

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

THIRD SECTION

CASE OF SADOVOV v. RUSSIA

(Application no. 41548/17)

JUDGMENT

STRASBOURG

11 January 2022

This judgment is final but it may be subject to editorial revision.



In the case of Sadovov v. Russia,

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

Peeter Roosma, *President,*
Dmitry Dedov,
Andreas Zünd, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 41548/17) 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") on 17 May 2017 by a Russian national, Mr Aleksey Anatolyevich Sadovov, born in 1974 and detained in Zelenyy ("the applicant") who had been granted legal aid and was represented by Ms O. Druzhkova, a lawyer practising in Strasbourg;

the decision to give notice of the complaint concerning the alleged lack of impartiality of the trial court to the Russian Government ("the Government"), represented by Mr M. Galperin, the Representative of the Russian Federation to the European Court of Human Rights, and lately by Mr M. Vinogradov, his successor in that office, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 30 November 2021,

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

SUBJECT-MATTER OF THE CASE

1. The application concerns alleged lack of impartiality in criminal proceedings against the applicant. The trial resulted in his conviction by a judgment of the Rasskazovo District Court of the Tambov Region ("the District Court") of 5 August 2016, delivered by a judicial formation composed of Judge E. and upheld on appeal on 18 November 2016 by the Tambov Regional Court. The applicant was found guilty of obstruction of justice (Article 294 § 1 of the Russian Criminal Code). The domestic courts established that the applicant, a convict serving a prison sentence at the material time, disseminated false information about Judge Zh. with the aim of preventing her from taking a decision on an application for early release submitted by one of the applicant's inmates. In particular, the applicant twice called the district court and alleged that Judge Zh. had received money in exchange for a favourable decision on the application submitted by the inmate in question.

2. During the proceedings before the District Court, the applicant submitted a challenge for bias in respect of Judge E. and all other judges of the District Court alleging that they lacked the requisite impartiality in so far as the offence he was accused of was directed against the administration of

justice in the same district court where the judges worked. Judge E. rejected the applicant's challenge, stating that none of the grounds for recusal enumerated in Article 61 of the Code of Criminal Procedure ("the CCrP") were present.

3. Relying on Article 6 § 1 of the Convention, the applicant complained that the District Court which had determined a criminal charge against him had not been impartial because Judge E. was a colleague of Judge Zh.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

4. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other ground. It must therefore be declared admissible.

5. The general principles concerning impartiality have been summarised in *Morice v. France* ([GC], no. 29369/10, §§ 73-78, ECHR 2015).

6. The Court notes at the outset, and the applicant has not argued to the contrary, that Judge E. did not display any personal bias against the applicant. Accordingly, the Court will examine the case from the perspective of the objective impartiality test and more specifically address the question of whether the applicant's doubts, stemming from the specific situation, may be regarded as objectively justified in the circumstances of the case.

7. The Court attaches particular weight to the nature of the criminal case against the applicant. As stated above, he stood trial for interfering with the administration of justice in respect of Judge Zh. of the District Court. The Court has already found that the work relationship between judges could serve as a ground capable of raising a legitimate doubt as to the impartiality of a judicial formation (see, for instance, *Vaneyev v. Russia*, [Committee], no. 78168/13, § 18, 27 August 2019, and *Revtyuk v. Russia*, no. 31796/10, § 31796/10, § 23, 9 January 2018). The Court considers that, although Judge Zh. was not a victim of the offence imputed to the applicant, the fact that she was a colleague of Judge E., who examined the criminal case against the applicant, might have given rise to an issue as to the latter's impartiality. However, the applicant's doubts as to the trial judge's impartiality were not dissipated by the latter. While rejecting the applicant's challenge, Judge E. simply referred to Article 61 of the CCrP without any meaningful consideration of the grounds on which he was challenged. The appellate court did not carry out either an independent analysis of the applicant's concerns about a lack of objective impartiality of the trial judge. The foregoing considerations are sufficient to enable the Court to conclude that the composition of the trial court was not such as to guarantee its impartiality and that it failed to meet the Convention standard under the objective test.

8. There has accordingly been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

9. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses incurred before the Court.

10. The Government stated that Article 41 should be applied in accordance with the Court's case-law.

11. The Court refers to its settled case-law to the effect that when an applicant has suffered an infringement of his rights guaranteed by Article 6 of the Convention, he should, as far as possible, be put in the position in which he would have been had the requirements of that provision not been disregarded, and that the most appropriate form of redress would, in principle, be the reopening of the proceedings, if requested (see, *mutatis mutandis*, *Öcalan v. Turkey* [GC], no. 46221/99, § 210 *in fine*, ECHR 2005 IV, and *Popov v. Russia*, no. 26853/04, § 263, 13 July 2006). The Court notes in this connection that Article 413 of the Code of Criminal Procedure provides the basis for the reopening of the domestic proceedings if the Court finds a violation of the Convention (see *Sakhnovskiy v. Russia* [GC], no. 21272/03, § 112, 2 November 2010). It therefore considers that its finding of a violation constitutes sufficient just satisfaction for the non-pecuniary damage sustained by the applicant and makes no award under this head.

12. 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 are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria and bearing in mind that the applicant's representative has already been paid EUR 850 under the Court's legal aid scheme, the Court rejects the applicant's claim.

13. The Court further considers it appropriate that the default interest rate 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 application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 January 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Peeter Roosma President