



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

FIFTH SECTION

CASE OF VOYT v. UKRAINE

(Application no. 22149/05)

JUDGMENT

STRASBOURG

8 April 2010

FINAL

08/07/2010

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

In the case of Voyt v. Ukraine,

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

Peer Lorenzen, *President*,

Renate Jaeger,

Karel Jungwiert,

Isabelle Berro-Lefèvre,

Mirjana Lazarova Trajkovska,

Zdravka Kalaydjieva, *judges*,

Mykhaylo Buromenskiy, *ad hoc judge*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 16 March 2010,

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

PROCEDURE

1. The case originated in an application (no. 22149/05) 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 Anatoliy Petrovich Voyt (“the applicant”), on 17 March 2005.

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

3. On 8 September 2008 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1951 and lives in the town of Kryvyy Rig, Ukraine.

5. On 12 August 2002 the applicant instituted proceedings in the Saksaganskyy District Court of Kryvyy Rig (“the District Court”) against a private company, his former employer, seeking the rectification of his work records, recovery of various payments, and claiming compensation for non-pecuniary damage.

6. On 17 May 2004 the District Court ordered an expert examination and suspended proceedings. The next hearing was held on 6 April 2005.

7. On 7 June 2005 the District Court ruled in part for the applicant, ordering the company to pay him 17,237.47 Ukrainian hryvnias (UAH)¹ and to rectify the applicant's work records.

8. According to the records provided by the Government, out of seventeen hearings scheduled between 12 August 2002 and 7 June 2005, six were adjourned because of the absence, or at the request, of the defendant or his representative, and one was adjourned because of the absence of both parties.

9. On 27 December 2005 the Dnipropetrovsk Regional Court of Appeal quashed the judgment in part and reduced the award to UAH 1,925². On 10 February 2006 the applicant lodged an appeal in cassation with the Supreme Court.

10. Meanwhile, the judgment given in the applicant's favour was enforced on 18 January 2007.

11. On 2 April 2008 the Court of Appeal of the Autonomous Republic of Crimea, sitting as a court of cassation, upheld the judgments of the lower courts.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

12. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement laid down in Article 6 § 1 of the Convention, which reads 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

13. 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.

1. About 2,779.16 euros (EUR)

2. About EUR 324.21.

B. Merits

14. The Government contested the applicant's complaint, stating that there had been no significant periods of inactivity attributable to the State. They maintained that the case had been complex and that the judicial authorities had acted with due diligence. According to the Government, the parties to the domestic proceedings had been responsible for several delays.

15. The applicant disagreed.

16. The Court notes that the applicant instituted the proceedings at issue on 12 August 2002. The period in question ended on 2 April 2008. It thus lasted almost five years and eight months for three levels of jurisdiction.

17. 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 the relevant authorities, and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000).

18. The Court notes that what was at stake for the applicant required diligence on the part of the State authorities since the proceedings concerned an employment dispute (see *Ruotolo v. Italy*, 27 February 1992, § 17, Series A no. 230-D).

19. Although the domestic courts were required to examine a certain amount of documentary evidence, the issues before them were not of such a nature as to necessitate prolonged consideration of the applicant's case. Therefore, the Court concludes that the subject matter of the litigation at issue cannot be considered particularly complex.

20. The Court notes that the complexity of the case and the applicant's conduct cannot explain the overall length of the proceedings at issue in the present case. It considers that a number of delays (in particular the prolonged periods of procedural inactivity while the expert assessment was pending, during the consideration of the applicant's cassation appeal, and the failure of the first-instance court to ensure the defendant's presence) are attributable to the Government.

21. The Court has frequently found violation of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

22. 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. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

23. The applicant further complained about the lengthy non-enforcement of the judgment given in his favour and that the proceedings and their outcome were unfair. He relied on Article 6 § 1 of the Convention.

24. Having carefully examined the applicant's submissions in the light of all the material in its possession, and insofar 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.

25. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. 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

27. The applicant claimed 6,000 euros (EUR) in respect of non-pecuniary damage.

28. The Government contested the claim.

29. The Court considers that the finding of a violation constitutes sufficient just satisfaction for any non-pecuniary damage which the applicant may have suffered.

B. Costs and expenses

30. The applicant lodged no claim in respect of costs and expenses. The Court, therefore, makes no award.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 6 § 1 concerning the excessive length of the 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 the finding of a violation constitutes sufficient just satisfaction for any non-pecuniary damage which the applicant may have suffered;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 8 April 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President