



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

FIRST SECTION

CASE OF RYBAKOVA AND OTHERS v. RUSSIA

(Application no. 22376/05)

JUDGMENT

STRASBOURG

4 March 2010

FINAL

04/06/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Rybakova and Others 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 Malinvernì,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 9 February 2010,

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

PROCEDURE

1. The case originated in an application (no. 22376/05) 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 four Russian nationals, Ms Lidiya Arkadyevna Rybakova, Mr Vladislav Nikolayevitch Belyayev, Mr Yuriy Vladislavovitch Belyayev and Ms Marina Vladimirovna Belyayeva (“the applicants”), on 12 June 2005.

2. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the Court.

3. The applicants complained, in particular, about lengthy non-enforcement of the final and binding judgment in their favour, which had ordered authorities to register the applicants' property title to two vehicles.

4. On 22 January 2009 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

5. The applicants were born in 1938, 1939, 1965 and 1963 respectively and live in Novosemeykino, Samara Region.

6. The applicants are owners of two vehicles. Following the refusal of the Samara Region State Inspectorate for Road Safety (*ОГИБДД по Самарской области*) (the “Inspectorate”) to register their property title to

the vehicles, in October 2000 the applicants brought judicial proceedings against the Inspectorate.

7. On 7 May 2003 the Samarskiy District Court of Samara found for the applicants and ordered the Inspectorate to register their title to the vehicles. On 9 June 2003 the Samara Regional Court upheld the judgment on appeal.

8. On 30 June 2003 the writ of execution was sent to one of the applicants, Mr Yuriy Belyayev, who however did not receive it. On 8 August 2003 the writ was sent to him for the second time, and Mr Yuriy Belyayev received it on 9 August 2003.

9. On 29 May 2006 the enforcement proceedings were opened at the applicants' request.

10. On 31 August 2006 the Inspectorate informed the bailiff that it could not register the applicants' title and that the writ of execution should be sent to a special state body responsible for vehicles' registration (Samara Inter-District Department of Registration and Examination – *Межрайонный регистрационно-экзаменационный отдел г. Самары*). On the same day the bailiff asked the court to accordingly change the debtor in the enforcement proceedings. On 20 September 2006 the Samara District Court of Samara granted the request.

11. On 30 November 2006 the same court, on the bailiff's initiative, ordered the enforcement proceedings to be discontinued. The applicants appealed, claiming that they had not been duly informed about the proceedings, and on 27 August 2007 the Samara Regional Court quashed that decision and remitted the matter for fresh consideration. On 26 September 2007 the Samara District Court rejected the bailiff's request to discontinue the enforcement proceedings. The decision came into force on 10 October 2007.

12. On 27 June 2008 the applicants' title to one of the vehicles was duly registered.

13. On 28 June 2008 the applicants informed the bailiff of their decision not to register their title to the second vehicle on the grounds that it had become worthless.

14. On 24 November 2008 the enforcement proceedings were closed.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1 ON ACCOUNT OF NON-ENFORCEMENT

15. The applicants complained under Article 6 of the Convention and Article 1 of Protocol No. 1 that the judgment of 7 May 2003 in their favour had not been enforced in good time. 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.”

16. The Government contested that argument. They argued that the applicants had requested the opening of the enforcement proceedings on 29 May 2006, thus the State was not responsible for non-enforcement until that date. They asserted that the applicants were not interested in the enforcement, as, for example, they only appealed against the decision of 30 November 2006 to discontinue the enforcement proceedings on 29 May 2007. The Government further affirmed that the State was not responsible for non-enforcement from 10 October 2007, as the applicants obstructed the enforcement by failing to submit the relevant requests and to pay for the registration.

A. Admissibility

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 applicants and the authorities behaved, and what was the nature of the award (see *Raylyan v. Russia*, no. 22000/03, § 31, 15 February 2007).

19. In the present case the judgment was not difficult to enforce as it required only a registration of the applicants' property title to the vehicles.

20. As to the conduct of the applicant and the authorities, the Court reiterates that where a judgment is against the State, as in this case, it must take initiative to enforce it. The requirement of the creditor's cooperation must not go beyond what is strictly necessary (see *Akashev v. Russia*, no. 30616/05, §§ 21–23, 12 June 2008).

21. The authorities' failure to enforce the judgment for more than five years (from May 2003 till June 2008) allows the Court to conclude that there has been a violation of Article 6 and of Article 1 of Protocol No. 1 on account of failure to enforce the judgment in the applicants' favour in good time.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

22. The applicants also complained under Article 6 that the proceedings were too long.

23. Having regard to all the material in its possession, and in so far as these complaints fall within its competence, the Court finds that there is no appearance of a violation of the rights and freedoms set out in this provision in that respect. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 1, 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.”

A. Damage

25. The applicants claimed 1,280,000 Russian roubles (RUB) in respect of pecuniary damage (the alleged price of vehicles identical to the disputed vehicles). They also claimed 40,000 euros (EUR) in respect of non-pecuniary damage.

26. The Government found the claim for pecuniary damage unsubstantiated and the claim for non-pecuniary damage excessive.

27. The Court does not discern any causal link between the violation found (the authorities' failure, during some five years, to register the applicants' title to vehicles in accordance with a binding judgment) and the pecuniary damage alleged (the price of the similar vehicles). Moreover, the applicants did not substantiate the claim. The Court therefore rejects it.

28. The Court finds, however, that the applicants may be considered to have suffered some degree of frustration and distress as a result of the violation found in this case. Deciding on an equitable basis, it awards each of the applicants EUR 3,000 in respect of non-pecuniary damage.

B. Costs and expenses

29. The applicants also claimed RUB 2,400 for the costs and expenses incurred.

30. The Government considered that the applicants' claim should be granted since they had submitted the documents confirming these expenses.

31. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the above criteria, the Court awards the sum claimed (EUR 54).

C. Default interest

32. 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 complaint concerning non-enforcement admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Articles 6 of the Convention and of Article 1 of Protocol No. 1 in respect of non-enforcement;
3. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
 - (i) EUR 3,000 (three thousand euros) to each applicant, plus any tax that may be chargeable, in respect of pecuniary damage;
 - (ii) EUR 54 (fifty four euros) to the applicants jointly, plus any tax that may be chargeable, in respect of costs and expenses;
 - (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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 4 March 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President