



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

1959 · 50 · 2009

FIFTH SECTION

CASE OF SHEBANOV v. UKRAINE

(Application no. 30664/05)

JUDGMENT

STRASBOURG

15 October 2009

FINAL

15/01/2010

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 Shebanov v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Peer Lorenzen, *President*,

Karel Jungwiert,

Rait Maruste,

Mark Villiger,

Mirjana Lazarova Trajkovska,

Zdravka Kalaydjieva, *judges*,

Mykhaylo Buromenskiy, *ad hoc judge*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 22 September 2009,

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

PROCEDURE

1. The case originated in an application (no. 30664/05) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Ukrainian national, Mr Valentin Semyonovich Shebanov (“the applicant”), on 27 July 2005.

2. The Ukrainian Government (“the Government”) were represented by their Agent, Mr Y. Zaytsev.

3. On 20 May 2008 the President of the Fifth 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

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1960 and lives in the city of Donetsk.

5. In October 1999 insolvency proceedings were instituted against the applicant's former employer, the State company Chervona Zirka (“the company”).

6. On 8 August 2002 the Proletarsky District Court of Donetsk awarded the applicant 4,150.39 Ukrainian hryvnias (UAH)¹ in salary arrears and other payments, to be paid by the company.

7. On 9 October 2002 the Donetsk Regional Commercial Court declared the company bankrupt.

8. Since December 2002 liquidation proceedings have been pending.

9. The decision in the applicant's favour was enforced in full in November 2008.

II. RELEVANT DOMESTIC LAW

10. The relevant domestic law is summarised in the judgments of *Romashov v. Ukraine* (no. 67534/01, §§ 16-19, 27 July 2004).

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

11. The applicant complained that the State authorities had failed to enforce the judgment given in his favour in due time and that there was no effective remedy in that respect. He relied on Articles 6 § 1 and 13 of the Convention, which provide, in so far as relevant, as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

A. Admissibility

12. The Government raised objections regarding the non-enforcement by the applicant of domestic remedies, similar to those which the Court has

¹ About EUR 827

already dismissed in a number of judgments (see *Sokur v. Ukraine* (dec.), no. 29439/02, 16 December 2003; *Sychev v. Ukraine*, no. 4773/02, §§ 42-46, 11 October 2005; and *Kolosenko v. Ukraine*, no. 40200/02, §§ 12-15, 26 April 2007). The Court considers that the present objections must be rejected for the same reasons.

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. In their observations the Government contended that there had been no violation of Article 6 § 1 or Article 13 of the Convention.

15. The applicant made no comments.

16. The Court notes that the judgment given in the applicant's favour remained unenforced for six years and four months.

17. The Court reiterates that it has already found violations of Articles 6 § 1 and 13 of the Convention in cases like the present application (see, for example, *Voytenko v. Ukraine*, no. 18966/02, §§ 43 and 48, 29 June 2004).

18. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case.

19. There has, accordingly, been a violation of Articles 6 § 1 and 13 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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

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

B. Costs and expenses

22. In the present case the applicant failed to submit any claim; the Court therefore makes no award.

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;
3. *Holds* that there has been a violation of Article 13 of the Convention.

Done in English, and notified in writing on 15 October 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President