



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

FIRST SECTION

CASE OF ZVEREV AND OTHERS v. RUSSIA

(Application no. 13296/03)

JUDGMENT

STRASBOURG

19 July 2007

FINAL

19/10/2007

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 Zverev 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,

Mrs N. VAJIĆ,

Mr A. KOVLER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr G. MALINVERNI, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 28 June 2007,

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

PROCEDURE

1. The case originated in an application (no. 13296/03) 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 three Russian nationals, Mr Ivan Petrovich Zverev, Mrs Valentina Alekseyevna Zvereva and Mrs Nataliya Ivanovna Zvereva (“the applicants”), on 19 March 2003. By letter of 28 November 2006 the third applicant informed the Court about the change of her name due to marriage. Accordingly, the third applicant's name has changed to Mrs Nataliya Ivanovna Moreno Toledo. The applicants were represented before the Court by Ms S.A. Poznakhirina, a lawyer practising in Novovoronezh.

2. The Russian Government (“the Government”) were initially represented by Mr P. Laptev, the former Representative of the Russian Federation at the European Court of Human Rights, and subsequently by their Representative, Mrs V. Milinchuk.

3. On 2 October 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

I. THE CIRCUMSTANCES OF THE CASE

4. The applicants were born in 1951, 1952 and 1974 respectively and live in the town of Novovoronezh, the Voronezh Region.

5. It appears that in 1998 and 1999 there were delays in payment of the applicants' pension and in 2000 they brought a court claim against the authority in this connection.

6. By judgment of 4 August 2000 the Novovoronezhskiy District Court of Voronezh granted the claim and ordered the authority to pay the first applicant 1,687.78 Russian roubles (RUR – approximately 55 euros (EUR)), the second applicant RUR 2,053.57 (approximately EUR 75) and the third applicant RUR 1,262.96 (approximately EUR 40) in damages.

7. On 14 August 2000 the judgment came into force and the District Court issued writs of execution and forwarded them to the bailiffs.

8. According to the information submitted by the Government, the court decision was enforced in full on 2 December 2005, which is five years, three months and nineteen days after its entry into force.

II. RELEVANT DOMESTIC LAW

9. According to Articles 13, 209 and 338 of the Code of Civil Procedure (*Гражданский процессуальный кодекс РСФСР*), in force at the material time, a court judgment, which has become final, is binding and must be executed.

10. Section 9 of the Law on Enforcement Proceedings of 21 July 1997 (*Закон об исполнительном производстве*) provides that a bailiff's order on the institution of enforcement proceedings shall fix a time-limit for the defendant's voluntary compliance with the writ of execution. The time-limit cannot exceed five days. The bailiff shall also warn the defendant that coercive action will follow, should the defendant fail to comply within the time-limit.

THE LAW

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

11. The applicants complained about the non-enforcement of court judgments in their favour. They relied on Article 6 of the Convention and Article 1 of Protocol No. 1, which, in so far as relevant, provide 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

12. The Government accepted that there had been a delay in the enforcement of court awards in favour of the applicants and acknowledged that there had been a breach of the mentioned Convention provisions.

13. The applicants' counsel maintained their complaints.

14. 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

15. The Court first notes that the judgment in the applicants' favour dated 4 August 2000 remained without enforcement until 2 December 2005, i.e. for the period of more than five years and three months.

16. The Court has found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in many cases raising issues similar to the ones in the present case (see, among other authorities, *Burdov v. Russia*, no. 59498/00, ECHR 2002-III; and, more recently, *Petrushko v. Russia*, no. 36494/02, 24 February 2005, or *Poznakhirina v. Russia*, no. 25964/02, 24 February 2005).

17. Having noted the Government's acknowledgement that there had been a violation of the said Convention provisions and in view of its case-law on the subject, the Court finds that by failing for such substantial periods to comply with the enforceable judgments in the applicants' favour the domestic authorities prevented them from receiving the money which they were entitled to receive under final and binding judgments.

18. There has accordingly been a violation of Articles 6 § 1 of the Convention and 1 of Protocol No. 1 in respect of all three applicants.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

A. Damage

19. 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.”

20. The applicants each claimed EUR 3,000 euros (EUR) in respect of non-pecuniary damage. They also requested the Court to award them the respective sums of 1,878.58 Russian roubles (RUR – EUR 55), RUR 2,290.68 (EUR 67) and RUR 1,262.96 (EUR 41) as regards the pecuniary losses.

21. The Government considered that the claims in respect of pecuniary damage had been reasonable. As regards the applicants' claims for compensation of non-pecuniary damage, the Government found them unsubstantiated and excessive.

22. The Court accepts that the applicants suffered inflationary losses as a result of the delayed execution of the judgments in their favour and awards them the respective sums of EUR 55, EUR 67 and EUR 41. It also finds that the applicants suffered some distress as a result of the violations at issue which related to the main source of their income and therefore awards each applicant EUR 3,000 in respect of non-pecuniary damage.

B. Costs and expenses

23. The applicants did not seek reimbursement of their costs and expenses incurred before the domestic authorities and the Court. Accordingly, the Court does not make any award under this head.

C. Default interest

24. 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, 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) to the first applicant EUR 55 (fifty-five euros) in respect of pecuniary damage and EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable on these amounts,
 - (ii) to the second applicant EUR 67 (sixty-seven euros) in respect of pecuniary damage and EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable on these amounts,
 - (iii) to the third applicant EUR 41 (forty-one euros) in respect of pecuniary damage and EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable on these amounts,
 - (b) that the amounts awarded in euros 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.

Done in English, and notified in writing on 19 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President