CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

CASE OF VIKTOR LEVIN v. RUSSIA

(Application no. 35893/04)

JUDGMENT

STRASBOURG

25 September 2008

FINAL

25/12/2008

This judgment may be subject to editorial revision.

In the case of Viktor Levin 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 4 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 35893/04) 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 Viktor Nikolayevich Levin ("the applicant"), on 10 June 2004.

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

3. On 23 October 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 1949 and lives in Gorodovikovsk, a town in Kalmykia.

5. As a victim of Chernobyl, the applicant was entitled to benefits. Considering himself underpaid, he sued the local welfare authority.

6. On 15 September 2003 the Gorodovikovskiy District Court of Kalmykia awarded the applicant arrears and fixed a new amount of periodic benefits. This judgment became binding on 4 December 2003 and was enforced on 18 November 2005.

II. RELEVANT DOMESTIC LAW

7. 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

8. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 about the non-enforcement of the judgment. 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

9. 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

10. The Government admitted that the delayed enforcement of the judgment had breached the applicant's rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

11. In the circumstances of the present case the Court finds no reason to hold otherwise. There has, accordingly, been a violation of these Articles.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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

13. In respect of pecuniary damage, the applicant claimed a lump sum of 3,258,768.70 Russian roubles (RUB) and RUB 46,208.80 monthly. These sums represented the applicant's estimate of what his benefits should have been.

14. The Government argued that this claim had been unfounded.

15. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

16. In respect of non-pecuniary damage, the applicant claimed an unspecified sum, leaving this question to the Court's discretion.

17. The Government noted that any award in this respect should be coherent with the Court's past awards.

18. The Court accepts that the delayed enforcement of the judgment must have distressed the applicant. Making its assessment on an equitable basis, the Court awards 1,600 euros under this head.

B. Costs and expenses

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

C. Default interest

20. 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 1,600 (one thousand six 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 25 September 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President