into consideration began only on 5 May 1998, when the Convention came into effect in respect of Russia. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The period in question ended on 6 June 2005. It thus lasted seven years and one month for two levels of jurisdiction.

A. Admissibility

24. As for the Government's objection of 5 May 2005 that the application is premature, the Court notes that the proceedings in the applicant's case ended with a decision of the Moscow City Court of 6 June 2005. The Court considers 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

1. Article 6 § 1

25. 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).

26. The Court notes that the present case involves significant delays in the proceedings when they were pending before the Tushinskiy District Court of Moscow, ranging from more than one year (between 5 May 1998 and 6 July 1999, then until 11 January 2001, and between 28 June 2001 and 20 January 2003) to more than two years (between 20 January 2003 and March 2005). The Court finds that the substantial part of those delays had been imputable to the authorities. It cannot agree with the Government that the case had been complex. The case required the expert medical assessment of the applicant who had suffered light bodily injury in the traffic accident. However, the delay of more than five years and eight months, after the court

had first ordered the expert opinion (on 6 July 1999) before such an assessment by a State-run expert institution was obtained by the court (18 March 2005), is largely attributable to the authorities.

27. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

28. Having examined all the material submitted to it, the Court considers 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 considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

2. Article 13

29. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudla v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI). It notes that the Government did not indicate any remedy that could have expedited the determination of the applicant's case or provided him with adequate redress for delays that had already occurred (see *Kormacheva v. Russia*, no. 53084/99, 29 January 2004, § 64).

30. Accordingly, the Court considers that in the present case there has been a violation of Article 13 of the Convention on account of the lack of a remedy under domestic law whereby the applicant could have obtained a ruling upholding his right to have his case heard within a reasonable time, as set forth in Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. 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

32. The applicant claimed 138,260 US dollars (USD) in respect of pecuniary damage. This amount included USD 1,900 as his medical treatment costs following the traffic accident, USD 2,870 as costs covering postage, photocopying, transport, retraining, liability insurance, and

USD 133,490 as his lost profit in connection with the injury suffered in the traffic accident.

33. The applicant further claimed USD 100,000 in respect of non-pecuniary damage suffered in connection with, *inter alia*, unjustifiably long examination of his case.

34. The Government contested these claims. They submitted that no just satisfaction should be awarded to the applicant, as there had been no violation of his rights. In case of finding a violation of the Convention such a finding would be adequate just satisfaction. The Government noted that the claims were linked to the harm caused by the defendant in the civil case and not to the length of the proceedings. In any event, the claims were excessive and unreasonable.

35. 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 considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards him 3,000 euros (EUR) under that head.

B. Costs and expenses

36. The applicant also claimed EUR 14,250 for the costs and expenses incurred before the domestic courts and for those incurred before the Court. He explained that this amount represents legal costs covering the 285-hour work done by three lawyers who had assisted him in the domestic proceedings concerning the damages caused by the traffic accident, as well as in the proceedings before the Court.

37. The Government contested the claim. They submitted that it was linked to the domestic proceedings in the civil case, and that the applicant had failed to list the costs incurred in the proceedings before the Court.

38. 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 applicant, who was not represented by a lawyer, the sum of EUR 200 under this head in respect of the proceedings before the Court.

C. Default interest

39. 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 application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there has been a violation of Article 13 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, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
 - (i) EUR 3,000 (three thousand euros) in respect of non-pecuniary damage;
 - (ii) EUR 200 (two hundred 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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 12 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President