FIFTH SECTION

CASE OF SKOROKHOD v. UKRAINE

(Application no. 47305/06)

JUDGMENT

STRASBOURG

29 September 2011

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

In the case of Skorokhod v. Ukraine,

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

Mark Villiger, *President,*
Karel Jungwiert,
Isabelle Berro-Lefèvre, *judges,*
and Stephen Phillips, *Deputy Section Registrar,*

Having deliberated in private on 6 September 2011,

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

PROCEDURE

1. The case originated in an application (no. 47305/06) 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, Ms Natalya Ivanovna Skorokhod ("the applicant"), on 14 November 2006.

2. The Ukrainian Government ("the Government") were represented by their Agent, Mrs Valeria Lutkovska, of the Ministry of Justice.

3. On 23 June 2010 the President of the Fifth Section decided to give notice of the application to the Government. In accordance with Protocol No. 14, the application was allocated to a Committee of three Judges.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1970 and lives in Alushta.

5. On 19 July 1999 she instituted proceedings in the Alushta Court against her former employer seeking recovery of various job-related payments, compensation for non-pecuniary damage and the court's ruling obliging her former employer to amend her work records.

6. On 16 May 2003, following three remittals of the case for fresh examination, the above court allowed the applicant's claim in part.

7. On 22 December 2003 and 20 April 2006, respectively, the Crimea Regional Court of Appeal and the Supreme Court upheld the above judgment. The final decision was served on the applicant on 15 May 2006.

8. According to the Government, in the course of the proceedings the applicant twelve times specified her claim. One hearing was adjourned at the applicant's request. Sixteen further hearings were adjourned at the other party's request, due to its representative's failure to appear and the absence of a judge or for unspecified reasons. One forensic examination was ordered by the court (between 19 April 2001 and 26 April 2002).

THE LAW

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

9. 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..."

10. The Government contested that argument stating that the consideration of the case had been complicated by the applicant's numerous specifications of the claim.

11. The period to be taken into consideration began on 19 July 1999 and ended on 15 May 2006 when the final decision was served on the applicant (see *Gitskaylo v. Ukraine*, no. 1702 6/05, § 34, 14 February 2008). The proceedings thus lasted approximately six years and ten months before three judicial instances.

A. Admissibility

12. 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.

B. Merits

13. 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-VII). The

Court further reiterates that special diligence is necessary in employment disputes (*Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17).

14. Turning to the facts of the case, the Court considers that its complexity and the conduct of the applicant, who somewhat contributed to the length of the proceedings (see paragraph 8 above), cannot explain their overall length. On the other hand, the Court finds that the protraction of the proceedings was mainly caused by three remittals of the case for fresh examination (see paragraph 6 above) and by the repeated adjournments of the hearings (see paragraph 8 above). It concludes, therefore, that the main responsibility for the lengthy duration of the proceedings rests with the State.

15. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above; *Pavlyulynets v. Ukraine*, no. 70767/01, § 53, 6 September 2005; and *Moroz and Others v. Ukraine*, no. 36545/02, § 62, 21 December 2006).

16. 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. THE REMAINING COMPLAINT

17. The applicant also complained under Article 6 § 1 of the Convention about the unfavourable outcome of the proceedings.

18. Having carefully examined the applicant's submissions in the light of all the material in its possession and in so far 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.

19. 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

20. 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

21. The applicant claimed 250,000 Ukrainian hryvnias[1] in respect of non-pecuniary damage.

22. The Government contested the claim.

23. The Court considers that the applicant must have sustained non-pecuniary damage and, ruling on an equitable basis, awards her EUR 600 under this head.

B. Costs and expenses

24. The applicant made no claim for costs and expenses. Accordingly, the Court considers that there is no call to award her any sum under this head.

C. Default interest

25. The Court considers it appropriate that the default interest 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 complaint 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*
   (a) that the respondent State is to pay the applicant, within three months EUR 600 (six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;

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1. About 22,790 euros (EUR)

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 29 September 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips	Mark Villiger
Deputy Registrar	President