



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

FIRST SECTION

CASE OF LESNOVA v. RUSSIA

(Application no. 37645/04)

JUDGMENT

STRASBOURG

24 January 2008

FINAL

24/04/2008

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 Lesnova v. Russia,

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

Loukis Loucaides, *President*,
Nina Vajić,
Anatoli Kovler,
Elisabeth Steiner,
Khanlar Hajiyev,
Dean Spielmann,
Sverre Erik Jebens, *judges*,
and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 3 January 2008,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 37645/04) 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 Olga Nikolayevna Lesnova (“the applicant”), on 31 August 2004.

2. The applicant was represented by Ms S. Poznakhirina, an NGO expert practising in Novovoronezh. 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 29 May 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 1954 and lives in the town of Novovoronezh in the Voronezh Region.

5. The applicant sued the local Social Security Committee for the unpaid allowances.

A. Case no. 1

6. By judgment of 25 October 2000, the Novovoronezh Town Court of the Voronezh Region awarded the applicant 3,546.56 Russian roubles (RUB). The judgment became final on 21 December 2000. On 30 October 2002 the applicant received RUB 1,409.72.

B. Case no. 2

7. By judgment of 27 June 2003, the Town Court awarded the applicant RUB 19,315.50. On 19 August 2003 the Voronezh Regional Court upheld the judgment. The monies were paid to the applicant on 17 December 2004. On 30 May 2005 the Town Court awarded the applicant RUB 3,204.51 as compensation for inflationary losses caused by the delay in the enforcement of the judgment of 27 June 2003. It appears that the judgment of 30 May 2005 was not enforced.

C. Case no. 3

8. By judgment of 29 December 2003, the Town Court awarded the applicant RUB 16,765.50. On 8 January 2004 the judgment became final. The monies were paid to the applicant on 3 August 2005. On 27 September 2005 the Town Court awarded the applicant RUB 3,696.79 as compensation for inflationary losses caused by the delay in the enforcement of the judgment of 29 December 2003. It appears that the judgment of 27 September 2005 was not enforced.

D. Case no. 4

9. On 2 March 2004 the Town Court awarded the applicant RUB 4,973.57. On 12 March 2004 the judgment became final. It appears that the judgment was not enforced.

E. Case no. 5

10. On 5 May 2004 the Town Court awarded the applicant RUB 9,494.52 and increased her monthly disability allowance to RUB 5,664.84. On 17 May 2004 the judgment became final. The lump sum was paid to the applicant on 11 November 2005. On 10 January 2006 the Town Court awarded the applicant RUB 1,499.48 as compensation for inflationary losses caused by the delay in the enforcement of the judgment of 5 May 2004. It appears that the judgment was not enforced.

F. Case no. 6

11. On 3 June 2004 the Town Court awarded the applicant RUB 1,772.30 and increased her monthly commodity allowance to RUB 679.78. On 15 June 2004 the judgment became final. It appears that the judgment was not enforced.

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

12. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 that the judgments of 25 October 2000, 27 June, 29 December 2003, 2 March, 5 May and 3 June 2004 had not been enforced in good time. 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

13. The Court observes, and it is not contested by the parties, that the applicant was awarded compensation for the delays in enforcement of the judgments of 27 June, 29 December 2003 and 5 May 2004 (see paragraphs 7, 8 and 10 above). The Court does not exclude that such compensation awards could constitute redress of the State's previous failure to comply with the judgments within a reasonable time, provided that those awards have been paid in full without any delay. However, the Government did not adduce any evidence showing that those awards had been paid to the applicant in full and in good time. Accordingly, the Court considers that the applicant may still claim to be a “victim” in respect of her complaint about

the delays in enforcement of the judgments of 25 October 2000, 27 June, 29 December 2003, 2 March, 5 May and 3 June 2004.

14. The Court concludes 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 Government submitted that the judgments of 27 June, 29 December 2003 and 5 May 2004 had been enforced in full, the judgment of 25 October 2000 in part, the judgments of 2 March and 3 June 2004 had not been enforced. The Government acknowledged a violation of the applicant's rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, as regards the judgments which had not been enforced.

16. The applicant made no specific comment in that respect.

17. Having regard to the material in its possession, the Court finds that the judgment of 27 June 2003 had been enforced in full in December 2004. The Court notes that the Government submitted no proof that the judgments of 29 December 2003 and 5 May 2004 had been enforced in full. However, since the applicant did not object, the Court accepts that those judgments had been enforced in full in August and November 2005, respectively. Hence, the delays in the enforcement of the above judgments varied from sixteen to nineteen months.

18. Furthermore, having regard to the material in its possession, the Court concludes that the judgments of 25 October 2000, 2 March and 3 June 2004 remain, in full or in part, without enforcement.

19. 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, among others, *Burdov v. Russia*, no. 59498/00, §§ 33-38, ECHR 2002-III and *Glushakova v. Russia (no. 1)*, no. 38719/03, §§ 33-37, 12 April 2007).

20. 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. Having regard to its case-law on the subject, the Court finds that by failing, for long periods of time, to comply with the enforceable judgments 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.

21. 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

22. 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

23. The applicant claimed 12,693 euros (EUR) in respect of pecuniary damage, including the compensation awards in relation to the judgments of 27 June, 29 December 2003 and 5 May 2004 and interest at the marginal lending rate of the Russian Central Bank in relation to the delays in enforcement of the judgments of 25 October 2000, 2 March and 3 June 2004. She also claimed EUR 6,000 in respect of non-pecuniary damage.

24. The Government submitted that no compensation in respect of pecuniary damage should be awarded because most of the judgments in the applicant's favour had been enforced.

25. As regards the judgments of 27 June, 29 December 2003 and 5 May 2004, the Court found that they had been enforced and that in 2005 and 2006 the domestic courts awarded the applicant compensation for delays in their enforcement (see paragraphs 13 and 17 above). Since the Government provided no evidence that such compensation had been paid to the applicant in full, the Court considers that the Government should secure, by appropriate means, the enforcement of the awards of 30 May, 27 September 2005 and 10 January 2006.

26. As to the judgments of 25 October 2000, 2 March and 3 June 2004, taking into account the applicant's method of calculation and the fact that the Government did not object to it, the Court awards the applicant under this head interest in the amount of EUR 200, plus any tax that may be chargeable. Furthermore, the Court notes that the State's obligation to enforce those judgments is not in dispute in the present case (see paragraph 18 above). Having regard to the Court's case-law on that matter (see, among others, *Politova and Politov v. Russia*, no. 34422/03, § 24, 1 February 2007), the Court therefore considers that the Government shall secure, by appropriate means, the enforcement of the judgments of 25 October 2000, 2 March and 3 June 2004. The Court dismisses the remainder of the applicant's pecuniary claims.

27. Finally, the Court considers that the applicant must have suffered distress and frustration resulting from the authorities' failure to enforce in good time the judgments in her favour. Taking into account the length of the enforcement proceedings, the number of the domestic awards and their nature, and making its assessment on an equitable basis, the Court awards

the applicant EUR 3,900 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

28. 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

29. 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, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, shall secure, by appropriate means, the enforcement of the awards made by the domestic court on 25 October 2000, 2 March and 3 June 2004, 30 May, 27 September 2005 and 10 January 2006;
 - (b) 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 3,900 (three thousand nine hundred euros) in respect of non-pecuniary damage and EUR 200 (two hundred euros) in respect of pecuniary damage, to be converted into Russian roubles at the rate applicable on the date of settlement, plus any tax that may be chargeable on those amounts;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 24 January 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Loukis Loucaides
President