



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

FIRST SECTION

CASE OF VYDRINA v. RUSSIA

(Application no. 35824/04)

JUDGMENT

STRASBOURG

29 March 2007

FINAL

29/06/2007

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 Vydrina v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS,

Mr G. MALINVERNI, *judges*

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 8 March 2007,

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

PROCEDURE

1. The case originated in an application (no. 35824/04) 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 Lyudmila Aleksandrovna Vydrina ("the applicant"), on 17 September 2004.

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

3. On 18 November 2005 the Court decided to communicate the complaint concerning the non-enforcement of a final judgment 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**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1950 and lives in Voronezh.

5. In 2000 she brought a court action against the social security service of the Zheleznodorozhnyy District of Voronezh and the Financial Division of the Voronezh Regional administration for delays in payment of child support benefits.

6. On 3 February 2000 the Zheleznodorozhnyy District Court of Voronezh granted the applicant's claim and awarded her 1,919.53 Russian roubles. The judgment entered into force on 14 February 2000.

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

8. On 13 February 2006 the judgment of 3 February 2000 was enforced in full.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

9. The applicant complained under Articles 6 and 13 of the Convention, and Article 1 of Protocol No. 1 about the prolonged non-enforcement of the judgment of 3 February 2000. The Court will examine this complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. These Articles, in so far as relevant, read as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... 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.

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 or to secure the payment of taxes or other contributions or penalties.”

A. Admissibility

10. The Court notes 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

11. The Government acknowledged that the judgment of 3 February 2000 was not enforced in good time. They further conceded that the applicant's rights set out in Article 6 of the Convention and Article 1 of Protocol No. 1 were violated as a result of the non-enforcement of the final judgment.

12. The applicant maintained her claims.

13. The Court observes that the judgment in the applicant's favour remained unenforced for several years. No justification was advanced by the Government who acknowledged a violation of the Convention.

14. The Court has frequently found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in cases raising similar issues to the ones in the present case (see, among other authorities, *Burdov v. Russia*, no. 59498/00, ECHR 2002-III).

15. Having examined the material submitted to it, the Court sees no reason for reaching a different conclusion in the present case. Having regard to its case-law on the subject, the Court finds that by failing for 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 reasonably expected to receive.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. 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

18. The applicant claimed 50,000 US dollars in respect of non-pecuniary damage.

19. The Government contested the applicant's claims as excessive and unjustified. They considered that should the Court find a violation in this case that would in itself constitute sufficient just satisfaction.

20. The Court considers that the applicant must have suffered distress and frustration resulting from the State authorities' failure to execute a final judicial decision in her favour, and that this cannot be sufficiently compensated for by the finding of a violation. However, the amount claimed by the applicant appears excessive. The Court takes into account the award it made in the case of *Burdov* (cited above, § 14), the nature of the award at stake in the present case, the length of the enforcement proceedings and other relevant aspects. Making its assessment on an equitable basis, it awards the applicant 3,000 euros in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

21. The applicant did not claim reimbursement of her costs and expenses incurred before the domestic authorities and the Court. Accordingly, the Court considers that there is no call to award her any sum on this account.

C. Default interest

22. 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 of the Convention and Article 1 of Protocol No. 1 to the Convention;
3. *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, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable on the above amount;
 - (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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 29 March 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President