



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

FIRST SECTION

CASE OF VERSHININA v. RUSSIA

(Application no. 3462/04)

JUDGMENT

STRASBOURG

26 July 2007

FINAL

26/10/2007

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 Vershinina 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,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 5 July 2007,

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

PROCEDURE

1. The case originated in an application (no. 3462/04) 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 Mariya Pavlovna Vershinina (“the applicant”), on 1 December 2003.

2. The applicant was represented by Mr O. Sergeyev, director of the Krasnokamsk Human Rights Centre. 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 30 August 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

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1953 and lives in Krasnokamsk, the Perm Region.

5. On 23 May 1999 the applicant's son, born in 1981, was drafted into military service. On 17 October 1999 he was killed during military operations in Chechnya. In 2000 the applicant instituted proceedings for

damages against the Ministry of Defence. She claimed that her son was sent to participate in military operations in breach of statutory provisions since he had only served for four months while it was only permitted to send for military operations servicemen who had served no less than 12 months.

6. On 13 July 2001 the Krasnokamskiy Town Court granted the claim and awarded the applicant damages in the amount of 50,000 roubles (RUR) and costs in the amount of RUR 10. The judgment was not appealed against and became final.

7. On 1 October 2001 a writ of execution was issued.

8. On 9 November 2001 the applicant sent the writ of execution to the Moscow Department of Federal Treasury of the Ministry of Finance.

9. On 29 November 2001 the Moscow Department of Federal Treasury returned the writ to the applicant and advised her that it should be sent directly to the Ministry of Finance.

10. On 18 December 2001 the applicant sent the writ of execution to the Ministry of Finance.

11. On 15 February 2002 the applicant sent a complaint to the Minister of Finance concerning non-execution of the judgment in her favour.

12. In the reply of 30 May 2002 the applicant was informed that the Ministry of Finance forwarded the writ of execution to the Ministry of Defence. However the latter did not take necessary measures in order to execute the payment under the writ.

13. On 27 March 2003 the applicant sent a complaint to the Minister of Defence concerning non-execution of the judgment in her favour.

14. On 25 June 2003 the sum awarded on 13 July 2001 was paid to the applicant.

THE LAW

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

15. The applicant complained that the judgment of 13 July 2001 remained unenforced for a long 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

16. The Court notes that this complaint 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

17. The applicant complained about the delay in receiving the amount awarded to her by the domestic court in the proceedings for damages related to her son being killed in action.

18. The Government accepted that the enforcement of the judgment of 13 July 2001 was carried out with a delay in breach of the domestic law and the Convention. However they considered that the applicant had abused her right of petition because she did not make clear in her application before the Court that the judgment in question had already been enforced. They claimed that her application should be struck out of the list of cases.

19. The Court observes that on 13 July 2001 the applicant obtained a judgment in her favour by which she was to be paid a certain sum of money by the communication department of the Ministry of Defence, a State body. The judgment was not appealed against and became final and enforceable. It was fully enforced on 25 June 2003 when the sum was credited to the applicant's account. Thus, the judgment of 13 July 2001 remained unenforced for nearly two years.

20. 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 v. Russia*, no. 59498/00, §§ 19 et seq., ECHR 2002-III; *Gizzatova v. Russia*, no. 5124/03, §§ 19 et seq., 13 January 2005; *Gerasimova v. Russia*, no. 24669/02, §§ 17 et seq., 13 October 2005).

21. 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 enforced without any justification. 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 legitimately expected to receive. The Court notes the Government's argument concerning the applicant's failure to indicate clearly in the application form that the judgment had been enforced before she applied to the Court. However, it does not consider this fact sufficient to find an abuse of petition in the present case.

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

II. 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 3,000 euros (EUR) in respect of non-pecuniary damage.

25. The Government contested the applicant's claims as unreasonable and excessive. They considered that an acknowledgment of a violation would constitute sufficient just satisfaction to the applicant.

26. The Court considers that the applicant must have suffered distress and frustration resulting from the State authorities' failure to enforce the judgment in her favour. The Court takes into account the relevant aspects, such as the length of the enforcement proceedings and the nature of the domestic award, and making its assessment on an equitable basis, awards the applicant EUR 2,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on the above amount.

B. Costs and expenses

27. The applicant made no claims under this head, accordingly the Court makes no award in respect of costs and expenses.

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 application admissible;
2. *Holds* that there has been a violation of Article 6 of the Convention;
3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
4. *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 2,000 (two 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;
 - (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;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 July 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President