



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

FIRST SECTION

CASE OF PRIDATCHENKO AND OTHERS v. RUSSIA

(Applications nos. 2191/03, 3104/03, 16094/03, 24486/03)

JUDGMENT

STRASBOURG

21 June 2007

FINAL

21/09/2007

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 Pridatchenko and Others v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mr A. KOVLER,

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 31 May 2007,

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

PROCEDURE

1. The case originated in four applications (nos. 2191/03, 3104/03, 16094/03, 24486/03) 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 four Russian nationals, Mr Aleksandr Grigoryevich Pridatchenko, Mr Sergey Aleksandrovich Manatov, Mr Andrey Vladimirovich Sychev, and Mr Aleksey Sergeyevich Frolov (“the applicants”), on 25 August 2001, 20 November 2002, 26 April 2003, and 26 June 2003 respectively.

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. The applicants alleged violations of Article 6 § 1 and Article 1 of Protocol No. 1 in that the respondent State failed to enforce final judgments in their favour.

4. On 25 November 2003 the Court decided to communicate the applications 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 their admissibility.

5. The applicants and the Government each filed observations on the admissibility and merits (Rule 54A § 1 of the Rules of Court).

6. On 31 May 2007 the Chamber decided to join the proceedings in the four applications (Rule 42 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. At the time of the described events Mr Pridatchenko (born in 1965), Mr Sychev (born in 1970), and Mr Frolov (born in 1969) were active military officers. Mr Manatov (born in 1970) was a retired military officer. On different dates they sued their actual or former employers, respective military units, in courts. The applicants claimed payment of their salaries, various service-related benefits due to them, provision of free housing, compensation of travel expenses, compensation of damages, etc. In all cases the courts ruled in their favour (at least in part of their claims) making monetary awards. However, for some time the judgments in their favour remained unenforced.

A. Mr Pridatchenko

8. On 16 November 2001 the Sertolovo Garrison Military Court granted in part the applicant's claims concerning free housing due to him under the military service contract. The court also awarded the applicant 2,015 Russian roubles (RUR) for legal costs. That judgment was not appealed against and became final on 27 November 2001.

9. On 26 November 2001 the Sertolovo Garrison Military Court granted the applicant's claims concerning the amount of compensation of his travel expenses awarding him arrears in the amount of RUR 93,731.70, plus RUR 15 for legal costs. That judgment was not appealed against and became final on 13 December 2001.

10. On 8 February 2002 the Sertolovo Garrison Military Court at the applicant's request held unlawful the refusal to dismiss the applicant from military service and awarded him RUR 2,015 for legal costs. That judgment was not appealed against and became final on 19 February 2002.

11. On 8 February 2002 the court issued a writ of execution on the basis of the judgment of 26 November 2001. The applicant forwarded it with accompanying documents to the State treasury office of the Leningrad Region. On 16 July 2002 the writ was returned to the applicant unexecuted. The treasury office explained that the debtor had no available funds which could be used for paying off the judgment debt. The applicant was advised to address the writ of execution to the head office of the Ministry of Finance in Moscow, which he did on 23 August 2002. However, the judgment remained unexecuted.

12. On 2 September 2002 the court issued two writs of execution on the basis of the judgments of 16 November 2001 and 8 February 2002 (concerning the legal costs awarded to the applicant). The applicant

forwarded them with accompanying documents to the State treasury office of the Leningrad Region. On 10 September 2002 the treasury office returned the unexecuted writs to the applicant referring to the lack of funds on the debtor's account. The applicant was advised to address the writs to the head office of the Ministry of Finance, which he did on 12 September 2002. However, the writs remained unexecuted.

13. On 28 April 2003 the Ministry of Finance allocated from the State budget to the Ministry of Defence RUR 93,746.70 in the applicant's name with reference to the writ of execution issued on 8 February 2002 on the basis of the judgment of 26 November 2001.

14. On 23 September 2003 the Ministry of Finance allocated from the State budget to the Ministry of Defence RUR 2,015 in the applicant's name with reference to the writ of execution issued on 2 September 2002 on the basis of the judgment of 16 November 2001.

15. On 29 September 2003 the Ministry of Finance allocated from the State budget to the Ministry of Defence RUR 2,015 in the applicant's name with reference to the writ of execution issued on 2 September 2002 on the basis of the judgment of 8 February 2002.

16. According to the applicant, the aforementioned amounts were transferred to his account on 10 January 2004. He submitted copies of banking receipts as evidence in that respect.

B. Mr Manatov

17. On 8 October 2001 the Kurtamysh District Court of the Kurgan Region granted the claims awarding him RUR 33,210 of salary arrears. The judgment was not appealed against and became final on 19 October 2001.

18. On 13 December 2001 the court issued a writ of execution. The applicant sent it to the bailiff's office. On 28 February 2002 the bailiff's office returned the unexecuted writ to the applicant and advised him to forward it to the Moscow City Specialised Branch of the State treasury.

19. On 27 April 2002 the forenamed branch of the State treasury returned the unexecuted writ to the applicant and explained that it was not responsible for financial obligations of the debtor military unit, apparently in accordance with a territorial jurisdiction principle.

20. It appears that the judgment of the Kurtamysh District Court of the Kurgan Region of 8 October 2001 has not yet been executed.

C. Mr Sychev

21. On 23 April 2002 the Far-East Command Military Court by the final decision awarded the applicant RUR 4,000 for non-pecuniary damages caused by the refusal to grant the applicant annual leave.

22. On 18 May 2002 the court issued a writ of execution on the basis of the judgment of 23 April 2002. The applicant forwarded it with accompanying documents to the treasury office of Belogorsk town. On 14 June 2002 the writ was returned to the applicant unexecuted. The Belogorsk town treasury office advised the applicant that it was not competent to deal with such requests.

23. On an unspecified date in 2002 the applicant sued his military unit for the refusal to send him for a medical examination, whereas his state of health was deteriorating. He claimed non-pecuniary damages in that respect. On 5 July 2002 the Belogorsk Garrison Military Court granted the applicant's claims awarding him RUR 5,000 for non-pecuniary damages, plus RUR 10 for legal costs. The judgment was not appealed against and became final on 19 July 2002. On 7 March 2003 the court issued a writ of execution on the basis of the judgment of 5 July 2002.

24. On an unspecified date in 2003 the applicant sent both the writs of 18 May 2002 and 7 March 2003 to the local bailiff's office and to the town treasury office. On 11 April 2003 the Belogorsk town treasury office paid the applicant RUR 1,000 on account of the judgment of 5 July 2002. On the same date they informed the applicant that the debtor had no money for paying off the rest of the judgment debt; the applicant was advised to address himself to the head office of the Ministry of Finance. On 23 April 2003 the bailiff's office returned both writs unexecuted and advised the applicant to forward them to the treasury office.

25. On an unspecified date in February 2004 the judgments of 23 April 2002 and 5 July 2002 were enforced in full.

D. Mr Frolov

26. On 29 August 2001 the Petrozavodsk Garrison Military Court granted the applicant's claims concerning compensation of his travel expenses, and awarded him arrears in the amount of RUR 74,360.70. It appears that the judgment was not appealed against and became final.

27. However, for some time the judgment of 29 August 2001 remained unexecuted. Referring to that fact the applicant brought proceedings requesting indexation of the judicial award due to him.

28. On 3 February 2003 the Petrozavodsk Garrison Military Court granted the applicant's claims and awarded him damages caused by non-enforcement of the judgment of 29 August 2001 in the amount of RUR 30,629.91 and RUR 1,030 for legal costs. That judgment was not appealed against and became final on 14 February 2003.

29. On 20 March 2003 a writ of execution was issued. The applicant forwarded it with accompanying documents to the State treasury office of the Republic of Karelia. On 1 April 2003 the writ was returned to the applicant unexecuted. The treasury office explained that the debtor had no

available funds which could be used for paying off the judgment debt. The applicant was advised to send the writ of execution to the head office of the Ministry of Finance, which he did on 4 April 2003. However, the judgment of 3 February 2003 remained unexecuted.

30. On 9 October 2003 the judgment of 29 August 2001 was enforced in full. The applicant informed the Court about this fact; however, he maintained his complaints about the non-enforcement of the judgment of 3 February 2003.

31. On 16 February 2004 the Ministry of Finance allocated from the State budget to the Ministry of Defence RUR 31,659.91 in the applicant's name with reference to the writ of execution of 20 March 2003 relating to the judgment of 3 February 2003.

32. According to the applicant, the aforementioned amount was transferred to his bank account on 7 April 2004. He submitted a copy of a banking receipt as evidence in that respect.

II. RELEVANT DOMESTIC LAW

A. Enforcement of judgments against budget-funded institutions

33. The Russian Law on Enforcement Proceedings (no. 119-Φ3 of 21 July 1997) designates the court bailiffs' service as the authority charged with enforcement of court decisions (Section 3 § 1). Court judgments can also be executed by tax authorities, banks, financial institutions, other organisations, State officials and individuals – all of them are not considered to be the enforcement authorities (Section 5).

34. Section 110 of the Law on Federal Budget for the Year 2001 (no. 150-Φ3 of 27 December 2000) provided that writs of execution issued against the treasury of the Russian Federation were to be sent for execution to the Ministry of Finance of the Russian Federation and were to be executed in accordance with the procedure established by the Russian Government. A similar provision was included in Section 128 of the Law on Federal Budget for the Year 2002. However, Section 122 of the Law on Federal Budget for the Year 2003 (no. 176-Φ3 of 24 December 2002) established, in addition to the similar requirement that writs of execution were to be submitted to the Ministry of Finance, that the court bailiffs could not enforce judgments against the Russian Federation.

35. On 22 February 2001 the Russian Government approved “Rules on recovery of funds due on the basis of the writs of execution issued by the courts on account of monetary obligations of the recipients of federal budget funds” (“the Rules”). Sections 2 and 3 of the Rules provide that the creditor must submit the writ of execution and a copy of the judgment to the office of the federal treasury where the debtor has its current account. The federal

treasury office must grant the recovery within three working days in the part not exceeding the balance of the account (Section 5). Should the balance of the account be insufficient for a full recovery, the writ of execution must be returned to the creditor who can then apply to the Ministry of Finance to recover the outstanding amount from the debtor's funding entity (Section 6).

36. On 9 September 2002 the Russian Government adopted Decree no. 666 which enacted the “Rules of Execution by the Ministry of Finance of court judgments against the Treasury of the Russian Federation arising from the claims for damages caused by unlawful acts or omissions of the State authorities or State officials”. The procedure of execution of such judgments provided by the Rules of 2002 was essentially the same as provided by the Rules of 22 February 2001 cited above.

37. On 19 July 2001 the Supreme Court of the Russian Federation delivered judgment no. *ГКIII* 2001-864 concerning the lawfulness of certain provisions of the Rules. In particular, the court held that the Rules did not govern the enforcement of court judgments because the federal treasury was not an enforcement body, pursuant to Section 5 of the Law on Enforcement Proceedings. In subsequent judgment no. *ГКIII* 2001-1345 of 22 October 2001 the court clarified its position as follows:

“The contents of the contested Rules indicate that they do not govern the procedure for enforcement of court decisions, rather they establish the procedure for voluntary execution of court decisions and for recovery of funds under monetary obligations of recipients of the federal budget funds...

The court also has regard to the fact that the contested Rules do not prevent the creditor from resorting to the enforcement proceedings in respect of a court decision...”

38. In judgments nos. *ГКIII* 2001-1790 and 2002-139 of 27 February 2002 the Supreme Court of the Russian Federation confirmed that neither the Rules, nor the Laws on Federal Budgets for 2001 and 2002 prevented the creditor from seeking enforcement of a court judgment in accordance with the procedure set out in the Law on Enforcement Proceedings, the Law on Court Bailiffs and the Code of Civil Procedure. Finally, the Supreme Court again upheld this position in judgment no. *ГКIII* 2001-1482 of 28 March 2002.

39. On 20 May 2003 the Supreme Court of the Russian Federation in its decision no. *KAC* 03-205 ruled that the Rules, adopted by Decree no. 666 of 9 September 2002, concerned the voluntary execution of court decisions against the Federal treasury and did not prevent the creditor from seeking enforcement through the court bailiffs.

B. Military courts

40. The functioning of military courts is regulated by the Constitution, the Law on Judicial System of 31 December 1996, the Law on Military Courts of 23 June 1999. Military courts belong to the judicial system of the Russian Federation, they are courts of general jurisdiction exercising judicial power in the armed forces. Military courts are established or dissolved by a federal law. Military courts are organised in the places of stationing of military units. Military courts administer justice on behalf of the Russian Federation examining cases in their jurisdiction by way of civil, administrative and criminal proceedings. In particular, military courts examine complaints of military personnel against acts or omissions of military officials or military command. Such cases are examined pursuant to the provisions of the Code of Civil Proceedings. Military courts administer justice independently subject only to the Constitution, federal constitutional laws and federal laws. The judges of the military courts are appointed by the President and should have a military rank, in addition to a law degree and necessary qualifications.

THE LAW

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

41. The applicants complained that the lengthy non-payment of the sums awarded to them by the domestic courts breached their “right to a court” and the right to peaceful enjoyment of their possessions. Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention, relied on by the applicants, insofar as relevant, read as follows:

Article 6

“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. Parties' submissions

42. The Government contested the applicants' arguments. According to them, the judgments in favour of Mr Pridatchenko and Mr Frolov were fully enforced when the amounts due to them were allocated from the State budget. Thus, the judgments in favour of Mr Pridatchenko were enforced in April and September 2003. The judgment in favour of Mr Frolov had been enforced on 16 February 2004. On that ground the Government concluded that the applicants' rights under the Convention had not been violated.

43. As regards Mr Manatov and Mr Sychev, the Government claimed that they had not complied with the domestic formalities. Thus, Mr Manatov failed to forward the writ of execution to the Ministry of Finance. Mr Sychev did not submit to the Ministry of Finance the necessary application form with his banking information and the writ of execution, as required by Decree no. 666. As a result, the judgments in their favour could not be enforced.

44. Mr Pridatchenko and Mr Frolov maintained their submissions. Mr Pridatchenko insisted that the judgments had been executed on 10 January 2004, when the amounts due had been credited to his banking account. Mr Frolov indicated that the judgment had been executed on 7 April 2004. In their view, the delays in the execution of the judgments were unlawful and unjustified. As regards Mr Manatov and Mr Sychev, they simply maintained their initial arguments.

B. Admissibility

45. The Court notes that at the moment of the events the applicants (except for Mr Manatov) were active military officers, and their disputes concerned different conditions of their employment. Until recently, employment disputes between the State and its military personnel were not, as a rule, regarded as “civil” within the meaning of Article 6 § 1 of the Convention, and thus fell outside of the Court's competence *ratione materiae* (see *Pellegrin v. France* [GC], no. 28541/95, §§ 65-67, ECHR 1999-VIII; see also *Kanayev v. Russia*, no. 43726/02, § 16, 27 July 2006).

46. However, in a recent judgment *Vilho Eskelinen and Others v. Finland* [GC], no. 63235/00, § 62, 19 April 2007 the Grand Chamber developed the existing case-law proposing a new criteria of applicability of Article 6 to such disputes. Henceforth, Article 6 under its “civil” head shall be applicable to all disputes involving civil servants, unless (a) the national

law expressly excludes access to a court for the post of category of staff in question, and (b) this exclusion is justified on objective grounds in the State's interest. The Court further emphasised that “there can in principle be no justification for the exclusion from the guarantees of Article 6 of ordinary labour disputes, such as those relating to salaries, allowances or similar entitlements, on the basis of the special nature of relationship between the particular civil servant and the State in question”.

47. Turning to the present case the Court notes that the applicants' claims were accepted, examined, and partially granted by the domestic courts following ordinary rules of civil procedure. It is true that the cases of Mr Pridatchenko, Mr Sychev and Mr Frolov were examined by military courts, i.e. the courts composed of military personnel and attached not to a particular administrative territorial unit, but to a garrison. However, nothing suggests that the military courts are not “tribunals” within the meaning of Article 6. Therefore, the applicants, despite their special status, were not excluded by the domestic law from the “access to a court” within the meaning of Article 6. Basing on the test developed in the case of *Vilho Eskelinen and Others*, the Court concludes that Article 6 is applicable to the domestic proceedings at issue.

48. The Court notes that the Government did not put forward any formal objection concerning the admissibility of the present four applications. The Court considers, in the light of the parties' submissions, that the complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about delays in the enforcement of the court judgments in the applicants' favour raise serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring them inadmissible has been established.

C. Merits

1. General principles

49. The Court reiterates that Article 6 § 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal; in this way it embodies the “right to a court”, of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect. However, that right would be illusory if a Contracting State's domestic legal system allowed a final, binding judicial decision to remain inoperative to the detriment of one party. Execution of a judgment given by any court must therefore be regarded as an integral part of the “trial” for the purposes of Article 6 (see *Burdov v. Russia*,

no. 59498/00, § 34, ECHR 2002-III, and *Hornsby v. Greece*, judgment of 19 March 1997, *Reports of Judgments and Decisions* 1997-II, p. 510, § 40).

50. Further, the Court reiterates that a “claim” can constitute a “possession” within the meaning of Article 1 of Protocol No. 1 if it is sufficiently established to be enforceable – for example, by virtue of a court judgment (see *Burdov v. Russia*, cited above, § 28, and *Stran Greek Refineries and Stratis Andreadis v. Greece*, judgment of 9 December 1994, Series A no. 301-B, p. 84, § 59). As the Court held in a number of previous cases, the impossibility for a successful litigant to have a judgment in his favour fully enforced, which persisted for a relatively long period of time, constitutes an interference with his right to the peaceful enjoyment of his possessions.

2. Application to the present case

51. In their initial applications the above applicants complained about the non-payment of the amounts awarded to them by the respective military courts. As regards Mr Manatov, it appears that the court judgment in his favour remains unexecuted to date. The Court notes, at the same time, that the judgments in respect of Mr Pridatchenko, Mr Frolov and Mr Sychev had been finally enforced, although with certain delays. However, in the Court's opinion, those three applicants can still claim to be victims under Article 6 § 1 or Article 1 of Protocol No. 1 to the Convention: the Court has always regarded a delayed execution of a final court judgement of pecuniary nature as an interference *per se*, irrespectively of whether or not the judgment has been finally enforced.

(a) As regards Mr Pridatchenko and Mr Frolov

52. As regards Mr Pridatchenko and Mr Frolov, the parties' submissions as to the exact dates of execution of the judgments differ substantially. The Government asserted that the judgments had been fully enforced on the dates of allocation of the amounts due to the applicants from the State budget. The applicants insisted that the judgments had been enforced when the money had been credited to their bank accounts.

53. In the view of the Court, the very fact of allocation of the budgetary funds in the applicants' names did not provide them with an opportunity to freely dispose of the amounts due to them. The applicants could profit from the judicial awards only when the money was transferred to their respective bank accounts. Accordingly, the Court accepts the applicants' assertion of the delays in the enforcement of the judgments, and notes that, as regards Mr Pridatchenko, such delays amounted to two years, one month and thirteen days as regards the judgment of 16 November 2001; two years and twenty-eight days as regards the judgment of 26 November 2001; and one year, ten months and twenty-one days as regards the judgment of 8 February 2002. As to Mr Frolov, the Court notes that the judgment of 3 February

2003, which was at the heart of the applicant's complaints, was enforced with a delay of one year, one month and twenty-two days.

54. The Court has frequently found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in cases raising issues similar to the ones in the present case (see *Burdov*, cited above, §§ 34 et seq.; see also *Malinovskiy v. Russia*, no. 41302/02, §§ 35 et seq.; *Gizzatova v. Russia*, no. 5124/03, §§ 19 et seq., 13 January 2005; *Petrushko v. Russia*, cited above, §§ 23 et seq.; *Wasserman v. Russia*, no. 15021/02, §§ 35 et seq., 18 November 2004). The Court observes that the Government have not advanced a plausible justification for the delays occurred in the cases of the above two applicants. Considering the length of the periods of non-enforcement of court judgments in cases of Mr Pridatchenko and Mr Frolov, and having examined all relevant circumstances, the Court does not see any reason to depart from its previous case-law and concludes that the delayed execution of the judgments in favour of Mr Pridatchenko and Mr Frolov constituted a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

(b) As regards Mr Manatov

55. The Government claimed that the judgment in favour of Mr Manatov was not enforced because he had failed to follow a proper procedure. The Court notes that in order to obtain the execution of the judgment in his favour Mr Manatov firstly addressed the bailiff's office. Then, upon receipt of the refusal to enforce the judgment, he forwarded the writ to another State agency indicated by the bailiffs. It is true that the agency refused to execute the writ referring to certain jurisdiction principles; however, it did not indicate to the applicant which agency was competent to enforce the judgment in the latter's favour. In any event, the regulations on enforcement, to which the Government referred, did not preclude the applicant from seeking the enforcement in a normal way, that is through the bailiffs (see the "Relevant domestic law" part above; see also *Shvedov v. Russia*, no. 69306/01, § 34, 20 October 2005), and the Government did not deny that the applicant had made recourse to that authority.

56. Furthermore, the Court recalls that a person who has obtained an enforceable judgment against the State as a result of successful litigation cannot be required to resort to enforcement proceedings in order to have it executed (see *Metaxas v. Greece*, no. 8415/02, § 19, 27 May 2004). The Court further recalls that it is incumbent on the State to organise its legal system in such a way that ensures co-ordination between various enforcement agencies and secures honouring of the State's judgment debts in good time. It would impose an excessive burden on the applicant if he has to forward the writ of execution from one competent State agency to another (see *Reynbakh v. Russia*, no. 23405/03, § 23, 29 September 2005). The Court does not see any reason to depart from its findings in the *Reynbakh*

case, and concludes that Mr Manatov took reasonable steps to obtain execution of the judgment in his favour.

57. The Court finally observes that according to the information provided by the parties the judgment in favour of Mr Manatov is not enforced to date; in other words, the delay in the enforcement constitutes five years and eight months. In line with its well-established case-law on this subject (see above) the Court concludes that the prolonged non-enforcement of the judgment in favour of Mr Manatov constituted a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

(c) As regards Mr Sychev

58. The Government claimed that the non-enforcement of the judgments in favour of Mr Sychev could not be imputed to the authorities since the applicant had failed to comply with the domestic formalities required for obtaining his award. However, the Court has certain doubts as to what was the genuine reason for the non-enforcement of the judgments. Whereas in 2002 the town treasury office informed the applicant that they had no competence to deal with the writ of execution of 18 May 2002, in 2003 the town treasury office refused to pay against the writ of execution of 7 March 2003 referring to the lack of funds. The Court recalls in this respect that the lack of funds is not a good excuse for the State to refuse paying off a judgment debt (see *Burdov*, cited above, § 41).

59. In any event, having in mind its case-law on enforcement of court judgments against the State (see *Metaxas* and *Reynbakh*, both cited above), the Court finds that the applicant took reasonable steps to obtain execution of the judgment in his favour.

60. The Court further observes that the parties did not provide information as to the exact dates of execution of the judgments in the applicant's favour. However, it was undisputed that both judgments were fully executed only in February 2004. Hence, the delays in the enforcement amount to one year and some nine months as regards the judgment of 23 April 2002, and one year and some six months as regards the judgment of 5 July 2002. The Court, in line with its previous case-law (see above), concludes that the delayed execution of the judgments in favour of Mr Sychev constituted a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

61. 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. Mr Pridatchenko

62. The applicant claimed 10,000 euros (EUR) on account of pecuniary and non-pecuniary damage sustained by him as a result of the delays in the enforcement of the judgments in his favour. He can be understood as claiming that, due to the delayed enforcement, the money awarded to him lost a part of its purchasing power. In support of his claims the applicant produced official statistics reflecting inflation rates in the Leningrad region between 1999 and 2003. Further, he claimed that the delays in the enforcement caused him mental suffering and the feeling of humiliation.

63. When commenting on the applicant's claims for non-pecuniary damage, the Government suggested that a finding of a violation would by itself constitute sufficient just satisfaction. Alternatively, they suggested that a compensation similar to one awarded in the case *Burdov* (cited above, § 47) would suffice. In any event, in their view, the amount of this compensation should not exceed EUR 1,500.

64. The Court notes that the judgments of 16 November 2001 (awarding the applicant 2,015 Russian roubles (RUR)), of 26 November 2001 (awarding the applicant RUR 93,746.70), and of 8 February 2002 (awarding the applicant RUR 2,015) were not enforced until January 2004. As follows from the information provided by the applicant and not contested by the Government, the inflation rate between December 2001 and December 2003 amounted to 133 per cent. Therefore, the applicant's pecuniary losses caused by the delayed payment of the above amounts constituted RUR 665 on account of the first judgment and RUR 30,936 on account of the second judgment. As to the third judgment, the inflation rate between March 2002 and December 2003 constituted 125.5 per cent. Therefore, the applicant's pecuniary loss in respect of the third judgment was equal to RUR 513.80. In sum, because of the delayed payment of the amounts awarded by the courts in 2001 and 2002, and the monetary depreciation during the relevant period, the applicant lost RUR 32,114.80. That sum should be awarded to the applicant on account of pecuniary damages, plus any tax that may be chargeable on that amount.

65. As to the non-pecuniary damages, the Court considers that the delays in the enforcement could have indeed caused certain mental distress to the applicant, which cannot sufficiently be compensated by the finding of a

violation. The Court takes into account the nature and the amount of the awards, the delays before the enforcement and other relevant aspects. Making its assessment on an equitable basis, it awards the applicant EUR 1,600, to be converted into Russian roubles at the rate applicable at the date of settlement, in respect of non-pecuniary damages, plus any tax that may be chargeable on that amount.

B. Mr Manatov

66. The Court points out that under Rule 60 of the Rules of Court any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, “failing which the Chamber may reject the claim in whole or in part”.

67. In the case of Mr Manatov, on 4 March 2004 the Court invited the applicant to submit his claims for just satisfaction before 15 April 2004. However, the applicant did not submit any such claims within the specified time-limit, neither did he request the Court to grant an extension of time.

68. In view of the above, the Court makes no award under Article 41 of the Convention (see, for example, *Şirin v. Turkey*, no. 47328/99, §§ 27-29, 15 March 2005, and *Pravednaya v. Russia*, no. 69529/01, §§ 43-46, 18 November 2004). However, that finding does not relieve the State from complying with the Court's judgment in the present case by enforcing the judgment in the applicant's favour, if it has not been enforced to date.

C. Mr Sychev

1. Pecuniary damage

69. The applicant claimed that he sustained pecuniary damage in the amount of RUR 37,400 that he had paid as the faculty of law's tuition fees. He explained that he needed legal education to bring his case before the Court. The Government objected claiming that lodging an application with the Court did not require any specific legal training. The Court agrees with the Government and finds no causal link between the violation found and the damage claimed. Accordingly, the Court sees no reason to grant any award under this head.

2. Non-pecuniary damage

70. The applicant claimed non-pecuniary damage in the amount to be determined by the Court. The Government suggested that a finding of a violation would by itself constitute sufficient just satisfaction. The Court considers that the delays in the enforcement could have indeed caused certain mental distress to the applicant, which cannot sufficiently be

compensated by the finding of a violation. The Court takes into account the nature and the amount of the awards, the delays before the enforcement and other relevant aspects. Making its assessment on an equitable basis, it awards the applicant EUR 1,200 under the head of non-pecuniary damages, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable on that amount.

D. Mr Frolov

71. The applicant claimed EUR 10,000 on account of pecuniary and non-pecuniary damage sustained by him as a result of the delay in the enforcement of the judgment in his favour. In support of his claims for pecuniary damages the applicant referred to the official statistics on the inflation rate in the Karelia region where he lived at the material time. As to the non-pecuniary damages claimed the applicant produced medical reports showing that the state of health of the members of his family had deteriorated. The Government made no comments on the applicant's claims under Article 41.

72. The Court recalls that the judgment of the Petrozavodsk Garrison Military Court of 3 February 2003, awarding the applicant RUR 31,659.91, was enforced on 7 April 2004. The official statistics produced by the applicant covered the period until December 2003. From that statistics it follows that by the end of 2003 the judicial award should have lost RUR 2,631.80 of its purchasing power. That sum should be awarded to the applicant on account of pecuniary damage sustained by him, plus any tax that may be chargeable on that amount.

73. As to the non-pecuniary damages, the Court does not see any causal link between the non-enforcement complained of and the medical problems of the applicant's relatives. At the same time the Court notes that the award due to the applicant was of a considerably large amount, and that the delay in the enforcement could have indeed caused certain mental distress to him. The Court therefore awards the applicant under this head the sum of EUR 800 to be converted into Russian roubles at the rate applicable at the date of settlement plus any tax that may be chargeable on that amount.

E. Default interest

74. The Court considers it appropriate that the default interest, in respect of the awards made above, 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 complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention 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 on account of the delayed enforcement of the judgments in the applicants' favour;
3. *Holds*
 - (a) that the respondent State, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, shall secure, by appropriate means, the enforcement of the domestic court's judgment of 8 October 2001 in favour of Mr Manatov;
 - (b) that the respondent State, within the same period, shall pay the following amounts:
 - (i) to Mr Pridatchenko, RUR 32,114.80 (thirty-two thousand one hundred and fourteen Russian roubles eighty kopecks) in respect of pecuniary damage and EUR 1,600 (one thousand six hundred euros) in respect of non-pecuniary damage, the latter amount to be converted into Russian roubles at the rate applicable at the date of settlement;
 - (ii) to Mr Sychev, EUR 1,200 (one thousand two hundred euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement;
 - (iii) to Mr Frolov, RUR 2,631.80 (two thousand six hundred and thirty-one Russian roubles eighty kopecks) in respect of pecuniary damage and EUR 800 (eight hundred euros) in respect of non-pecuniary damage, the latter amount to be converted into Russian roubles at the rate applicable at the date of settlement;
 - (iv) any tax that may be chargeable on the above amounts;
 - (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;
4. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 21 June 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President