



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

FIFTH SECTION

CASE OF YEREMEYEV v. UKRAINE

(Application no. 42473/04)

JUDGMENT

STRASBOURG

FINAL

14/03/2007

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 Yeremeyev v. Ukraine,

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

Mr P. LORENZEN, *President*,

Mr K. JUNGWIERT,

Mr V. BUTKEVYCH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr J. BORREGO BORREGO,

Mrs R. JAEGER,

Mr M. VILLIGER, *judges*,

and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 20 November 2006,

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

PROCEDURE

1. The case originated in an application (no. 42473/04) 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 Aleksandr Alekseyevich Yeremeyev (“the applicant”), on 12 May 2004.

2. The applicant was represented by Mr V. Bychkovskiy from Miusinsk. The Ukrainian Government (“the Government”) were represented by Mr Y. Zaytsev, their Agent, and Mrs I. Shevchuk, Head of the Office of the Government Agent before the European Court of Human Rights.

3. On 8 November 2005 the Court decided to communicate the complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the non-enforcement of the judgements in the applicant’s favour 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 1936 and lives in Ivanivka, the Lugansk region. He is a former employee of the Ivanivka Machine-Building Plant (“the Plant,” *Іванівський верстатозавод*). 99.11% of the Plant’s shares are owned by the State.

5. On 30 October 2000 the Plant's labour disputes commission ("the Commission," *комісія з трудових спорів Іванівського верстатозаводу*) ordered the Plant to pay the applicant UAH 2,127.24¹ in salary arrears. This decision became final and was transferred to the Antratsit Bailiffs' Service ("the Bailiffs," *Відділ Державної виконавчої служби Антрацитівського районного управління юстиції*) for enforcement.

6. On 2 November 2001 and 21 January 2004 the Antratsit Court (*Антрацитівський районний суд Луганської області*) additionally ordered the Plant to pay the applicant UAH 970.13² and UAH 535³ respectively in various payments. These judgments became final and the enforcement writs were transferred to the Bailiffs for enforcement.

7. On 1 February 2005 the Bailiffs informed the applicant that the delays in collection of the awards due to him were due to the holding of the Plant's property in a tax lien, a statutory moratorium on the forced sale of State property and the pending bankruptcy proceedings against the Plant.

8. The decision of 30 October 2000 and the judgments of 2 November 2001 and 21 January 2004 remain unenforced.

II. RELEVANT DOMESTIC LAW

9. The relevant domestic law is summarised in the judgment of *Sokur v. Ukraine* (no. 29439/02, §§ 17-22, 26 April 2005).

THE LAW

10. The applicant complained about the State authorities' failure to enforce the decision of 30 October 2000 and the judgments of 2 November 2001 and 21 January 2004 in due time. He invoked Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, which provide, insofar as relevant, as follows:

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. ..."

1. 460.11 euros ("EUR").

2. EUR 199.80.

3. EUR 80.53.

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”

I. ADMISSIBILITY

11. The Government raised objections, contested by the applicant, regarding exhaustion of domestic remedies similar to those already dismissed in a number of the Court’s judgments regarding non-enforcement against the State-owned companies (see e.g. *Sokur v Ukraine* (dec.), no. 29439/02, 16 December 2003 and *Trykhliv v. Ukraine*, no. 58312/00, §§ 39-43, 20 September 2005). The Court considers that these objections must be rejected for the same reasons.

12. The Court concludes that the applicant’s complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 raise issues of fact and law under the Convention, the determination of which requires an examination of the merits. It finds no ground for declaring these complaints inadmissible. The Court must therefore declare them admissible.

II. MERITS

13. In their observations on the merits of the applicant’s complaints, the Government contended that there had been no violation of Article 6 § 1 of the Convention or Article 1 of Protocol No. 1.

14. The applicant disagreed.

15. The Court notes that the decision of 30 October 2000 has remained unenforced for the period exceeding six years and one month. The judgments of 2 November 2001 and 21 January 2004 have remained unenforced for the periods exceeding five years and one month and two years and ten months respectively.

16. The Court recalls that it has already found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in a number of similar cases (see, for instance, *Sokur v. Ukraine*, cited above, §§ 36-37 and *Anatskiy v. Ukraine*, no. 10558/03, §§ 20-23, 13 December 2005).

17. Having examined all the material in its possession, 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.

18. There has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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

20. The applicant claimed the unsettled debts due to him under the decision and the judgments at issue by way of compensation for pecuniary damage. Additionally, he claimed UAH 8,000 (EUR 1,280) in respect of non-pecuniary damage.

21. The Government did not submit any comments on the applicant's claims for pecuniary damage and agreed to pay him UAH 8,000 by way of compensation for non-pecuniary damage in the event of the Court's finding a violation.

22. The Court finds that the Government should pay the applicant the outstanding debts due to him under the decision and the judgments at issue in order to satisfy his claim for pecuniary damage. Additionally, it awards the applicant EUR 1,280 by way of compensation for non-pecuniary damage.

B. Costs and expenses

23. The applicant did not submit any separate claim under this head; the Court therefore makes no award in this respect.

C. Default interest

24. 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 1 Protocol No. 1 to 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 according to Article 44 § 2 of the Convention, the unsettled debts still owed to him, as well as EUR 1,280 (one thousand two hundred eighty euros) in respect of non-pecuniary damage to be converted into the national currency of the respondent State at the rate applicable at the date of 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;

Done in English, and notified in writing on 14 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President