



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

FIRST SECTION

CASE OF SAIDOV v. RUSSIA

(Application no. 6558/06)

JUDGMENT

STRASBOURG

5 July 2007

FINAL

05/10/2007

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 Saidov 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 14 June 2007,

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

PROCEDURE

1. The case originated in an application (no. 6558/06) 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, Mr Timur Turkoyevich Saidov (“the applicant”), on 23 January 2006.

2. The applicant was represented by Mr I. Timishev, a lawyer practising in the town of Nalchik. The Russian Government (“the Government”) were represented by Mr P. Laptev, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 4 April 2006 the Court decided to give notice of the application 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

4. The applicant was born in 1972 and lives in the town of Grozny in the Chechen Republic. He works as a driver in a technical service of the Ministry of Internal Affairs of the Chechen Republic.

5. On 19 April 2005 the Leninskiy District Court of Grozny upheld the applicant's action against the Ministry of Internal Affairs and awarded him 285,330 Russian roubles in wage arrears. The judgment was not appealed against and became final.

6. On 29 April 2005 the Leninskiy District Court sent a writ of execution to the Ministry of Internal Affairs. On 6 September 2005 the applicant's

lawyer sent the writ and a copy of the judgment of 19 April 2005 to the Grozniy Town Department of the Federal Treasury of the Russian Federation.

7. On 14 August 2006 the judgment of 19 April 2005 was enforced.

THE LAW

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

8. The applicant complained that the judgment in his favour had not been enforced in good time. The Court considers that this complaint falls to be examined under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (see *Burdov v. Russia*, no. 59498/00, § 26, ECHR 2002-III). The relevant parts of these provisions read as follows:

Article 6 § 1

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

A. Admissibility

9. 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

10. The Government submitted that the judgment of 19 April 2005 had not been promptly enforced because there had been complex arrangements between budgets of different levels within the Russian Federation and the debtor had not had sufficient funds.

11. The applicant maintained his claims.

12. The Court observes that on 19 April 2005 the applicant obtained a judgment in his favour by which the Ministry of Internal Affairs, a State body, was to pay him a sum of money representing wage arrears. The judgment was not appealed against and became enforceable. The judgment of 19 April 2005 was enforced on 14 August 2006. It thus remained unenforced for approximately sixteen months.

13. 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 *Malinovskiy v. Russia*, no. 41302/02, § 35 et seq., ECHR 2005; *Teteriny v. Russia*, no. 11931/03, § 41 et seq., 9 June 2005; *Gizzatova v. Russia*, no. 5124/03, § 19 et seq., 13 January 2005; *Burdov*, cited above, § 34 et seq., ECHR 2002-III).

14. Having examined the material submitted to it, the Court notes that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. The Court notes that the judgment was not timeously enforced because the debtor did not have financial recourses. However, the Court reiterates that it is not open to a State authority to cite the lack of funds or other resources, such as housing, as an excuse for not honouring a judgment debt (see *Malinovskiy v. Russia*, no. 41302/02, § 35, 16 June 2005; *Plotnikov v. Russia*, no. 43883/02, § 23, 24 February 2005). The same principle applies to difficulties experienced by the State enforcement services and the complexity of the budgetary arrangement (see *Wasserman v. Russia*, no. 15021/02, § 38, 18 November 2004 and *Chernyshov and 11 Others v. Russia*, no. 10415/02, § 14, 28 September 2006).

15. The Court finds that by failing for a considerable period of time to comply with the enforceable judgment in the applicant's favour the domestic authorities impaired the essence of his right to a court and prevented him from receiving money he could reasonably have expected to receive.

16. There has accordingly been a violation of Article 6 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 RUR 1,000,000 in respect of pecuniary damage, of which RUR 285,330 represented the principle amount of the judgment award, RUR 95,371.55 represented inflation losses incurred during the period of the non-enforcement and an interest on the judgment award calculated at the interest rate of the Russian Central Bank and RUR 619,299 represented losses allegedly sustained by the applicant due to his employer's failure to pay him salary in good time. He further claimed 20,000 euros (EUR) in respect of non-pecuniary damage.

19. The Government submitted that the applicant's claims were unsubstantiated, excessive and unreasonable.

20. As to the applicant's claim in respect of the principle amount of the judgment award made on 19 April 2005, the Court notes that it was paid to him in full on 14 August 2006. The Court therefore rejects this claim.

21. The Court further reiterates that in the instant case it found a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in that the award in the applicant's favour had not been paid to him in good time. The Court reiterates that the adequacy of the compensation would be diminished if it were to be paid without reference to various circumstances liable to reduce its value, such as an extended delay in enforcement (see *Gizzatova v. Russia*, no. 5124/03, § 28, 13 January 2005; *Metaxas v. Greece*, no. 8415/02, § 36, 27 May 2004). Having regard to the materials in its possession and the fact that the Government did not furnish any objection to the applicant's method of calculation of compensation, the Court awards the applicant RUR 95,372 in respect of pecuniary damage, plus any tax that may be chargeable.

22. As to the claim in respect of the damage allegedly sustained by the applicant due to a delay in the payment of wages, the Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

23. The Court further considers that the applicant must have suffered distress and frustration resulting from the State authorities' failure to enforce the judgment in his favour. The Court takes into account the relevant aspects, such as the length of non-enforcement and the nature of the domestic award, and making its assessment on an equitable basis, awards the applicant EUR 1,200 in respect of non-pecuniary damage, plus any tax that may be chargeable on the above amount.

B. Costs and expenses

24. The applicant did not make any claims for the costs and expenses incurred before the domestic courts and the Court.

25. Accordingly, the Court does not award anything under this head.

C. Default interest

26. 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;
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, the following amounts:
 - (i) RUR 95,372 (ninety-five thousand three hundred and seventy-two Russian roubles) in respect of pecuniary damage;
 - (ii) EUR 1,200 (one thousand and two hundred euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of the settlement;
 - (iii) any tax that may be chargeable on the above amounts;
 - (b) 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 applicant's claim for just satisfaction.

Done in English, and notified in writing on 5 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President