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

THIRD SECTION

DECISION

Application no. 26207/05
Agniya Alekseyevna ASTREDINOVA
against Russia

The European Court of Human Rights (Third Section), sitting on 12 December 2017 as a Committee composed of:

Branko Lubarda, *President,*
Pere Pastor Vilanova,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 8 June 2005,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Agniya Alekseyevna Astredinova, is a Russian national, who was born in 1935 and lives in Voronezh. She was represented before the Court by Mr I.V. Sivoldayev, a lawyer practising in Voronezh.

The Russian Government ("the Government") were represented initially by Mr G. Matyushkin , the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 22 October 1999 the Tsentralnyy District Court of Voronezh ordered the Affiliated Municipal Operation and Maintenance Enterprise No. 1 of

Voronezh *(«Дочернее муниципальное унитарное ремонтно-эксплуатационное предприятие № 1»)* to pay the applicant a certain amount in compensation for non-pecuniary damage and legal costs, as well as to repair her flat and the roof in the applicant's house. The judgment came into force on 2 November 1999.

In 2002 the company was joined to another municipal unitary enterprise.

The judgment in the applicant's favour has not been fully enforced.

B. Relevant domestic law

The domestic provisions relevant to the cases on the legal status of State and municipal unitary enterprises with the right of economic control are summarised in *Liseytseva and Maslov v. Russia* (nos. 39483/05 and 40527/10, §§ 54-127, 9 October 2014), and *Samsonov v. Russia* ((dec.) no. 2880/10, 18 September 2014).

COMPLAINTS

The applicant complained about the non-enforcement of the judicial decision in her favour and about the lack of an effective remedy in that respect.

THE LAW

The applicant complained of the non-enforcement of domestic decision given in her favour and of the lack of any effective remedy in domestic law. She relied on Article 6 § 1 and Article 13 of the Convention and on Article 1 of Protocol No. 1 to the Convention, which 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 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."

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."

The Government argued that the debtor company was a commercial organisation independent from the authorities. They accordingly submitted that the debts of the municipal unitary enterprises were not attributable to the State.

The applicant maintained her complaints, citing the Court's case-law where the State had been found responsible for the debts of the municipal unitary enterprises.

The relevant case-law regarding the State's responsibility for the debts of unitary enterprises with the right of economic control is summarised in the judgment of *Liseytseva and Maslov*, cited above, §§ 183-92, and the decision of *Samsonov,* cited above. The Court held that, in order to decide on the operational and institutional independence of a given municipal unitary enterprise with the right of economic control, the Court had to assess the nature of the enterprise's functions and the degree of actual State or municipal authorities' involvement in the management of the enterprise's assets.

Turning to the present case, the Court notes that the company was incorporated as a municipal unitary enterprise under domestic law. The Court further notes that the parties did not provide any evidence that the company had exercised any public functions or provided services of vital importance. Nor did they maintain that the State had interfered with the company's activities, either by issuing compulsory instructions or ordering the transfer of its assets to other companies (see, *Samsonov*, cited above, §§ 73-76).

In the light of the above, the Court finds that the company enjoyed sufficient institutional and operational independence from the authorities.

Accordingly, the decision in the applicant's favour should be regarded as having been issued against a private company (see *Samsonov*, cited above, § 76).

In so far as the applicant may be understood as complaining about the work of the bailiffs, the Court notes that the facts of the case do not disclose that the alleged non-enforcement was due to any defects on their behalf.

In view of the above, the Court finds that the complaint under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

In so far as the applicant relied on Article 13 of the Convention, the Court reiterates that it applies only where an individual has an "arguable

claim" to be the victim of a violation of a Convention right. In view of its findings above with regard to the non-enforcement complaint, the Court considers that the applicant has no "arguable claim", and that therefore Article 13 of the Convention is inapplicable to the case.

It follows that this part of the application is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 11 January 2018.

Fatoş Aracı
Deputy Registrar

Branko Lubarda
President