



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

Communicated on 28 August 2017

FOURTH SECTION

Application no 21258/11
Oksana Sergiyivna KORKIYAYNEN
against Ukraine
lodged on 22 March 2011

STATEMENT OF FACTS

THE FACTS

The applicant, Ms Oksana Sergiyivna Korkiyaynen, is a Ukrainian national, who was born in 1963 and lives in Uman.

A. The circumstances of the case

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

In November 2009 the applicant lodged a claim with the Uman Town Court against her employer, seeking the recovery of salary arrears.

By a ruling of 30 November 2009, the court returned the claim unexamined owing to the applicant's failure to substantiate her claim and to provide copies of supporting documents.

On 22 February 2010 the Cherkassy Regional Court of Appeal returned unexamined an appeal by the applicant against the above ruling owing to her failure to pay court fees "for information and technical support of proceedings" as required by its earlier ruling of 26 January 2010 (the latter was not provided by the applicant).

The applicant appealed on points of law against the rulings of 30 November 2009 and 22 February 2010. As regards the ruling of 22 February 2010, she stated that under Article 81 § 3 of the Code of Civil Procedure she had been exempted from paying the court fees prior to the examination of the case, but the court of appeal had breached this rule.

On 14 May 2010 the Supreme Court of Ukraine refused to grant leave to the applicant to appeal on points of law against the ruling of 30 November 2009 as the latter had not been reviewed on appeal.

On 22 September 2010 the Supreme Court further rejected an appeal on points of law by the applicant against the ruling of 22 February 2010. It

stated that pursuant to Article 81 § 3 of the Code of Civil Procedure court fees “for information and technical support of proceedings” in certain categories of cases, including cases concerning recovery of salary arrears, were to be paid by the parties after the examination of the case. It then stated, without further details, that the court of appeal had correctly returned the applicant’s appeal unexamined because she had not paid the above-mentioned court fees.

B. Relevant domestic law

1. Code of Civil Procedure (2004)

At the material time, Article 81 of the Code of Civil Procedure (deleted from the Code with effect from 1 November 2011) read as follows:

“1. Court fees for information and technical support of proceedings include expenses related to informing participants in civil proceedings about the progress in, and outcome of, the case as well as expenses related to a preparation and issuing of copies of judicial decisions.

2. Amount and procedure for payment of court fees for information and technical support of proceedings, depending on the category of case, shall be set by the Cabinet of Ministers of Ukraine.

3. The court fees for information and technical support of proceedings shall not be payable at the moment of the court being seized of the matter and shall be put on the parties after the examination of the case by the court in cases concerning:

...

2). recovery of salary arrears...

...”.

2. Procedure for payment of court fees for information and technical support of proceedings (2005)

The relevant provisions of the Procedure for payment of court fees for information and technical support of proceedings related to the examination of civil and commercial cases, approved by Resolution of the Cabinet of Ministers of Ukraine No. 1258 of 21 December 2005, which was applicable at the material time and which was repealed on 30 November 2011, stated that the amount of court fees for information and technical support for lodging an appeal against the first-instance court decision was the same as the amount of such fees envisaged for the examination of the claim by the first-instance court. The Procedure also generally referred to the exemption under Article 81 § 3 of the Code of Civil Procedure, but did not specify whether this exemption was also applicable to proceedings on appeal and/or proceedings in the framework of which procedural rulings were challenged.

COMPLAINT

The applicant complains under Article 6 § 1 of the Convention that she was denied access to court on account of the ruling of the Cherkassy Regional Court of Appeal of 22 February 2010.

QUESTION

Has the applicant's right to access to court under Article 6 § 1 of the Convention been breached on account of the ruling of the Cherkassy Regional Court of Appeal of 22 February 2010?

The parties are also requested to provide the Court with a copy of the ruling of the Cherkassy Regional Court of Appeal of 26 January 2010.