



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

FIRST SECTION

CASE OF LEDOVKIN v. RUSSIA

(Application no. 43209/04)

JUDGMENT

STRASBOURG

21 February 2008

FINAL

21/05/2008

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 Ledovkin v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoli Kovler,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 31 January 2008,

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

PROCEDURE

1. The case originated in an application (no. 43209/04) 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, Mr Yuriy Borisovich Ledovkin (“the applicant”), on 16 November 2004.

2. 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 25 September 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 1956 and lives in Pskov.

5. He is a Chernobyl pensioner.

6. On 10 February 2003 the Pskov Town Court of the Pskov Region (“the Town Court”) granted his claim against the Welfare Office and recovered arrears in respect of disability and food allowances in the amount of 22,742.64 Russian roubles (RUB) and in the amount of RUB 1,713

respectively. The Town Court held that as of 1 January 2002 the applicant had been entitled to a certain increase in his disability allowance, and that as of 1 July 2002 he had been entitled to yet another increase in disability and food allowances. The Town Court further held that as of 1 February 2003 the applicant was entitled to a monthly disability allowance in the amount of RUB 4,540.52 and to a monthly food allowance in the amount of RUB 544.80. Furthermore, the Town Court held that in future, the monthly disability and food allowances had to be increased in line with the minimum subsistence amount if its index of growth attained an inflation rate of 6%. The judgment acquired legal force on 21 February 2003.

7. According to the Government, the judgment of 10 February 2003 was enforced in full. The final payment under that judgment was made in November 2006.

8. The applicant submitted that the judgment of 10 February 2003 remained without enforcement in the part concerning the payment of a monthly food allowance.

THE LAW

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

9. The applicant complained under Articles 6 and 13 of the Convention, and Article 1 of Protocol No. 1 about the prolonged non-enforcement of the judgment of 10 February 2003. The Court will examine this complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. These Articles, in so far as relevant, read as follows:

Article 6 § 1

“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 submitted that the judgment of 10 February 2003 had been enforced in full. They acknowledged that there had been delays in the enforcement of the judgment.

12. The applicant maintained his complaint. He argued that the judgment of 10 February 2003 remained without enforcement in part concerning the payment of a monthly food allowance of RUB 544.80. The applicant submitted an extract of his bank statement of 31 March 2007 from which it followed that since January 2007 he had been receiving RUB 393.86 in respect of monthly food allowance.

13. The Court observes that on 10 February 2003 the applicant obtained a judgment by which the Welfare Office of Pskov, a state body, was to pay him substantial amounts in social benefits. The judgment acquired legal force on 21 February 2003. It follows from the bank statement submitted by the applicant that at least until 31 March 2007 he had not been paid the food allowance in the amount awarded by the judgment of 10 February 2003. The Court observes that the Government submitted no proof that the judgment of 10 February 2003 had been enforced in full. Having regard to the materials in its possession, the Court concludes that the judgment of 10 February 2003 has not been enforced in full to date.

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, ECHR 2002-III, and *Svitich v. Russia*, no. 39013/05, 31 July 2007).

15. Having examined the materials submitted to it, the Court notes that the Government have not put forward any fact or argument capable of justifying the non-enforcement of the judgment of 10 February 2003. 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 his right to a court and prevented him from receiving the money he had legitimately 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 32,103.96 Russian roubles (RUB) in respect of pecuniary damage which represented the loss of value of the judgment debt. He submitted a detailed calculation of his claims which was based on the refinancing rate of the Bank of Russia and on the inflation rate in the Pskov Region. He also claimed 6,500 euros (EUR) in respect of non-pecuniary damage.

19. The Government failed to submit their comments on the applicant's claims within the prescribed time-limits.

20. The Court firstly notes that the State's outstanding obligation to enforce the judgment in the applicant's favour is not in dispute. Accordingly, the applicant is still entitled to recover the judgment debt in the domestic proceedings. The Court reiterates that the most appropriate form of redress in respect of a violation of Article 6 is to ensure that the applicant as far as possible is put in the position he would have been had the requirements of Article 6 not been disregarded (see *Piersack v. Belgium* (Article 50), judgment of 26 October 1984, Series A no. 85, § 12, and, *mutatis mutandis*, *Gençel v. Turkey*, no. 53431/99, § 27, 23 October 2003). The Court finds that in the present case this principle applies as well, having regard to the violations found (see *Poznakhirina v. Russia*, no. 25964/02, § 33, 24 February 2005). It therefore considers that the Government shall secure, by appropriate means, the enforcement of the judgment of 10 February 2003.

21. The Court further considers that there is a causal link between the violation found and the pecuniary damage alleged. Taking into account the applicant's calculations, the Court awards him EUR 900 in respect of pecuniary damage, plus any tax that may be chargeable on that amount.

22. The Court furthermore considers that the applicant must have suffered certain distress and frustration resulting from the authorities' failure to enforce the final judgment in his favour. However, the amount claimed appears to be excessive. Taking into account the length of the

enforcement proceedings, the nature of the award 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

23. The applicant also claimed RUB 1,060.30 for the costs and expenses incurred before the domestic courts and the Court.

24. The Government failed to submit their comments within the allowed time-limits.

25. According to the Court's case-law, an applicant is entitled to reimbursement of his 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 the sum of EUR 30 covering costs under all heads.

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, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, shall secure, by appropriate means, the enforcement of the judgment of 10 February 2003, and in addition pay the applicant EUR 900 (nine hundred euros) in respect of pecuniary damage, EUR 3,900 (three thousand nine hundred euros) in respect of non-pecuniary damage and EUR 30 (thirty euros) in respect of costs and expenses, 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 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 21 February 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President