



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

FIRST SECTION

CASE OF KRASYUCHENKO v. RUSSIA

(Application no. 11712/06)

JUDGMENT

STRASBOURG

11 October 2007

FINAL

11/01/2008

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 Krasyuchenko v. Russia,

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

Mr C.L. ROZAKIS, *President*,

Mr A. KOVLER,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS,

Mr G. MALINVERNI, *judges*,

and Mr A. WAMPACH, *Deputy Section Registrar*,

Having deliberated in private on 20 September 2007,

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

PROCEDURE

1. The case originated in an application (no. 11712/06) 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, Ms Yevgeniya Grigoryevna Krasyuchenko (“the applicant”), on 10 February 2006.

2. The applicant was represented by Mr I. Sivoldayev, a lawyer practising in Voronezh. 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 new Representative, Mrs V. Milinchuk.

3. On 4 April 2006 the President of the Chamber decided that the application should be given priority treatment under Rule 41 of the Rules of Court. On 10 April 2006 the President decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

4. The applicant was born in 1924 and lives in Voronezh.

5. The applicant sued the local social welfare authority (*Комитет по социальной защите населения администрации Советского района г. Воронежа*) claiming readjustment of her old-age pension. On 23 February 2001 the Sovetskiy District Court of Voronezh granted her

claim and awarded her 2,562.44 Russian roubles. No appeal was brought against the judgment, and it became final and enforceable ten days later.

6. On 5 March 2001 the bailiff initiated enforcement proceedings.

7. On 26 July 2001 the bailiff terminated the proceedings because the defendant had not had sufficient funds to pay the judgment debt.

8. On 2 December 2005 the monies due to the applicant were transferred into her bank account.

THE LAW

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

9. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 that the judgment of 23 February 2001 had not been enforced in good time. The relevant parts of these provisions 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. Admissibility

10. 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

11. The Government acknowledged a violation of the applicant's rights.

12. The applicant maintained her complaints.

13. The Court observes, and it is not contested by the parties, that the judgment of 23 February 2001 was enforced in full on 2 December 2005. It follows that the judgment remained without enforcement for approximately four years and nine months.

14. 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, § 35, ECHR 2002-III.; *Wasserman v. Russia*, no. 15021/02, § 35 et seq., 18 November 2004; and *Gerasimova v. Russia*, no. 24669/02, § 17 et seq., 13 October 2005).

15. Having regard to its case-law on the subject and the Government's acknowledgment of a violation, 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 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 4,992.58 in respect of pecuniary damage, representing inflation losses during the period of non-enforcement plus the interest at the marginal lending rate of the Russian Central Bank. She also claimed 4,000 euros (EUR) in respect of non-pecuniary damage.

19. The Government submitted that no compensation for pecuniary damage should be awarded to the applicant because she should have applied with that claim to the domestic courts.

20. The Court reiterates that applicants cannot be required to exhaust domestic remedies to obtain compensation for pecuniary loss since this would prolong the procedure before the Court in a manner incompatible with the effective protection of human rights (see *De Wilde, Ooms and Versyp v. Belgium* (Article 50), judgment of 10 March 1972, Series A no. 14, pp. 8-9, § 16; *Metaxas v. Greece*, no. 8415/02, § 36, 27 May 2004).

21. The Court considers that the applicant suffered a pecuniary loss which would have been avoided had the authorities enforced the judgment of 23 February 2001 in good time. The Court also 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). Having regard to the materials in its possession and to the fact that the Government did not object to the applicant's method of calculation of the pecuniary damage, the Court accepts the applicant's claim and awards her under this head EUR 140, plus any tax that may be chargeable on that amount.

22. The Court further considers that the applicant must have suffered distress and frustration resulting from the State authorities' failure to enforce in good time the judgment in her favour. Taking into account the length of the enforcement proceedings and the nature of the award, and making its assessment on an equitable basis, the Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

23. The applicant also claimed EUR 40 for the expenses incurred before the Court.

24. The Government considered that the applicant's claims were unsubstantiated.

25. According to the Court's case-law, an applicant is entitled to reimbursement of her costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred, and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award EUR 40 for costs and expenses relating to the proceedings before the Court, plus any tax that may be chargeable on that amount.

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 sums, to be converted into Russian roubles at the rate applicable at the date of the settlement:
 - (i) EUR 3,000 (three thousand euros) in respect of non-pecuniary damage;
 - (ii) EUR 140 (one hundred forty euros) in respect of pecuniary damage;
 - (iii) EUR 40 (forty euros) in respect of costs and expenses;
 - (iv) plus 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 11 October 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André WAMPACH
Deputy Registrar

Christos ROZAKIS
President