



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

FIRST SECTION

DECISION

Application no. 28852/05
Valentina Viktorovna OGLOBLINA
against Russia

The European Court of Human Rights (First Section), sitting on 26 November 2013 as a Committee composed of:

Elisabeth Steiner, *President*,

Mirjana Lazarova Trajkovska,

Linos-Alexandre Sicilianos, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 20 June 2005,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Valentina Viktorovna Ogloblina, is a Russian national, who was born in 1940 and lives in Perm. Her application was lodged on 20 June 2005. She was represented before the Court by Mr R. Yushkov, a lawyer practising in Perm.

2. The Russian Government (“the Government”) are represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

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

4. The applicant had several disputes with authorities and private persons on environmental issues, in which the applicant did not refer to or prove deterioration of her health condition.

A. Quashing of a decision of 27 September 2007

5. The applicant brought proceedings against the local authorities seeking protection of forests and cancellation of an agreement leasing the forest land to a private person for housing development.

6. On 27 September 2007 the Dzerzhinskiy District Court of Perm found for the applicant. On 21 February 2008 the Perm Regional Court amended the judgment, granting the claims in part.

7. On 20 March 2009 the Presidium of the Perm Regional Court quashed the judgments by way of supervisory review and rejected the applicant's claims on the ground that, first, the authorities had cancelled the lease before the litigation was initiated by the applicant and, second, that there is no evidence that any applicant's right had been violated by the impugned measure.

B. Other environmental disputes

8. In proceedings ended on 24 May 2005 the applicant sued a state environmental inspectorate for allowing deforestation.

9. She also was engaged in proceedings initiated by the local prosecutor for the protection of environment claiming unlawful allocation of forest land to an oil company for development discontinued on 24 March 2010.

10. In the environmental dispute ended on 19 July 2007 the applicant sued authorities for non-pecuniary damage allegedly caused by destroying solid-fuel missiles.

COMPLAINTS

11. The applicant complained under Article 6 in substance about quashing of the final judgment in her favour by way of supervisory review and unfairness of several judicial proceedings relating to environmental matters.

12. She also complained under Articles 2 and 8 of the Convention about violation of her right to clean environment.

13. She also complained under Article 13 about the lack of adequate remedies to protect her right to clean environment.

THE LAW

A. Alleged violation of Article 6 by quashing of the decision by way of supervisory review

14. The applicant complained about the quashing, by way of supervisory review, of the court final decision of 27 September 2007 in her favour. Article 6 of the Convention reads as follows:

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

15. On 10 September 2010 the Court communicated to the respondent Government the complaint relating to quashing of the decision in favour of the applicant by way of supervisory review.

16. The Government submitted in their observations that the lower courts' decision had been quashed by way of supervisory review as they had committed fundamental judicial errors. Furthermore the applicant initiated the relevant civil proceedings after the lease agreement had been cancelled. Thus there was no subject-matter of the dispute. As a result the decision of 27 September 2007 was unenforceable. The Government also stated that the said decision affected only the rights and obligations of the town administration and the lessee rather than the applicant's rights and obligations. They also mentioned that the applicant had not suffered a significant disadvantage.

17. The applicant maintained her complaint.

18. The Court is not required to examine the arguments raised by the parties as the complaint is in any event inadmissible for the following reasons.

19. According to the Court's well-established case-law, the applicability of the civil limb of Article 6 § 1 requires the existence of “a genuine and serious dispute” over a “civil right” which can be said, at least on arguable grounds, to be recognised under domestic law. Moreover the result of the proceedings must be directly decisive for the right in question (see, for example, *Bentham v. the Netherlands*, 23 October 1985, § 32, Series A no. 97; *Rolf Gustafson v. Sweden*, 1 July 1997, § 38, *Reports of Judgments and Decisions* 1997-IV; and *Skärby v. Sweden*, 28 June 1990, § 27, Series A no. 180-B).

20. Turning to the facts of the present case, the Court notes that the applicant sued the local authorities because they had allowed deforestation for construction of cottages without taking into account the interests of local population. According to her the deforestation affected the environmental safety, resulted in pollution of the environment and destruction of forests. At no stage in the proceedings the courts established that the applicant had suffered any prejudice to her health or property due to these actions.

21. The Court notes that the outcome of the proceedings in issue was not directly decisive for the right asserted by the applicant, the link between the authorities' actions and the applicant's right to adequate protection of her physical integrity was not sufficiently close to bring Article 6 § 1 into play. Indeed, the applicant failed to show that the deforestation exposed her personally to a danger that was not only serious but also specific and, above all, imminent (see *Balmer-Schafroth and Others v. Switzerland*, 26 August 1997, § 40, *Reports* 1997-IV; *Athanassoglou and Others v. Switzerland* [GC], no. 27644/95, § 51, ECHR 2000-IV; and *Ivan Atanasov v. Bulgaria*, no. 12853/03, § 92, 2 December 2010).

22. Accordingly, Article 6 § 1 is not applicable in the instant case and the applicant's complaint must be rejected as incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 of the Convention.

B. Other alleged violations

1. Alleged violation of Article 6

23. The applicant complained about unfairness of civil proceedings and about insufficient reasoning of the decision of 24 May 2005. The Court notes that the outcome of these proceedings was not directly decisive for the applicant either. There is no evidence that the authorities' actions caused any damage to the applicant personally.

24. Accordingly, Article 6 § 1 is not applicable to the said proceedings and the applicant's complaints must be also rejected as incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 of the Convention.

2. Alleged violation of Articles 2 and 8

25. The applicant complained about violation of her right to clean environment under Articles 2 and 8. In the light of the Court's case-law (see *Hardy and Maile v. the United Kingdom*, no. 31965/07, §§ 183-184, 14 February 2012) the applicant's complaint is most appropriately examined from the standpoint of Article 8 which provides:

“Everyone has the right to respect for his private and family life, his home and his correspondence ...”

26. The Court reiterates that Article 8 has been relied on in various cases involving environmental concern, yet it is not violated every time that environmental deterioration occurs: no right to nature preservation is as such included among the rights and freedoms guaranteed by the Convention. Thus, in order to raise an issue under Article 8 the interference must directly affect the applicant's home, family or private life (see *Kyrtatos v. Greece*, no. 41666/98, § 52, ECHR 2003-VI; *Fadeyeva*

v. Russia, no. 55723/00, § 68, ECHR 2005-IV; and *Aydin and Others v. Turkey* (dec.), no. 40806/07, § 24, 15 May 2012).

27. The Court further points out that the adverse effects of environmental pollution must attain a certain minimum level if they are to fall within the scope of Article 8 (see *López Ostra v. Spain*, 9 December 1994, § 51, Series A no. 303-C; *Hatton and Others v. the United Kingdom* [GC], no. 36022/97, § 118, ECHR 2003-VIII; and *Marchis and Others v. Romania* (dec.), no. 38197/03, § 33, 28 June 2011).

28. In the case at hand, the applicant does not have any arguable claim under Article 8. Indeed, she did not prove that she had been personally affected by the actions of authorities complained of and that there had been some prejudice to her health.

29. 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.

3. *Alleged violation of Article 13*

30. The applicant complained under Article 13 that she had not had any effective remedy to protect her right to clear environment. Article 13 reads as follows:

“Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

31. The Court reiterates that Article 13 has been consistently interpreted by the Court as requiring a remedy in domestic law only in respect of grievances which can be regarded as “arguable” in terms of the Convention. In view of its findings above, the Court considers that the applicant has no “arguable claim” of a breach of the Convention or its Protocols which would have warranted a remedy under Article 13.

32. Accordingly, this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

André Wampach
Deputy Registrar

Elisabeth Steiner
President