



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

FIRST SECTION

DECISION

Application no. 59026/08
Ruslan Bakhayevich ISAYEV
against Russia

The European Court of Human Rights (First Section), sitting on 12 June 2012 as a Committee composed of:

Mirjana Lazarova Trajkovska, *President*,

Anatoly Kovler,

Linos-Alexandre Sicilianos, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the decision to apply the pilot-judgment procedure taken in the case of *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009),

Having regard to the above application lodged on 22 September 2008,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Ruslan Bakhayevich Isayev, is a Russian national who was born in 1973 and lives in Zelenokumsk, Stavropol Region. He was represented before the Court by Ms O. Sadchikova, a lawyer practising in Stavropol. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

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

The applicant submitted a copy of a judgment of 14 April 2006, by which the Zavodskoy District Court of Grozny (“the District Court”) had recovered from the regional department of the Ministry of the Interior his

allowance for direct participation in the counter-terrorist operations in the North Caucasus in the amount of 453,548 Russian roubles.

On 1 February 2007 the prosecutor for the Zavodskoy District of Grozny opened a criminal case on account of forgery of documents produced by the District Court. According to the information submitted by the Prosecutor General's office, the investigation established that in 2005 and 2006 a clerk of the District Court, Ms Kh., had manufactured court judgments and writs of execution in favour of several servicemen of the regional Department of the Interior, including the applicant, concerning recovery of allowance for direct participation in the counter-terrorist operations. Ms Kh. fled the town and was placed on a wanted list as a suspect in July 2007. The Prosecutor General's office confirmed that the District Court's archives did not contain a case file in the applicant's name, nor did the records of incoming correspondence and inventory of civil cases contain any indication that the applicant had lodged a claim to that court.

On 20 May 2008 the District Court decided to stay enforcement in the concerned cases and ordered that the debtor forward the impugned documents to it for verification of their authenticity.

By letters of 9 September 2010 and 19 January 2011 the president of the District Court informed the office of the Representative of the Russian Federation at the European Court of Human Rights that the court had not delivered the judgment of 14 April 2006 in the applicant's favour.

On 6 March 2012 at his place of work the applicant was interviewed as a witness in the above criminal case by an investigator of the Investigative Department of the Ministry of the Interior for the Chechen Republic. The interview records contain the following account of the circumstances by the applicant:

“During my service at the Ministry of the Interior for the Chechen Republic between 2001 and 2003 I took part in the counter-terrorist operations on the territory of the Chechen Republic ... In late 2005 I learned from my colleagues ... that I could lodge a claim to the Zavodskoy District Court of Grozny for recovery of additional monetary allowance for the period of my participation in the counter-terrorist operations ... I handed in the documents and statement of claim to a woman at the court's registry ... The woman looked through the documents and told me to come in two or three weeks. She also said that I would be summoned to a hearing. The woman did not give me any documents confirming the filing of my case ... Approximately in a month I called by [the District Court] to learn about the fate of my documents ... A woman at the court's registry handed me a judgment of [the District Court] of 14 April 2006 for recovery in my favour from the Ministry of the Interior of the Chechen Republic of an additional monetary allowance and a related writ of enforcement ... I submitted the received documents for enforcement ... As the enforcement was delayed and I was certain that the judgment was genuine, in 2008 I complained to the European Court of Human Rights. Only now I learned that the judgment and the writ of enforcement are forged.”

On the same date the applicant also signed a statement addressed to the investigator who had interviewed him:

“I, Ruslan Vakhayevich Isayev, give up my claims [as they were stated] at the European Court of Human Rights.

I have just learned that the judgment of the Zavodskoy District Court in my favour and the related writ of enforcement are forged.

I ask you to bring this statement to the notice of the European Court of Human Rights.”

On 2 April 2012 the applicant’s representative informed the Court that in a phone conversation the applicant shared that he had been forced to withdraw his complaint.

COMPLAINTS

The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 that the authorities had failed to enforce the judgment of 14 April 2006.

Without referring to any particular provision of the Convention, he also alleged that he had been forced to sign a statement withdrawing his complaint at the Court.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 1 OF PROTOCOL No. 1

The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 of non-enforcement of the judgment of 14 April 2006 allegedly delivered by the Zavodskoy District Court of Grozny. These provisions read in the relevant part 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 argued that the applicant’s complaint was inadmissible as he never had a right to enforcement of a forged court judgment.

The applicant insisted that he had acted in good faith and was still entitled to receive the money.

The Court firstly notes that for the purpose of examination of the present complaint it will not take into account the statement of withdrawal signed by the applicant on 6 March 2012 as it was subsequently called off by the applicant. Nevertheless, it observes that the information submitted by the Government serves as clear evidence that on 14 April 2006 the Zavodskoy District Court of Grozny did not deliver a judgment in the applicant’s favour. This is also not refuted by the applicant’s own account of the events as rendered in his interview in the framework of the criminal case opened on account of forgery. Even presuming that the applicant was indeed unaware of the falsified nature of the impugned court judgment and acted in good faith while lodging his complaint to the Court, it cannot be denied that he never acquired a genuine right to receive a monetary award or to enforcement of a court judgment and thus does not have an arguable claim under the Convention. In these circumstances the Court regards this complaint as manifestly ill-founded and rejects it in accordance with Article 35 § 3 (a) of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 34 OF THE CONVENTION

The applicant also complained that he had been forced to sign a statement withdrawing his application to the Court. The Court considers that this complaint falls within the ambit of Article 34 of the Convention, which reads as follows:

“The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.”

The Government denied having put any pressure on the applicant in connection with his application at the Court. They further pointed out that they had not relied on the applicant’s statement of withdrawal in their observations on the admissibility and merits of the application.

The applicant did not provide any relevant comments.

The Court observes that the applicant did not supply any evidence capable of substantiating this complaint. It further observes that such pressure appears to be unlikely in the circumstances of the case where the

applicant did not dispute the false nature of the documents, as evidenced by the interview records of 6 March 2012. In the light of the above the Court considers this complaint to be manifestly ill-founded and also rejects it in accordance with Article 35 § 3 (a) of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

André Wampach
Deputy Registrar

Mirjana Lazarova Trajkovska
President