



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

FIFTH SECTION

CASE OF GALIMULLIN AND OTHERS v. UKRAINE

(Application no. 7516/04)

JUDGMENT

STRASBOURG

11 January 2007

FINAL

11/04/2007

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 Galimullin and Others 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 4 December 2006,

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

PROCEDURE

1. The case originated in an application (no. 7516/04) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by four Ukrainian nationals, Mr Marat Mansurovich Galimullin, Mr Viktor Borisovich Kartanov, Mr Pavel Sergeyevich Pavlov and Ms Olga Ivanovna Solonskaya (“the applicants”), on 30 December 2003.

2. The applicants were represented by Mr V. Bychkovskiy from Miusinsk. The Ukrainian Government (“the Government”) were represented by their Agent, Mr Y. Zaytsev.

3. On 2 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 judgments in the applicants' 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 applicants were born in 1963, 1955, 1978 and 1958 respectively. The first applicant lives in Krasnyy Luch and the other applicants live in Miusinsk, the Lugansk region.

5. On various dates the applicants instituted civil proceedings in the Krasnyy Luch Court (*Краснолучський міський суд Луганської області*) seeking salary arrears and other payments from the State Mining Company “Miusinska” (*ДВАТ шахта “Міусінська” ДП “Донбасантрацит”*).

6. On 4 August 2003 the Krasnyy Luch Court awarded UAH 4,154.87¹ in favour of the first applicant.

7. On 31 October 2001 the Krasnyy Luch Court awarded UAH 2,415.99² in favour of the second applicant.

8. On 27 August 2001 the Krasnyy Luch Court awarded UAH 1,139.38³ in favour of the fourth applicant; and

9. On 26 November 2002 the Krasnyy Luch Court awarded UAH 4,558.18⁴ in favour of the third applicant.

10. The aforementioned judgments became final and the enforcement writs in their respect were transferred to the Krasnyy Luch Bailiffs' Service (“the Bailiffs,” *Відділ Державної виконавчої служби Краснолучького міського управління юстиції*) for enforcement.

11. On 10 February 2005 the Bailiffs notified the first and the third applicant that the delays in the enforcement of the judgments given in their favour were due to the holding of the debtor's property in a tax lien.

12. The judgments given in favour of the first, second and third applicant were enforced on 29 August 2005; the judgment given in favour of the fourth applicant was enforced on 1 November 2004.

II. RELEVANT DOMESTIC LAW

13. A description of the relevant domestic law can be found in *Sokur v. Ukraine* (no. 29439/02, § 17-22, 26 April 2005).

THE LAW

14. The applicants complained about the State authorities' failure to enforce the judgments of the Krasnyy Luch Court given in their favour in due time. They invoked Articles 6 § 1 of the Convention and Article 1 of Protocol No. 1, which provide, insofar as relevant, as follows:

1. 711.90 euros (“EUR”).

2. EUR 495.60.

3. EUR 235.20.

4. EUR 892.63.

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 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

15. The Government raised objections, contested by the applicants, regarding the applicants' victim status similar to those already dismissed in a number of the Court's judgments regarding non-enforcement of judgments against the State-owned companies (see e.g. *Romashov v. Ukraine* no. 67534/01, §§ 25-27, 27 July 2004). The Court considers that these objections must be rejected for the same reasons.

16. The Court concludes that the applicants' complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 about the delay in the enforcement of the judgments of the Krasnyy Luch Court raise issues of fact and law under the Convention, the determination of which requires an examination on the merits. It finds no ground for declaring these complaints inadmissible. The Court must therefore declare them admissible.

II. MERITS

17. In their observations on the merits of the applicants' claims, the Government contended that there had been no violation of Article 6 § 1 of the Convention or Article 1 of Protocol No. 1.

18. The applicants disagreed.

19. The Court notes that the delays in the enforcement of the judgments given in the applicants' favour ranged from two years and one month to three years and ten months.

20. 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 *Sharenok v. Ukraine*, no. 35087/02, §§ 37-38, 22 February 2005).

21. 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.

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

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 first and the third applicant claimed their unsettled judgments debts and additional sums of UAH 3,500 (EUR 540) each in respect of non-pecuniary damage. The second and the fourth applicants claimed the sums of UAH 9,212.77 (EUR 1,420) and UAH 5,278.76 (EUR 815) respectively by way of compensation for pecuniary and non-pecuniary damage.

25. The Government agreed to pay the amount of non-pecuniary damage claimed by the first applicant and the global sums claimed by the second and the fourth applicant. The Government did not agree with the third applicant's claims.

26. The Court notes that the judgments given in the applicants' favour had been fully enforced (see paragraph 12). The Court therefore rejects the claims for pecuniary damage. However, the Court considers that the applicants must have sustained non-pecuniary damage. Regard being had to the submissions of the parties and to the Court's case-law, the Court awards EUR 540 to the first and to the third applicant respectively; EUR 1,420 to the second applicant and EUR 815 to the fourth applicant in respect of non-pecuniary damage.

B. Costs and expenses

27. The applicant did not submit any claim under this head. The Court therefore makes no award.

C. Default interest

28. 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 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following sums in respect of just satisfaction:
 - to Mr Marat Galimullin, EUR 540 (five hundred forty euros);
 - to Mr Viktor Kartanov, EUR 1,420 (one thousand four hundred twenty euros);
 - to Mr Pavel Pavlov, EUR 540 (five hundred forty euros); and
 - to Ms Olga Solonskaya, EUR 815 (eight hundred fifteen euros)plus any tax that might be chargeable;
 - (b) that the above amounts shall be converted into the national currency of the respondent State at the rate applicable at the date of settlement;
 - (c) 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 applicants' claims for just satisfaction.

Done in English, and notified in writing on 11 January 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President