



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

FIFTH SECTION

CASE OF SHEVTSOV v. UKRAINE

(Application no. 16985/03)

JUDGMENT

STRASBOURG

7 December 2006

FINAL

07/03/2007

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 Shevtsov v. Ukraine,

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

Mr P. LORENZEN, *President*,

Mrs S. BOTOUCHAROVA,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr R. MARUSTE,

Mr M. VILLIGER, *judges*,

and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 13 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 16985/03) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Ukrainian national, Mr Vladimir Andreyevich Shevtsov (“the applicant”), on 15 April 2003.

2. The Ukrainian Government (“the Government”) were represented by their Agent, Mrs V. Lutkovska.

3. On 15 March 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**I. THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1955 and lives in Lugansk.

A. First set of proceedings

5. On 8 August 2001 the Leninskyy District Court of Lugansk ordered the State Enterprise “Luganskyy Stankobudivelnyy Zavod” to pay the

applicant UAH 2,575.34¹ in salary arrears and compensation for the delay in its payment.

6. On 13 September 2001 the Leninskyy District Bailiffs' Service of Lugansk instituted enforcement proceedings.

7. On 13 November 2002 the Bailiffs' Service informed the applicant that the decisions in his favour had not been executed due to the substantial number of enforcement proceedings against the debtor and the debtor's lack of funds.

8. On 19 April 2005 the applicant was paid the amount due to him in full.

B. Second set of proceedings

9. In April 2002 the applicant instituted proceedings in the Leninskyy District Court of Lugansk against the same company, seeking compensation for its failure to pay him the judgment debt of 8 August 2001.

10. On 8 July 2002 the court rejected the applicant's claim as unsubstantiated. On 5 September 2002 and 28 January 2003, respectively, the Lugansk Regional Court of Appeal and the Supreme Court upheld the decision of 8 July 2002.

II. RELEVANT DOMESTIC LAW

11. The relevant domestic law is summarised in the judgment of *Romashov v. Ukraine* (no. 67534/01, §§ 16-18 and 39-41, 27 July 2004).

THE LAW

I. COMPLAINT ABOUT THE LENGTH OF THE NON-ENFORCEMENT OF THE JUDGMENT OF 8 AUGUST 2001

12. The applicant complained about the State authorities' failure to enforce the judgment of the Leninskyy District Court of Lugansk of 8 August 2001 in due time. He invoked Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1, which provide, insofar as relevant, as follows:

1. Around 549.12 euros.

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...”

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.”

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”

A. Admissibility

13. The Government raised objections regarding the applicant's victim status and exhaustion of domestic remedies similar to those which the Court has already dismissed in the case of *Romashov v. Ukraine* (see *Romashov*, cited above, §§ 23-33). The Court considers that the present objections must be rejected for the same reasons.

14. The Court concludes that this part of the application raises issues of fact and law under the Convention, the determination of which requires an examination of the merits. It finds no ground for declaring it inadmissible.

B. Merits

15. In their observations, the Government put forward arguments similar to those in the cases of *Romashov v. Ukraine* and *Voytenko v. Ukraine*, contending that there had been no violation of either Article 6 § 1 of the Convention or Article 1 of Protocol No. 1 (see *Romashov*, cited above, § 37, and *Voytenko v. Ukraine*, no. 18966/02, 29 June 2004, § 37).

16. The Court notes that judgment of the Leninsky District Court of Lugansk of 8 August 2001 remained unenforced for around three years and seven months.

17. The Court recalls that it has already found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in cases raising issues

similar to the present application (see, for instance, *Romashov*, cited above, §§ 42-46, and *Voytenko*, cited above, §§ 53-55).

18. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or convincing argument capable of persuading it to reach a different conclusion in the present case. There has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

19. The Court does not find it necessary in the circumstances to examine the same complaint under Article 13 of the Convention (see *Derkach and Palek v. Ukraine*, nos. 34297/02 and 39574/02, § 42, 21 December 2004).

II. OTHER COMPLAINTS

20. The applicant further complained under Article 6 § 1 of the Convention about the outcome and length of the second set of proceedings.

21. The Court finds that there is nothing to show that the proceedings were arbitrary or that the court decisions reached were manifestly unreasonable. The applicant enjoyed the right to adversarial proceedings with the participation of interested parties and was able to introduce all necessary arguments in defence of his interests, and the judicial authorities gave them due consideration. The Court further notes that the proceedings before the courts of three levels of jurisdiction were completed within one year and therefore their length cannot be considered unreasonable. Accordingly, this part of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

22. The applicant also alleged that he had suffered discrimination in the enjoyment of his property rights, contrary to Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1, on account of the non-enforcement of the judgment in his favour.

23. The Court considers that the facts of the present case do not disclose any appearance of a violation of Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1. Accordingly, this complaint must be rejected as manifestly ill-founded pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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.”

25. The applicant did not submit a claim for just satisfaction in the time-limit fixed by the Court. Accordingly, the Court considers that there is no call to award him any sum on this account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the applicant's complaints under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 about the length of the non-enforcement of the judgment of the Leninskyy District Court of Lugansk of 8 August 2001 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* that there has been a violation of Article 1 of Protocol No. 1;
4. *Holds* that it is not necessary to examine the applicant's complaint under Article 13 of the Convention;

Done in English, and notified in writing on 7 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President