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

THIRD SECTION

DECISION

Application no. 2576/10
Tamara Mikhaylovna BOGDANOVA
against Russia

The European Court of Human Rights (Third Section), sitting on 20 September 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 10 December 2009,

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

1. The applicant, Ms Tamara Mikhaylovna Bogdanova, is a Russian national, who was born in 1980 and lives in Krasnyye Doma, Samara Region.

2. The Russian Government ("the Government") are represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

A. The circumstances of the case

3. The applicant obtained several judgments in her favour against State Unitary enterprise "529 voenno-stroitelnoye upravleniye MO RF" (*ГУП «529 военно-строительное управление МО РФ»*) (hereafter "the company"). In particular, on 19 June 2009 and on 18 September 2009 the Justice of peace of the 49th Court Circuit of Samara Region awarded the

applicant 54,057,33 Russian roubles (RUB) and RUB 31,801,28 respectively. On 23 June 2009 and on 21 September 2009 the Justice of peace of the 55th Court Circuit of Samara Region awarded the applicant RUB 63,349 and RUB 15,037 respectively. The judgments became final on the dates of their delivery.

4. On 17 July 2009 the company was reorganized into a joint-stock company. The company name was changed to OAO "529 voenno-stroitelnoye upravleniye MO RF" (*OAO «529 военно-строительное управление МО РФ »*).

5. On 3 and 9 November 2009 the Samarskiy District Court of Samara ordered the company to pay the applicant RUB 34,500 and RUB 12,863,44 respectively. The judgments became enforceable on 14 November and 1 December 2009 respectively.

6. According to the Government, all the judgments debts were paid in full in February-September 2010.

B. Relevant domestic law

7. 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).

COMPLAINT

8. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about non-enforcement of the final judgments in her favour and under Article 13 of the Convention about the lack of an effective remedy in that respect.

THE LAW

Alleged violation of Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention on account of non-enforcement of the judgements

9. The applicant complained about the non-enforcement of the judgments in her favour and about the lack of an effective remedy in that respect. They relied on Article 6 § 1 and Article 13 of the Convention, as

well as on Article 1 of Protocol No. 1 to the Convention, which, in so far as relevant, read as follows:

Article 6

"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.

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."

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."

1. The parties' submissions

10. The Government submitted that the company had not performed any public functions and its activities were purely commercial. The Government also pointed out that the company has not been liquidated. The Government submitted that the company was not the property of the State, was not entrusted with functions of public interest, was not controlled by the State, and had sufficient institutional and functional independence. They concluded that the debts of the company in the present cases were not attributable to the State. Accordingly, the judgments in the applicant's favour should be regarded as issued against a private company. In line with the Court's case-law, the authorities had provided requisite assistance to the applicant in their efforts to have the court awards enforced. This ultimately led to the execution of the judgments.

11. The applicant maintained her complaint.

2. The Court's assessment

12. 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. The Court held that in order to decide on the operational and institutional independence of a given State unitary enterprise having the right of economic control the Court has to assess the nature of the

enterprise's functions and the degree of the State or municipal authorities' actual involvement in the management of the enterprises' assets.

13. However, in the present case the Court does not need to decide whether the State was responsible for the alleged non-enforcement of the judgments in the applicants' favor as the application is in any event inadmissible on the following grounds.

14. The Government provided copies of payment slips («*платежные поручения*»), proving that the judgment debt was paid to the applicant in full within approximately one year after their delivery. The applicant did not comment on that information. In these circumstances the Court concludes that the judgments were duly executed within reasonable time (see *Grishchenko v. Russia* (dec.), no. 75907/01, § 2, 8 July 2004).

15. It follows that the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 October 2016.

Fatoş Aracı
Deputy Registrar

Helena Jäderblom
President