



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

FIRST SECTION

CASE OF DENISOVA v. RUSSIA

(Application no. 34431/04)

JUDGMENT

STRASBOURG

18 September 2008

FINAL

18/12/2008

This judgment may be subject to editorial revision.

In the case of Denisova 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 28 August 2008,

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

PROCEDURE

1. The case originated in an application (no. 34431/04) 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 Borisovna Denisova (“the applicant”), on 16 July 2004.

2. The applicant was represented by Ms S. Poznakhirina, a human-rights activist practising in Novovoronezh. The Russian Government (“the Government”) were represented by Mr P. Laptev, the former Representative of the Russian Federation at the European Court of Human Rights.

3. On 31 May 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 1938 and lives in Novovoronezh, a town in the Voronezh Region.

5. As a victim of Chernobyl, the applicant is entitled to benefits. Considering herself underpaid, she brought six sets of proceedings against the local welfare authority.

6. On 18 October 2000 the Novovoronezh Town Court awarded the applicant arrears and legal costs in the amount of 3,014.09 Russian roubles

(RUB). This judgment became binding on 28 October 2000 and was partly enforced on 24 September 2003.

7. On 16 June 2003 the Town Court awarded the applicant more arrears in the amount of RUB 19,315.50. This judgment became binding on 19 August 2003 and was enforced on 17 December 2004.

8. On 16 February 2004 the Town Court awarded the applicant arrears in the amount of RUB 16,765.50, and on 1 April 2004 the appeal court in addition fixed a new amount of periodic payments. This judgment became binding on 1 April 2004 and was enforced on 3 August 2005.

9. On 15 March 2004 the Town Court awarded the applicant arrears in the amount of RUB 4,973.57. This judgment became binding on 25 March 2004 and was enforced on an unspecified date.

10. On 26 August 2004 the Town Court awarded the applicant arrears in the amount of RUB 21,118.50. This judgment became binding on 6 September 2004 and was enforced on 24 August 2005.

11. On 26 August 2004 the Town Court also awarded the applicant further arrears in the amount of RUB 1,772.30 and fixed a new amount of periodic payments. This judgment became binding on 6 September 2004 and was enforced on an unspecified date.

12. On the applicant's request, on 31 May and 16 November 2005 the Town Court compensated the applicant's inflationary loss caused by the delayed enforcement of the judgments in the total amount of RUB 9,369.86.

II. RELEVANT DOMESTIC LAW

13. 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

14. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 about 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

15. 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

16. The Government admitted that the applicant’s rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 had been breached.

17. In the circumstances of the present case the Court finds no reason to hold otherwise. Accordingly, there has been a violation of these Articles.

II. 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.”

A. Damage

19. The applicant claimed 816 euros (EUR) in respect of pecuniary damage. This amount represented her inflationary loss caused by the delayed enforcement. The Government argued that this loss could have been made good in domestic proceedings.

20. The Court notes that the applicant's inflationary loss has already been made good by the Town Court on 31 May and 16 November 2005. It therefore rejects this claim.

21. The applicant also claimed EUR 6,000 in respect of non-pecuniary damage. The Government noted that any award should be consistent with the Court's past awards in similar cases.

22. The Court accepts that the applicant must have been distressed by the delayed enforcement of the judgments. Making its assessment on an equitable basis, the Court awards EUR 2,300 under this head.

B. Costs and expenses

23. The applicant made no claim for the costs and expenses. Accordingly, the Court makes no award under this head.

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 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 2,300 (two thousand three 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 amount 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 18 September 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President