



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

FIRST SECTION

CASE OF PODYAPOLSKIY v. RUSSIA

(Application no. 36939/02)

JUDGMENT

STRASBOURG

12 June 2008

FINAL

12/09/2008

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 Podyapolskiy 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,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 22 May 2008,

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

PROCEDURE

1. The case originated in an application (no. 36939/02) 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 Vasilyevich Podyapolskiy (“the applicant”), on 23 September 2002.

2. The Russian Government (“the Government”) were represented by Mr P. Laptev and Mrs V. Milinchuk, Representatives of the Russian Federation at the European Court of Human Rights.

3. On 1 March 2006 the Court decided to give notice of the application to the Government. It also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1964 and lives in Tambov.

5. As a victim of Chernobyl, the applicant was entitled to social benefits. Considering himself underpaid, he brought four actions against a social-security authority.

6. On 19 June 2000 the Oktyabrskiy District Court of Tambov awarded the applicant 16,951.58 Russian roubles (“RUB”). This judgment became binding on 4 September 2000 and was enforced on 19 February 2004.

7. On 14 March 2001 the district court awarded the applicant RUB 56,632.25. This judgment became binding on 26 March 2001 and was enforced on 19 February 2004.

8. On 16 May 2001 the Tambov Regional Court awarded the applicant RUB 10,926.87. This judgment became binding immediately and was enforced on 7 March 2003.

9. On 28 May 2002 the district court awarded the applicant RUB 20,651.78. This judgment became binding on 13 June 2002. On 26 June 2003 it was quashed on supervisory review.

II. RELEVANT DOMESTIC LAW

10. Under section 9 of the Federal Law on Enforcement Proceedings of 21 July 1997, a bailiff must enforce a judgment within two months. Under section 242.2.6 of the Budget Code of 31 July 1998, the Ministry of Finance must enforce a judgment within three months.

THE LAW

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

11. The applicant complained that the delayed enforcement of the judgments violated Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, which, as far as relevant, read as follows:

Article 6

“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

12. The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which requires an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

B. Merits

13. The Government have admitted that there has been a violation of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1.

14. There has, accordingly, been a violation of these Articles.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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

16. The applicant claimed 10,000 euros (EUR) in respect of pecuniary damage, non-pecuniary damage, and costs and expenses.

17. The Government contested this claim. They submitted that the applicant had not substantiated the pecuniary damage. As to non-pecuniary damage, a finding of a violation would be sufficient, and in any event the amount claimed was exorbitant.

18. The Court rejects the claim in respect of pecuniary damage, because the applicant has not substantiated it.

19. On the other hand, making its assessment on an equitable basis, the Court awards the applicant EUR 2,700 in respect of non-pecuniary damage.

B. Costs and expenses

20. The applicant claimed for costs and expenses an unspecified part of the claim mentioned in § 16.

21. The Government contested this claim as unsubstantiated.

22. The Court rejects the claim because the applicant has not substantiated it.

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 § 1 of the Convention and of 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 2,700 (two thousand seven hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Russian roubles at the rate applicable at the date of settlement;
 - (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 12 June 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President