



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

FIRST SECTION

Application no. 1407/05  
Petr Ivanovich IVANOV and Viktor Alekseyevich PETRUSHIN  
against Russia  
lodged on 23 November 2004

**STATEMENT OF FACTS**

The applicants, Mr Petr Ivanovich Ivanov and Viktor Alekseyevich Petrushin, are Russian nationals who were born in 1944 and 1946 respectively and live in Velikiye Luki, Pskov Region. They are represented before the Court by Mr D.Y. Kozyrev, a lawyer practising in the Pskov Region.

**The circumstances of the case**

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

The applicants participated in the emergency clean-up of the Chernobyl nuclear plant disaster and currently receive social benefits.

**A. First set of proceedings**

By a judgment of 5 April 1999 the Velikiye Luki Town Court (“the Town Court”) awarded the first applicant unpaid compensation for health damage and a monthly payment. Following protracted enforcement of the above judgment, on 16 March 2000 the same court awarded the first applicant a penalty fee against the respondent.

On 5 October 2000 the court recalculated the monthly payment and awarded the first applicant a higher amount. However, until August 2002 the first applicant had received the old amount, and the arrears were paid fully only on 24 December 2002. The judgment of 5 October 2000 was quashed in supervisory review on 16 January 2004; however in the meantime the first applicant sued the authorities for penalties resulting from the delayed enforcement.

On 31 October 2003 the Town Court found for the first applicant, awarding him 35,000 Russian roubles (RUB) in penalty fees against the municipal Social Security Department. The judgment was not enforced. In November 2004 the respondent lodged an application for supervisory review.

On 8 April 2005 the Presidium of the Pskov Regional Court granted the application and quashed the judgment of 31 October 2003 for erroneous application of material law. The court noted that it had been open to the first applicant to request index-linking of the arrears.

### **B. Second set of proceedings**

In January 2004 the first applicant brought proceedings against the municipal Social Security Department and the regional Treasury seeking compensation of inflation losses caused by the delayed enforcement of the earlier judgments of 16 March and 5 October 2000.

On 1 April 2004 the Town Court disallowed the claim. That judgment was upheld on 25 May 2004 by a decision of the Pskov Regional Court (“the Regional Court”), which noted that the judgment of 5 October 2000 was not enforceable having been quashed in supervisory review. As to the judgment of 16 March 2000, the nature of the award did not provide for compensation of damage caused by its delayed enforcement.

### **C. Third set of proceedings**

The applicants brought proceedings seeking index-linking of the compensation for health damage and recovery of the arrears.

On 14 May 2004 the Town Court awarded the first applicant RUB 326,074.83 in arrears and monthly compensation in the amount of RUB 9,137.59 as of 1 April 2004.

Enforcement of that judgment was stayed when on 3 November 2004 the Regional Court called up the case for supervisory examination. The outcome of this examination is not clear.

On 12 November 2004 the Town Court required the municipal Social Security Department to re-calculate the amount of monthly payments following a reduction of the first applicant’s working capacity.

The judgments of 14 May and 12 November 2004 have not been enforced to date.

On 29 (30) September 2004 the Town Court considered the second applicant’s claim for index-linking of the compensation for health damage and recovery of the arrears. The court awarded him RUB 232,473.99 in arrears and monthly compensation in the amount of RUB 5,156.92 as of 1 September 2004. The court also ordered that the respondent index-link the compensation on a yearly basis on 1 January.

This judgment has also not been enforced.

**D. Fourth set of proceedings**

In October 2004 the first applicant brought proceedings for compensation of non-pecuniary damage caused by lengthy non-enforcement of the judgment of 14 May 2004.

On 11 March 2005 the Town Court disallowed the claim as unfounded.

By a decision of 17 May 2005 the Regional Court upheld the judgment on appeal. After a while the applicant learned that the case-file contained the respondent's objections to his appeal of which he had been unaware.

**E. Fifth set of proceedings**

The applicants lodged three applications for supervisory review of the judgments disallowing their claims. Having failed to receive a reply concerning the substance of their applications, they sought to declare the supervisory instance's failure to act unlawful. On 16 January 2007 the Regional Court took a final decision not to admit their statement of claim for consideration.

On 25 January 2007 the Moscow City Court in the final instance refused to admit for consideration the applicants' claim for compensation of non-pecuniary damage caused by the judge's failure to act.

**COMPLAINTS**

Regarding the court decisions of 1 April and 25 May 2004 the first applicant complains that they were not sufficiently reasoned.

He also complains under Article 6 of the Convention and Article 1 of Protocol No. 1 about the supervisory quashing of the judgment of 31 October 2003, and under Article 6 that the decision to quash was not duly reasoned.

The applicants rely on Article 6 of the Convention and Article 1 of Protocol No. 1 to complain about non-enforcement of the judgments of 14 May and 29 (30) September 2004 in their favour.

The first applicant complains under Article 6 of lack of reasoning in the court decisions of 11 March and 17 May 2005 and of a violation of his right to a fair trial alleging that he was not served the respondent's objections to his appeal in that set of proceedings.

Finally, the applicants complain that the refusal of the domestic courts to admit their claims for consideration on 16 and 25 January 2007 violated their right of access to court and that the above decisions lacked due reasoning.

**QUESTIONS TO THE PARTIES**

1. Was the quashing of the judgment of 31 October 2003 made by way of supervisory review on 8 April 2005 compatible with the requirement of

legal certainty enshrined in Article 6 § 1 (see *Kot v. Russia*, no. 20887/03, §§ 21-33, 18 January 2007, and *Sobelin and Others v. Russia*, nos. 30672/03 et al., §§ 56-58, 3 May 2007)?

2. Has there been an interference with the first applicant's right to the peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1 as a consequence of that quashing? If so, was the interference justified?

3. Have the judgments of 14 May and 29 (30) September 2004 in the applicants' favour been fully enforced? If yes, what is the date of the full enforcement of the judgments? Did the failure or delay in their enforcement breach Article 6 of the Convention and Article 1 of Protocol No. 1 (see *Burdov v. Russia*, no. 59498/00, §§ 38 and 42, ECHR 2002-III)?

4. Did the court's failure to communicate to the first applicant the respondent's observations on his note of appeal of the judgment of 11 March 2005 impair his right to a fair trial guaranteed by Article 6 of the Convention by way of violating the principle of the "equality of arms"?