



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

FIRST SECTION

DECISION

Application no. 23142/04
Natalya Petrovna ISHCHENKO
against Russia

The European Court of Human Rights (First Section), sitting on 3 July 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Khanlar Hajiyeu,

Julia Laffranque, *judges*,

and Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 14 May 2004,

Having regard to the declaration submitted by the respondent Government on 14 March 2012 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Natalya Petrovna Ishchenko, is a Russian national, who was born in 1946 and lives in Moscow.

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 applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 about the lengthy enforcement of judgments against a private party given by the Gagarinskiy District Court of Moscow on 24 January 2001 and 23 March 2004.

She also submitted complaints under Articles 8 and 13 of the Convention.

THE LAW

I. COMPLAINTS OF NON-ENFORCEMENT

The applicant complained about lengthy enforcement of the judgments against a private party. She relied on Article 6 § 1 of the Convention which, in so far as relevant, provides as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

She also invoked Article 1 of Protocol No. 1 which, in so far as relevant, provides as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions ...”

By letter dated 14 March 2012 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. The Russian authorities acknowledged the lengthy enforcement of the judgments in the applicant's favour and proposed payment of 2,300 Euros. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

“... the Russian authorities acknowledge violation of the applicant's rights guaranteed by Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention due to lengthy enforcement of the judgments of the Gagarinskiy District Court of Moscow on 24 January 2001 and 23 March 2004.

The authorities of the Russian Federation are ready to pay the applicant a sum of 2300 EUR for the violation of her rights guaranteed by the Convention due to lengthy enforcement of the judgments in her favour.

The authorities therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as “any other reason” justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.

The sum referred to above, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it from expiry of that

period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This payment will constitute the final resolution of the case.”

In a letter of 21 May 2012 the applicant expressed the view that the sum mentioned in the Government’s declaration was sufficient and accepted the terms of the unilateral declaration submitted by the Government.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

“for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

The Court is satisfied that the excessive length of the enforcement proceedings of the judgments in the applicants’ favour is acknowledged by the Government and that the Russian authorities offered her compensation in this respect. It also notes that the applicant agreed to the Government’s offer.

Having regard to the nature of the admissions contained in the Government’s declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

In view of the above, it is appropriate to strike the application out of the list in the part concerning the lengthy enforcement of judgments given by the Gagarinskiy District Court of Moscow on 24 January 2001 and 23 March 2004.

II. OTHER COMPLAINTS

Further, the applicant complained about the lengthy enforcement of the judgments in her favour under Articles 8 and 13 of the Convention. However, 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 or its Protocols. It follows that the application in this part 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

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in the part concerning the lengthy enforcement of judgments of 24 January 2001 and 23 March 2004;

Declares the remainder of the application inadmissible.

André Wampach
Deputy Registrar

Peer Lorenzen
President