



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

FIRST SECTION

CASE OF DVORYAKOV v. RUSSIA

(Application no. 28644/06)

JUDGMENT

STRASBOURG

29 April 2008

FINAL

29/07/2008

This judgment may be subject to editorial revision.

In the case of Dvoryakov 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 Hajiyev,

Dean Spielmann,

Giorgio Malinverni, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 1 April 2008,

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

PROCEDURE

1. The case originated in an application (no. 28644/06) 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 Viktor Mikhaylovich Dvoryakov (“the applicant”), on 20 April 2006.

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 Representative, Mrs V. Milinchuk.

3. On 12 October 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 1947 and lives in the town of Novocherkassk in the Rostov Region.

5. The applicant brought proceedings against the Military Commissariat of the Rostov Region claiming an increased commodity allowance. By judgment of 30 August 2004, the Novocherkassk Town Court awarded the applicant 54,838.54 Russian roubles against the Commissariat. The court also ordered the respondent to recalculate the applicant’s allowance taking account of his entitlement to the allowance. The parties did not appeal and the judgment became final.

6. On 19 January 2006 the Commissariat sought an extension of the time-limit for lodging an application for a supervisory review of the above judgment. On 20 March 2006 the Town Court granted the request. On 3 July the Regional Court refused leave for supervisory review.

7. On 6 December 2006 the applicant received the money due to him.

THE LAW

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

8. The applicant complained under Articles 6, 13 of the Convention and Article 1 of Protocol No. 1 that the judgment of 30 August 2004 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 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

9. 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

10. The Government submitted that the delay in enforcement was due to the pending appeal and supervisory-review proceedings and due to the

debtor's failure to take any measures for its enforcement. The Government acknowledged a violation of the applicant's rights.

11. The applicant maintained his complaint.

12. The Court observes, and it is not contested by the parties, that the judgment of 30 August 2004 was enforced in full on 6 December 2006. It follows that the judgment remained without enforcement for nearly two years and three months.

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, the Court finds that by failing, for a long period of time, 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 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

16. The applicant complained under Articles 6 and 13 of the Convention about the extension of the time-limit for lodging a supervisory-review request and, in general terms, about the authorities' failure to protect his rights.

17. Having regard to all the material in its possession, the Court finds that the above complaints did 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 in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. 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."

19. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the delay in enforcement of the judgment of 30 August 2004 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.

Done in English, and notified in writing on 29 April 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Christos Rozakis
President