CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 61874/00
by Valentin Leonidovich POLYAKOV
against Russia

The European Court of Human Rights (First Section), sitting on 7 October 2004 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mr G. BONELLO,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 22 May 2000,

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, Mr Valentin Leonidovich Polyakov, is a Russian national who was born in 1953 and lives in Yaroslavl. The respondent Government were represented by Mr P. A. Laptev, the representative of the Russian Federation at the European Court of Human Rights.

A. The circumstances of the case

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

The applicant rents a flat owned by the municipal authorities. In 1997 the applicant lodged a civil claim against the local authorities, demanding that a new flat be given to him, or that the noise in his flat created by shutting the entry door in a porch area be eliminated.

On 11 October 1999 the Kirovskiy District Court of Yaroslavl ordered the municipal authorities to carry out works which would eliminate the noise in the applicant's flat. The applicant was also awarded 300 Russian Roubles in compensation for non-pecuniary damage. The remainder of the applicant's claims were rejected as having no basis in domestic law.

The applicant's appeal against the judgment was rejected by the Yaroslavl Regional Court on 9 December 1999.

In 2000 – 2001 the applicant unsuccessfully litigated with the Federal Institute of Industrial Property which allegedly violated his industrial property rights.

COMPLAINTS

1. The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about the non-execution of the judgment of the Kirovskiy District Court of Yaroslavl of 11 October 1999.

2. The applicant also complained under the same Convention provisions about the allegedly unfair proceedings concerning his housing and his industrial property rights which allegedly led to the wrong findings.

THE LAW

1. The applicant complained about the non-execution of the court judgment of 11 October 1999. He relied on Article 6 of the Convention which, in so far as relevant, reads as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal..."

The applicant also relied on Article 1 of Protocol No. 1 which reads as follows:

> "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 submitted that the judgment had been executed in full. The court award of 300 Russian Roubles was made available to the applicant by the bailiffs' service on 23 February 2000. However, the applicant refused to receive it. The works eliminating the noise in the applicant's flat have been carried out despite the applicant's failure to bring execution proceedings.

The applicant agreed that the works eliminating the noise in his flat were carried out in 2001. He also stated that he did not claim the amount of 300 Russian Roubles from the defendant as the latter was not responsible for the damage he sustained in the present case.

The Court notes that the judgment of 11 October 1999, as confirmed on appeal on 9 December 1999, ordered the local authority to pay the applicant 300 Russian Roubles in damages and carry out works on eliminating the noise in the applicant's flat. The Court further notes the Government's submission that the bailiffs' service made the court award of money available to the applicant on 23 February 2000 and that the applicant failed to receive it. In view of the applicant's submissions, the Court considers that there is no indication of the State's responsibility for the applicant's non-receipt of the money. The Court further notes that both parties agreed that the works on eliminating the noise were carried out in 2001.

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

2. The Court has examined the remainder of the applicant's complaints as submitted by him. However, having regard to all material in its possession, the Court finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Søren NIELSEN
Registrar

Christos ROZAKIS
President