



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

1959 · 50 · 2009

FIRST SECTION

CASE OF SOKOREV v. RUSSIA

(Application no. 33896/04)

JUDGMENT

STRASBOURG

18 June 2009

FINAL

18/09/2009

This judgment may be subject to editorial revision.

In the case of Sokorev 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 Hajiyeu,

Giorgio Malinverni,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 28 May 2009,

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

PROCEDURE

1. The case originated in an application (no. 33896/04) 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 Vladimir Viktorovich Sokorev (“the applicant”), on 12 August 2004.

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

3. On 12 October 2006 the President of the First Section decided to give notice of the application 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

4. The applicant was born in 1964 and lives in the village of Bolshaya Rechka, Irkutsk Region.

A. Events prior to 5 May 1998

5. As an employee of a State-owned company, in 1987 the applicant and his family were granted a room in a shared flat. After his dismissal in 1992, the company sought his eviction. In 1993 the company was reincorporated as a limited liability company.

6. On 1 October 1993 the applicant brought proceedings against the company asserting his right to live in the room. According to the Government, the applicant's claim was received by the Sverdlovskiy District Court of Irkutsk on 12 November 1993. The respondent sought the applicant's eviction.

7. By a judgment of 1 February 1994, the District Court rejected the applicant's claim and ordered his eviction. On 13 April 1994 the Irkutsk Regional Court upheld the judgment. The applicant obtained a stay of execution of the eviction order. On 20 June 1994 the Presidium of the Regional Court quashed the above judgments by way of supervisory review and remitted the case for fresh examination.

8. Thereafter the District Court examined the case twice and rendered two judgments. Each time the Regional Court quashed the judgments and remitted the case for fresh examination. It appears that in the meantime the applicant resettled and the respondent company withdrew their claim for eviction.

9. On 5 May 1998 the Convention entered into force in respect of Russia.

B. Events after 5 May 1998

10. In yet another round of the resumed proceedings, the applicant confined his claim to asking the court to require the respondent to provide him with housing. By a judgment of 23 November 1998, the District Court granted this claim and ordered the company to provide the applicant with a flat. On 12 March 1999 the Regional Court upheld the judgment. The respondent sought supervisory review. On 12 April 1999 the Presidium of the Regional Court quashed the above judgments by way of supervisory review and remitted the case for re-examination.

11. In the resumed proceedings, the applicant amended his claim and sought to substitute the respondent by the new company. On 2 July 1999 the District Court required the company to provide the applicant with housing. On 1 December 1999 the Regional Court quashed the judgment on appeal and remitted the case for fresh consideration.

12. On 24 April 2000 the District Court issued a new judgment in the applicant's favour. On 30 June 2000 the Regional Court set aside this judgment on appeal and ordered a new examination of the case. The district judge was on annual leave from 26 July to 5 September 2000. One hearing was adjourned due to the applicant; two hearings were adjourned at the respondent's request. On 20 February 2001 the District Court dismissed the applicant's claim. On 23 May 2001 the Regional Court upheld the judgment. The applicant sought supervisory review. On 19 August 2002 the Presidium of the Regional Court quashed the above judgments and remitted the case for fresh examination.

13. Between October 2002 and January 2004 a number of hearings were scheduled and adjourned mostly because the respondent failed to attend or sought adjournments. Several hearings were adjourned because of the applicant. One hearing was adjourned in view of the judge's illness. By a judgment of 12 February 2004, the District Court rejected the applicant's claim. On 21 April 2004 the Regional Court upheld the judgment.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

14. The applicant complained that the length of the proceedings in his civil case had exceeded the "reasonable time" requirement under Article 6 of the Convention, which reads in the relevant part as follows:

"In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

A. Admissibility

15. 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

16. The Government submitted that the proceedings were complex. The applicant had varied his claim a number of times and the respondent had lodged counterclaims. Certain hearings were adjourned because the applicant or his representative failed to attend. Significant delays were caused by the respondents, private companies, for whose actions or omissions the State could not be held liable. The pace of the proceedings after 5 May 1998 was acceptable.

17. The applicant maintained his complaint.

18. The Court observes that the proceedings started in 1993 and ended on 21 April 2004. The Court has jurisdiction to examine the complaint in so far as it concerns the proceedings after 5 May 1998, when the Convention entered into force in respect of Russia, with due regard to the state of proceedings on that date. Furthermore, the Court considers that the periods from 12 March to 12 April 1999, and from 23 May 2001 to 19 August 2002

should not be taken into consideration. Thus, the period to be taken into account amounts to approximately four years and eight months within the Court's competence *ratione temporis* at two levels of jurisdiction.

19. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and that of the relevant authorities, and what was at stake for the applicant in the dispute (see, among other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

20. The Court considers that the case was not particularly complex. Nor did the applicant's decisions to amend his claim affect that matter.

21. As to the conduct of the applicant, no significant delays can be attributed to him. The Court does not lose sight of the fact that the procedure for reopening proceedings in 2001 was set in motion by the applicant. However, there is no indication that the applicant went beyond merely taking full advantage of the resources afforded by national law (see *Yağcı and Sargın v. Turkey*, 8 June 1995, § 66, Series A no. 319-A).

22. As to the conduct of the authorities, the Court notes that the length of the proceedings was due to the fact that the case was re-examined several times, including following reopening by way of a supervisory review. Although the Court is not in a position to analyse the juridical quality of the domestic courts' decisions, it considers that, since the remittal of cases for re-examination is frequently ordered as a result of errors committed by lower courts, the repetition of such orders within one set of proceedings may disclose a serious deficiency in the judicial system (see *Wierciszewska v. Poland*, no. 41431/98, § 46, 25 November 2003; *Matica v. Romania*, no. 19567/02, § 24, 2 November 2006; *Falimonov v. Russia*, no. 11549/02, § 58, 25 March 2008; and *Maruseva v. Russia*, no. 28602/02, § 32, 29 May 2008). It is incumbent on respondent States to organise their legal systems in such a way that their courts can meet the requirements of Article 6 of the Convention, including the obligation to hear cases within a reasonable time (see *Sürmeli v. Germany* [GC], no. 75529/01, § 129, 8 June 2006).

23. Furthermore, the Court notes that the conduct of the respondent was one of the reasons for the prolongation of the proceedings. In the Court's opinion, it was incumbent on the court dealing with the case to discipline the defaulting party in order to ensure that the proceedings were conducted at an acceptable pace (see *Kuśmerek v. Poland*, no. 10675/02, § 65, 21 September 2004, and *Sidorenko v. Russia*, no. 4459/03, § 34, 8 March 2007).

24. Lastly, the Court notes that the civil dispute concerned the applicant's and his family's housing rights. Thus, it is accepted that the case concerned a matter requiring special diligence on the part of the national authorities.

25. Making an overall assessment and having regard to its case-law on the matter, the Court concludes that the “reasonable time” requirement was not met in the present case. There has accordingly been a breach of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

26. The applicant complained about the supervisory review ruling of 12 April 1999 and the findings made by the national courts at various stages of the proceedings.

27. The Court has examined those complaints, as submitted by the applicant. However, having regard to all the material in its possession, and in so far as these complaints fall 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 must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. 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.”

29. The applicant did not submit a claim for just satisfaction within the prescribed time-limit. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the length of proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds* that there is no call to make an award in respect of just satisfaction.

Done in English, and notified in writing on 18 June 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President