



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

FIRST SECTION

CASE OF KLISHINA AND OTHERS v. RUSSIA

(Application no. 36074/04)

JUDGMENT

STRASBOURG

24 April 2008

FINAL

24/07/2008

This judgment may be subject to editorial revision.

In the case of Klishina and Others v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Elisabeth Steiner,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 27 March 2008,

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

PROCEDURE

1. The case originated in an application (no. 36074/04) 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 nineteen Russian nationals (cf. the annex to this judgment).

2. The applicants are represented before the Court by Mr Kiryanov and Ms Kiryanova, lawyers practising in Taganrog. 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 Representative, Mrs V. Milinchuk.

3. On 10 July 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 applicants live in Taganrog, a town in the Rostov Region.

5. They are working as teachers in a public secondary school No. 12. According to the internal school rules they were entitled to compensation for books and other printed materials. Following the judgments of 23, 24, 25 and 26 March 1999 delivered by the Taganrog Town Court of the Rostov Region the applicants were awarded certain sums of money for these purposes. As the sums were paid only in December 2000 and thus partly

lost their purchasing power due to the inflation in Russia at the material time, the applicants sought indexation of the sums.

6. On 17 February 2004 the Justice of the Peace of the 4th Court Circuit of Taganrog granted the applicants' claims and ordered the Educational Department of the city of Taganrog to pay the applicants from RUB 6,024 to 7,247 each depending on the individual situation of the applicants (cf. the annex to this judgment). The judgment was not appealed against and became final on 1 March 2004.

7. The judgment of 17 February 2004 was enforced in full on 3 June 2005.

THE LAW

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

8. The applicants relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention and complained about the lengthy non-enforcement of the judgment of 17 February 2004. The relevant parts of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 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 admitted the violation of the applicants' rights on account of the delayed enforcement of the judgment but asked the Court to take into consideration the relatively short period of the non-enforcement of the judgment in comparison with similar cases (*Poznakhirina v. Russia*, no. 25964/02, §§ 31-35, 24 February 2005; *Kazartseva and Others v. Russia*, no. 13995/02, §§ 43-46, 17 November 2005; *Shestopalova and Others v. Russia*, no. 39866/02, §§ 30-33, 17 November 2005). The Government noted that the judgment of 17 February 2004 was enforced in full and that the sums awarded to the applicants by the national court represented indexation of the untimely enforced judgments of 1999 and did not constitute the applicants' means of support.

11. The applicants did not dispute that the judgment of 17 February 2004 was enforced in full on 3 June 2005 but nevertheless maintained their complaints.

12. The Court observes that on 17 February 2004 the applicants obtained a judgment in their favour by which they were to be paid certain sums of money by the Educational Department of Taganrog, a State body. On 1 March 2004 the judgment became final and enforceable. However, the judgment of 17 February 2004 remained without enforcement until 3 June 2005, that is for one year and three months. No justification was advanced by the Government for this delay.

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, among other authorities, *Burdov*, cited above, §§ 34 et seq.; and, more recently, *Shilyayev v. Russia*, no. 9647/02, §§ 32 et seq., 6 October 2005, and *Reynbakh v. Russia*, no. 23405/03, §§ 23 et seq., 29 September 2005).

14. Having examined the material submitted to it, the Court notes that the Government accepted that the applicants' rights under the Convention had been violated and did 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 to comply with the enforceable judgment in the applicants' favour for more than one year, the domestic authorities impaired their right to a court and

prevented them from receiving the money they could reasonably have expected to receive.

15. There has accordingly been a violation of Article 6 § 1 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 applicants initially each claimed EUR 1,500 in respect of non-pecuniary damage. Later they reduced their claims to EUR 750 to be paid to each of them.

18. The Government argued that the claims for non-pecuniary damage were wholly excessive and suggested that a finding of a violation would by itself constitute sufficient just satisfaction in the present case.

19. The Court considers that the applicants must have suffered distress and frustration resulting from the State authorities' failure to enforce the judgment in their favour. The Court takes into account the relevant aspects, such as the length of the enforcement proceedings and the nature of the award, and making its assessment on an equitable basis, awards each of the applicants EUR 200 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

20. The applicants also claimed EUR 317 for the costs and expenses incurred before the domestic courts and the Court in Strasbourg.

21. The Government noted that the applicants had failed to show that they actually had incurred the expenses claimed as no documents certifying these payments had been enclosed to the file.

22. 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 rejects the claim as the applicants did not submit any receipts or other vouchers in support of that claim.

C. Default interest

23. 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 each of the applicants, the names of which are listed in the annex to this judgment, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 200 (two hundred euros) in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement, plus any tax that may be chargeable to the applicants on the above amount;
 - (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 applicants' claim for just satisfaction.

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

Søren Nielsen
Registrar

Christos Rozakis
President

ANNEX

NAME OF THE APPLICANT	YEAR OF BIRTH	AWARDS UNDER THE JUDGMENT OF 17 FEBRUARY 2004, RUB
Tatyana Alekseyevna Klishina	1954	7,247. 25
Dmitry Svyatoslavovich Kulinich	1974	6,328. 05
Irina Yevgenyevna Sizova	1965	2,326. 81
Tatyana Alekseyevna Boksha	1958	6,277. 59
Irina Genrichovna Barkovskaya	1968	6,328. 05
Yelena Vladimirovna Chistyakova	1951	6,267. 03
Svetlana Vyacheslavovna Zinchenko	1971	6,024. 45
Yelena Viktorovna Shamrayeva	1960	6,024. 45
Yelena Vladimirovna Kononenko	1967	6,024. 45
Zoya Aleksandorvna Volkova	1961	6,024. 45
Lyudmila Borisovna Safonova	1939	6,024. 45
Yelena Nikolayevna Stetsenko	1961	6,024. 45
Lyubov Nikolayevna Dushina	1958	6,024. 45
Galina Vladimirovna Golovenko	1969	6,024. 45
Lyudmila Ivanovna Opryshko	1956	6,024. 45
Yuliya Grigoryevna Koltanovskaya	1963	6,024. 45
Yelena Vasilyevna Koltanovskaya	1941	6,024. 45
Yelena Petrovna Sergienko	1960	6,024. 45
Yelena Vladimirovna Shcherbakova	1964	6,024. 45

