



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

FIRST SECTION

CASE OF ISAKOV v. RUSSIA

(Application no. 20745/04)

JUDGMENT

STRASBOURG

19 June 2008

FINAL

19/09/2008

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 Isakov v. Russia,

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

Christos Rozakis, *President*,

Anatoly Kovler,

Elisabeth Steiner,

Dean Spielmann,

Sverre Erik Jebens,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 29 May 2008,

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

PROCEDURE

1. The case originated in an application (no. 20745/04) 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 Aleksandr Kudabertovich Isakov (“the applicant”), on 25 May 2004.

2. The Russian Government (“the Government”) were represented by Mr P.A. Laptev, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 12 September 2005 the Court gave 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 Government objected to the joint examination of the admissibility and merits, but the Court dismissed this objection.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1939 and lives in Kosta Khetagurova, a village in Karachay-Cherkessia.

5. The facts of the case, as submitted by the parties, may be summarised as follows.

6. In 1990 the applicant subscribed to a State savings scheme for buying a car. The State failed to provide the car, and the applicant had to apply to a court.

7. On 19 December 2002 the Mirninskiy District Court of Yakutia awarded the applicant 138,967 Russian roubles against the Ministry of Finance. On 5 February 2003 the judgment became binding, but was not enforced.

8. On 15 July 2004 the Presidium of the Supreme Court of Yakutia allowed the Ministry's supervisory-review complaint, and quashed the judgment on the ground that the district court had misinterpreted material law.

II. RELEVANT DOMESTIC LAW

9. Under section 9 of the Federal Law on Enforcement Proceedings of 21 July 1997, a judgment must be enforced in two months.

THE LAW

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

10. The applicant complained that the non-enforcement and subsequent quashing of the judgment breached Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. As far as relevant, these Articles 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

11. The Government asked the Court to strike the application out because the applicant's letters to the Court contained insults. The Court rejects this request, noting that the Government have not specified which expressions they took for insults, and that the applicant has apologised for any perceived harshness of language.

12. 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

13. The applicant maintained his complaint.

14. The Government argued that the complaint was manifestly ill-founded. First, it was impossible to enforce the judgment because it had been quashed on supervisory review. Second, the quashing of the judgment was justified, because the judgment had misinterpreted the law on the savings scheme and awarded more than was due. Third, the applicant did receive a partial reimbursement of the car's price.

15. The Court reiterates that Article 6 of the Convention includes the "right to a court" (see *Golder v. the United Kingdom*, judgment of 21 February 1975, Series A no. 18, § 36). To honour this right, the State must obey a binding judgment (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III) and avoid quashing it, save for correcting a miscarriage of justice or judicial error (*Ryabykh v. Russia*, no. 52854/99, §§ 51–58, ECHR 2003-IX). Besides, an enforceable judgment constitutes a "possession" within the meaning of Article 1 of Protocol No. 1.

16. The Court considers that in the case at hand the State has breached the applicant's "right to a court" and prevented him from peacefully enjoying his possessions. First, the State avoided paying the judgment debt for one year and five months. Then the State quashed the judgment because it had been based on an alleged misinterpretation of law, which did not fall within the exceptional circumstances referred to above (see *Kot v. Russia*, no. 20887/03, § 29, 18 January 2007).

17. There have accordingly been violations of Article 6 of the Convention and of Article 1 of Protocol No. 1.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

18. The applicant complained under Article 13 of the Convention that he had no effective domestic remedy against the non-enforcement of the judgment and its subsequent quashing. Article 13 reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

19. The Court notes that this complaint is linked to the ones examined above and therefore must also be declared admissible.

20. The applicant maintained his complaint. The Government made no observations in reply.

21. As the Government have not rebutted the applicant’s allegation, the Court finds that the applicant had no effective domestic remedy (see *Lositskiy v. Russia*, no. 24395/02, §§ 30, 14 December 2006).

22. There has accordingly been a violation of Article 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. 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.”

24. 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 application admissible;
2. *Holds* that there have been violations of Article 6 of the Convention and of Article 1 of Protocol No. 1;
3. *Holds* that there has been a violation of Article 13 of the Convention.

Done in English, and notified in writing on 19 June 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President