

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

THIRD SECTION

DECISION

Application no. 4772/09
Eduard Vladimirovich RUDNEV
against Russia

The European Court of Human Rights (Third Section), sitting on 9 January 2018 as a Committee composed of:

Luis López Guerra, *President,*
Dmitry Dedov,
Jolien Schukking, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 19 November 2008,

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 Eduard Vladimirovich Rudnev, is a Russian national, who was born in 1966 and lives in Pervouralsk.

The Russian Government ("the Government") were represented initially by Mr G. Matyushkin , the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

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

On 9 August 2007 the Sverdlovsk Regional Court ordered the applicant's reinstatement in his previous post at MUP *Zhilishchno-ekspluatatsionniy Trest no. 3* ("the company") and awarded him 1,000 Russian roubles in respect of non-pecuniary damage.

On 10 August 2007 a reinstatement order was issued in respect of the applicant.

On 5 October 2007 the applicant submitted the writ of execution to the bailiffs' service, and on 8 October 2007 the enforcement proceedings commenced.

On unspecified date the applicant got access to his office and started to receive payment.

On 1 November 2007 the enforcement proceedings were closed due to enforcement.

On 17 December 2007 the applicant was dismissed from the job due to the staff reduction.

On 13 March 2008, as upheld on 20 May 2008, the dismissal was found to be lawful.

On 29 September 2008, following the applicant's appeal, the decision of 1 November 2007 to terminate the enforcement proceedings was set aside.

On 10 October 2008 the enforcement proceedings were yet again terminated due to liquidation of the company. The writ of execution was forwarded to the liquidator. The applicant appealed against that decision.

On 21 May 2009, as upheld on appeal on 23 July 2009, the decision of 10 October 2008 was found to be lawful. The court explained that the decision of 13 March 2008 pointed at the fact that the labour relations between him and the company had ceased to exist in December 2007.

On 20 December 2012 the company was liquidated.

COMPLAINT

The applicant complained under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about the non-enforcement of judgment ordering his reinstatement at work.

THE LAW

The applicant complained of the non-enforcement of domestic decision given in his favour. He relied on Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention, which read as follows:

Article 6 § 1

"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."

The Government submitted that the judgment in the applicant's favour had been enforced within reasonable time.

The applicant argued in reply that the judgment remained unenforced, and the decision to terminate the enforcement proceedings dated 1 November 2007 was subsequently overturned.

In the circumstances of the present case, the Court does not consider necessary to address the question of the State's responsibility for the debts of the company (see *Liseytseva and Maslov v. Russia*, nos. 39483/05 and 40527/10, §§ 204-06, 9 October 2014) as the complaint is in any case inadmissible.

An unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III). To decide if the delay was reasonable, the Court will look at how complex the enforcement proceedings were, how the applicant and the authorities behaved, and what the nature of the award was (see *Raylyan v. Russia*, no. 22000/03, § 31, 15 February 2007).

In the present case it was established by the domestic courts that the applicant had had labour relations with the defendant company prior to his dismissal in December 2007 and, therefore, that he had been reinstated in his job following the decision of 9 August 2007. Thus, the period of enforcement amounts to less than four months. This period complied with the requirements of the Convention (see *Belkin and Others v. Russia* (dec.), no. 14330/07 and 15 other applications, 5 February 2009).

As regards the enforcement of the decision of 9 August 2007 in respect of payment of the awarded amount, the applicant did not show that he had sought to initiate the enforcement proceedings in respect of this part of the decision (see, for example, *Gadzhikhanov and Saukov v. Russia*, nos. 10511/08 and 5866/09, 31 January 2012).

It follows that the application 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 1 February 2018.

Fatoş Aracı
Deputy Registrar

Luis López Guerra
President