



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

FIRST SECTION

CASE OF SINITSYNA v. RUSSIA

(Application no. 2814/04)

JUDGMENT

STRASBOURG

13 December 2007

FINAL

13/03/2008

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 Sinitsyna 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 S.E. JEBENS,

Mr G. MALINVERNI, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 22 November 2007,

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

PROCEDURE

1. The case originated in an application (no. 2814/04) 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 Valentina Grigoryevna Sinitsyna (“the applicant”), on 14 December 2003.

2. 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 7 February 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 1945 and lives in the town of Saransk in the Mordoviya Republic.

5. In 1990 the applicant obtained a State special-purpose commodity bond (*облигация государственного целевого беспроцентного займа*). By its terms the Government undertook to give her a Russian-made VAZ passenger car.

6. It appears that in 1993 the applicant requested the State to comply with its obligation, but it could not be fulfilled for want of cars.

7. After the change in legislation in 1995 and 1996, the applicant became entitled to compensation in the amount equal to the car value, as

described in the bond and determined in co-ordination with car manufacturers at the moment of redemption.

8. It appears that in August 1998 the applicant received partial compensation.

9. In November 1999 she sued the Government for the full market value of the car.

10. By judgment of 25 April 2002, the Oktyabrskiy District Court of Saransk awarded her 50,400 Russian roubles (RUB) against the Ministry of Finance. On 4 June 2002 the Supreme Court of the Mordoviya Republic upheld the judgment.

11. On 19 June 2002 the bailiff instituted enforcement proceedings. On 1 July 2002 the bailiff returned the writ of execution to the applicant. On the same date, the applicant re-submitted it to the Ministry of Justice. Upon the Ministry's instructions, on 17 July 2002 the applicant forwarded her writ to the Treasury Department in Moscow.

12. By letter of 26 August 2002 the Treasury returned the writ to the applicant, indicating that it should be submitted to the Ministry of Finance. The applicant sent the writ to the Ministry on 10 October 2002.

13. On 6 December 2002 the Ministry informed the applicant that it would not enforce the judgment because supervisory-review proceedings had been pending.

14. The applicant received the monies due to her on 28 April 2006.

THE LAW

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

15. The applicant complained under Articles 1 and 3 of the Convention and Article 1 of Protocol No. 1 that the judgment of 25 April 2002, as upheld on 4 June 2002, had not been enforced in good time. The Court considers that this complaint is 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 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

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 Government submitted that the judgment of 25 April 2002 had been enforced in April 2006.

18. The applicant maintained her complaint.

19. The Court observes that the judgment of 25 April 2002 was enforced in full on 28 April 2006. Thus, it remained without enforcement for nearly four 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*, cited above, § 35; *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).

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 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.

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

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

23. The applicant also submitted other complaints under Article 6 of the Convention and Article 1 of Protocol No. 1. In particular, she complained about the State's failure to provide her with a car, the length of the proceedings and the allegedly insufficient amount of compensation granted in 1998. Finally, she complained that she had been unable to withdraw those

monies from her bank account and that the money had lost its purchasing value due to inflation.

24. The Court has examined the remainder of the applicant's complaints as submitted by her. However, having regard to all the material in its possession, it finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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

26. The applicant claimed RUB 25,000 in respect of pecuniary damage. She also claimed compensation in respect of non-pecuniary damage “as stated in her application form of 14 December 2003”, which was 100,000 euros (EUR).

27. The Government considered that the applicant's pecuniary claim was unsubstantiated because she had not explained the method of calculation and had not submitted any relevant documents. She made no clear claim in respect of non-pecuniary damage and, in any event, the finding of a violation would constitute an adequate redress under that head.

28. As regards pecuniary damage, the Court observes that the applicant has not submitted any supporting documents, which would confirm her claim and method of calculation. Accordingly, the Court considers that there is no call to award the applicant any sum on that account. At the same time, the Court accepts that the applicant suffered some distress as a result of the violation found and therefore awards her EUR 2,400 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

29. The applicant did not submit any claims under this head and the Court accordingly makes no award in respect of costs and expenses.

C. Default interest

30. 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 complaint concerning the delay in the enforcement of the judgment of 25 April 2002 admissible and the remainder of the application inadmissible;
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, EUR 2,400 (two thousand four hundred euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable on 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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 13 December 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President