



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

FIRST SECTION

CASE OF DOROZHKO v. RUSSIA

(Application no. 5761/03)

JUDGMENT

STRASBOURG

26 June 2008

FINAL

26/09/2008

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 Dorozhko v. Russia,

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

Nina Vajić, *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 5 June 2008,

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

PROCEDURE

1. The case originated in an application (no. 5761/03) 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, Mrs Lyubov Grigoryevna Dorozhko (“the applicant”), on 29 January 2003.

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

3. On 5 December 2005 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**I. THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1951 and lives in Voronezh.

5. On 30 October 2001 the Kominternovskiy District Court of Voronezh awarded the applicant 10,300 Russian roubles (“RUB”) in damages against the Ministry of Defence. This judgment became binding on 10 November 2001 and was enforced on 12 August 2003. To compensate for the delay, on 11 November 2003 the court upgraded the debt in line with the cost of living and awarded a further RUB 2,874.

6. On 8 November 2001 the Central District Court of Voronezh awarded the applicant damages against the police. This judgment became binding on 19 February 2002 and was enforced on 15 November 2005.

7. As these judgments had not been enforced promptly, the applicant complained to a court. On 12 September 2002 the Kominternovskiy District Court urged the Ministry of Finance to enforce the judgments. On 30 September 2002 the court awarded the applicant RUB 15 of legal costs. This decision became binding but was not enforced.

II. RELEVANT DOMESTIC LAW

8. 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

9. The applicant complained that the lengthy non-enforcement of the judgments violated 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

10. The Government admitted that the long non-enforcement of the judgments of 30 October and 8 November 2001 had violated the Convention. However, the authorities had acknowledged the excessive delay and had paid compensation as regards the judgment of 30 October 2001.

11. The applicant maintained her complaint. The compensation had been too small and had not concerned all the judgments. The decision of 30 September 2002 remained unenforced.

12. The Court notes, with regard to the judgment of 30 October 2001, that on 11 November 2003 the Kominternovskiy District Court upgraded the judgment debt in line with the cost of living. Nevertheless, this upgrade was insufficient to deprive the applicant of her status as a victim, because it compensated only her inflationary losses and not possible damage, pecuniary or non-pecuniary.

13. 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

14. The Government have acknowledged a violation of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1 with regard to the judgments of 30 October 2001 and 8 November 2001, and have provided no explanation as to the decision of 30 September 2002.

15. The Court finds, accordingly, that there has been a violation of Article 6 § 1 of the Convention and of 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 applicant claimed RUB 9,755,68 in respect of pecuniary damage and 5,000 euros (“EUR”) in respect of non-pecuniary damage.

18. The Government argued that these claims were excessive and unjustified.

19. As to pecuniary damage, the Court reiterates that the violation found is best redressed by putting the applicant in the position she would have been if the Convention had been respected. The Government shall therefore secure, by appropriate means, the enforcement of the domestic courts' outstanding award (see, with further references, *Poznakhirina v. Russia*, no. 25964/02, § 33, 24 February 2005).

20. As to non-pecuniary damage, the Court accepts that the non-enforcement of the judgments must have distressed the applicant. On an equitable basis, the Court awards EUR 2,100 under this head.

B. Costs and expenses

21. The applicant also claimed RUB 2,366.62 for the costs and expenses incurred before the domestic courts and the Court.

22. The Government found this claim justified.

23. According to the Court's case-law, an applicant is entitled to the reimbursement of 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 71 covering costs under all heads.

C. Default interest

24. 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, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, shall secure, by appropriate means, the enforcement of the award made by the domestic court, and in addition pay the following

amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:

- (i) EUR 2,100 (two thousand one hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 71 (seventy-one euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
- (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 26 June 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Nina Vajić
President