



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

FIFTH SECTION

CASE OF ARYAMIN v. UKRAINE

(Application no. 3155/03)

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 Aryamin 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 29 May 2007,

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

PROCEDURE

1. The case originated in an application (no. 3155/03) 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 Anatoliy Vasylyovych Aryamin ("the applicant"), on 20 December 2002.

2. The Ukrainian Government ("the Government") were represented by their Agent, Mr Yuriy Zaytsev.

3. On 14 March 2006 the Court decided to communicate the complaint concerning the non-enforcement of the 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

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1943 and lives in the town of Chervonograd, L'viv Region.

5. On 26 November 1998 the Chervonograd Court ordered the State-owned mining company “2 Velykomostivska” to pay the applicant UAH 16,960¹ in compensation for damage to his health. This judgment became final and the writ of execution was issued on the same day.

6. In December 1998 the Chervonograd Department of Bailiffs' Service instituted enforcement proceedings in the case.

7. During 2000 the applicant was paid UAH 400².

8. On 1 November 2001 the applicant was paid UAH 600³.

9. On 21 February 2003 the applicant was paid UAH 14,950⁴.

10. The judgment of 26 November 1998 was enforced in full on 27 February 2003.

II. RELEVANT DOMESTIC LAW

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

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

12. The applicant complained under Article 6 § 1 of the Convention about the lengthy non-enforcement of the judgment of the Chervonograd Court of 26 November 1998. The above provision reads, 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. ...”

A. Admissibility

13. The Government submitted no observations on the admissibility of the applicant's complaints.

1. Approximately EUR 3,250.

2. Approximately EUR 80.

3. Approximately EUR 120.

4. Approximately EUR 2,650.

14. The Court observes that the applicant's complaint under Article 6 § 1 of the Convention 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 this complaint inadmissible. The Court must therefore declare it admissible.

B. Merits

15. 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 as there was no omission by the State authorities and the judgment of 26 November 1998 was enforced in full.

16. The applicants disagreed.

17. The Court notes that the judgment of the Chervonograd Court remained largely unenforced for four years and three months.

18. The Court recalls that it has already found violation of Article 6 § 1 of the Convention in a number of similar cases (see, for instance, *Sokur v. Ukraine*, cited above and *Mykhaylenky and Others v. Ukraine*, nos. 35091/02, 35196/02, 35201/02, 35204/02, 35945/02, 35949/02, 35953/02, 36800/02, 38296/02 and 42814/02, § 45, ECHR 2004).

19. 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.

There has accordingly been a violation of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

20. Lastly, the applicant complained under Article 3 of the Convention that the existing situation caused deterioration of his health.

21. However, in the light of all the materials in its possession, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols (see *Sokur v. Ukraine*, cited above).

22. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to Article 35 §§ 1, 3 and 4 of the Convention.

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 applicant claimed UAH 10,000 (EUR 1,616) in respect of pecuniary and non-pecuniary damage.

25. The Government contested this claim.

26. Making its assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicant EUR 1,600 in this respect of non-pecuniary damage.

B. Costs and expenses

27. The applicants did not submit any separate 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 complaint concerning the non-enforcement of the judgment in the applicant's favour 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*
 - (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 1,600 (one thousand and six hundred 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 21 June 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President