



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

FIRST SECTION

CASE OF VESELYASHKIN AND VESELYASHKINA v. RUSSIA

(Application no. 5555/06)

JUDGMENT

STRASBOURG

18 December 2008

FINAL

18/03/2009

This judgment may be subject to editorial revision.

In the case of Veselyashkin and Veselyashkina 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 27 November 2008,

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

PROCEDURE

1. The case originated in an application (no. 5555/06) 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 two stateless persons, Mr Yuriy Anatolyevich Veselyashkin and Mrs Svetlana Viktorovna Veselyashkina (“the applicants”), on 17 January 2006.

2. The Russian Government (“the Government”) were represented by Ms V. Milinchuk, former Representative of the Russian Federation at the European Court of Human Rights.

3. On 15 March 2007 the President of the First Section decided to communicate the complaint concerning non-enforcement of judgments to the Government. It was 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 applicants were born in 1951 and 1954 respectively and live in Istra, a town in the Moscow Region.

5. Following their renunciation of Russian citizenship in 2000, the applicants were engaged in three actions against the police.

6. On 28 March 2003 the Istra Town Court awarded each applicant against the Police Passport Service 410.75 Russian roubles (RUB) for non-

pecuniary damage and costs caused by the Service's refusal to issue identity and residence papers. This judgment became binding on 8 April 2003 and was enforced on 9 October 2006.

7. On 15 October 2003 the Justice of the Peace of Circuit 61 of the Istra District awarded each applicant against the Police Passport Service RUB 505 for non-pecuniary damage and costs caused by defamation. This judgment became binding on 16 October 2003 and was enforced on 9 October 2006.

8. On 2 December 2003 the Justice of the Peace of Circuit 61 of the Istra District awarded the second applicant against the Police Passport Service RUB 5,000 for costs. This judgment became binding on 13 December 2003 and was enforced on 9 October 2006.

9. On 6 December 2006 the awards were adjusted for the cost of living, and on 22 June 2007 the sum of the adjustment was paid to the applicants.

10. In separate proceedings that lasted from February 2005 to December 2005 the applicants challenged in courts a bailiff's return of enforcement papers.

II. RELEVANT DOMESTIC LAW

11. 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

12. The applicants complained under Article 13 of the Convention about the delayed enforcement of the judgments. The Court will examine this complaint under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. 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

13. The Government argued that this complaint was inadmissible. The applicants had lost their victim status because the awards had been paid and adjusted for the cost of living. The applicants had abused their right of petition because they had misrepresented facts, because their true intention had been to be deported to Canada at the State’s expense, and because they had shown impertinence towards the President of Russia.

14. The applicants maintained their complaint.

15. With regard to the victim status, the Court reiterates that to deprive an applicant of this status the State must acknowledge a breach of the Convention and provide redress for it (see *Amuur v. France*, judgment of 25 June 1995, *Reports of Judgments and Decisions* 1996-III, § 36). In the case at hand the Court has no evidence that the adjustment for the cost of living involved an acknowledgement of the breach. In any event, this adjustment was inadequate because it did not compensate non-pecuniary damage.

16. With regard to abuse of the right of petition, the Court finds nothing in the applicants’ behaviour that can be qualified so.

17. 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

18. 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). To decide if the delay was reasonable, the Court will look at how complex the enforcement proceedings were, how the applicant and the authorities behaved, and what the nature of the award was (see *Raylyan v. Russia*, no. 22000/03, § 31, 15 February 2007).

19. In the case at hand, the enforcement of the three judgments lasted respectively three years and six months, two years and 11 months, and two years and nine months.

20. These periods are incompatible with the requirements of the Convention. The judgments were relatively easy to enforce, and the applicants do not seem to have obstructed the enforcement.

21. There has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

22. The applicants also complained under Articles 3 and 4 of the Convention about the conditions of their life, under Article 6 of the Convention about the length of the proceedings against the bailiff, and under Article 2 of Protocol No. 4 and Article 1 of Protocol No. 12 about the impossibility to work or travel without the identity papers.

23. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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.”

25. The applicants did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award them any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning non-enforcement of judgments admissible and the remainder of the applications inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

Done in English, and notified in writing on 18 December 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President