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

FIRST SECTION

CASE OF BOLDYREVA v. RUSSIA

(Application no. 23542/04)

JUDGMENT

STRASBOURG

6 December 2007

FINAL

06/03/2008

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 Boldyreva 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 G. MALINVERNI, *judges,*
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 15 November 2007,

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

PROCEDURE

1. The case originated in an application (no. 23542/04) 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, Mrs Zoya Alekseyevna Boldyreva (“the applicant”), on 21 March 2004.

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

3. On 1 March 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 1930 and lives in Voronezh.

5. In February 2000 the applicant brought proceedings claiming compensation for the State's failure to pay her old-age pension in good time. On 15 December 2000 the Levoberezhniy District Court of Voronezh ordered the local Social Security Committee to pay her 1,243.14 Russian roubles (RUB).

6. On 21 January 2001 a bailiff instituted enforcement proceedings. On 14 May 2001 the writ of execution was returned to the applicant without enforcement because the defendant had no funds.

7. On 5 December 2005 the applicant received the monies due under the judgment of 15 December 2000.

THE LAW

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

8. The applicant complained under Article 6 § 1 of the Convention and in substance under Article 1 of Protocol No. 1 that the judgment of 15 December 2000 had not been enforced in good time. The relevant parts of those 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 acknowledged a violation of the applicant's rights.

11. The applicant maintained her complaint.

12. The Court observes, and it is not contested by the parties, that the judgment of 15 December 2000 was enforced in full on 5 December 2005. It follows that the judgment remained without enforcement for nearly five years.

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 *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).

14. Having regard to its case-law on the subject and to 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.

15. 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

16. 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

17. The applicant claimed RUB 2,271.97 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.

18. The Government submitted that no just satisfaction should be awarded to the applicant because her claims were unsubstantiated. The finding of a violation in itself would constitute sufficient just satisfaction.

19. The Court considers that the applicant suffered a pecuniary loss which would have been avoided had the authorities enforced the judgment of 15 December 2000 in good time. 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, the Court accepts the applicant's claim and awards her under this head EUR 65, plus any tax that may be chargeable on that amount.

20. 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

21. The applicant also claimed EUR 25 for the costs and expenses incurred before the domestic authorities and for those incurred before the Court.

22. The Government made no comment.

23. The Court considers it reasonable to award the sum requested under this head, plus any tax that may be chargeable on that amount.

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;

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 65 (sixty-five euros) in respect of pecuniary damage;

   (iii) EUR 25 (twenty-five 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 6 December 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President