



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

FIRST SECTION

CASE OF LYUDMILA SMIRNOVA v. RUSSIA

(Application no. 8910/04)

JUDGMENT

STRASBOURG

3 July 2008

FINAL

03/10/2008

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 Lyudmila Smirnova 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,

Sverre Erik Jebens, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 12 June 2008,

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

PROCEDURE

1. The case originated in an application (no. 8910/04) 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, Ms Lyudmila Ivanovna Smirnova (“the applicant”), on 2 February 2004.

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

3. On 25 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**I. THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1951 and lives in Shakhty, a town in Rostov Region.

5. In 1998–2001 the applicant’s father obtained seven judgment debts against his employer OAO Rostovugol, a joint-stock company managing coal mines in the Rostov Region. To enforce the judgments, bailiffs attached the company’s bank accounts, means of transport, and property, and audited the company’s cash flow.

6. On 12 March 2002 the company's shareholders voted for the company's liquidation.

7. On 8 October 2002, the applicant's father died, having signed away the judgment debts to the applicant. On 1 December 2003 the Shakhty Town Court acknowledged the applicant as a beneficiary of the judgment debts. This judgment became binding on 11 December 2003. Five judgment debts were paid on 6 April 2004, and two on 17 February 2005

8. On 9 March 2005 the company was declared bankrupt.

II. RELEVANT DOMESTIC LAW

9. Under section 9 of the Federal Law on Enforcement Proceedings of 21 July 1997, a bailiff must enforce a judgment within two months.

THE LAW

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

10. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 about the non-enforcement of the judgments. Insofar 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 argued that this complaint was inadmissible. The State had not been responsible for the company's debts. The State had owned 48.42% of the company's stock, and had not managed the company. The State had been responsible only for the bailiffs, but they had acted efficiently. All the debts had eventually been paid.

12. The applicant argued that her complaint was admissible. The State had been responsible for the company's debts, because it was the State's representatives who had initiated the company's liquidation. Under the law, the federal budget had had to contain allocations for workers from liquidated mines. The bailiffs had idled and had had a poor knowledge of laws concerning enforcement.

13. 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

14. The Court reiterates that an unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III). However, it has earlier found that the State was not responsible for the debts of OAO Rostovugol (see *Anokhin v. Russia* (dec.), no. 25867/02, 31 May 2007). Hence, the Court's role in this case is limited to ascertaining that the State diligently urged the debtor to comply with the judgment (see *Fociac v. Romania*, no. 2577/02, §§ 69–70, 3 February 2005).

15. In the case at hand, the bailiffs do not seem to have idled: they attached the company's assets and monitored its finances. The bailiffs' efforts resulted in reasonably fast payment: five judgments were enforced three months after the applicant had acquired the title to them, and two other judgments were enforced one year and two months after the applicant had acquired the title to them.

16. There has, accordingly, been no violation of Article 6 § 1 of the Convention or Article 1 of Protocol No. 1.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 6 § 1 of the Convention or Article 1 of Protocol No. 1.

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

Søren Nielsen
Registrar

Christos Rozakis
President