



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

Communicated on 27 August 2014

FIRST SECTION

Application no. 77185/11
Ivan Alekseyevich PODDUBNYY
against Russia
lodged on 16 November 2011

STATEMENT OF FACTS

The applicant, Mr Ivan Alekseyevich Poddubnyy, is a Russian national, who was born in 1933 and lives in Afipskiy.

A. The circumstances of the case

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

In 1970 the applicant got into an accident at work and became disabled for life. As a consequence, a collective farm, which was liable for the accident, was obliged to make periodic monthly payments in the applicant's favour. The collective farm was later reorganised into a joint-stock company ("JSC").

On 23 June 2004 the Commercial Court of the Krasnodar Region ("the Commercial Court") acknowledged the insolvency of the JSC and started the bankruptcy proceedings in respect of the JSC. On 14 June 2007 the Commercial Court terminated the bankruptcy proceedings and ordered to make an entry about the JSC' liquidation in the state registry of legal persons.

The above monthly payments were not made on a regular basis, which made the applicant initiate the below court proceedings.

1. First set of proceedings

On 3 August 2004 the Severskiy District Court of the Krasnodar Region ("the District Court") granted the applicant's lawsuit and obliged the JSC to pay in his favour 35,970.12 Russian roubles (RUB). This judgment was not appealed against and became final on 14 August 2004.

It appears that this judgment remained without enforcement to date.

2. Second set of proceedings

On 21 July 2005 the District Court granted the applicant's request and obliged the JSC to index-link the periodic payments due to the applicant in line with inflation. This ruling was not appealed against and became final on 3 August 2005.

It appears that this ruling remained without enforcement to date.

3. Third set of proceedings

On 26 September 2005 the District Court endorsed a friendly settlement agreement between the applicant and the JSC, according to which the JSC was obliged to pay the applicant certain sums of money. On 22 November 2005 that decision became final, with a slight amendment made by the appeal court.

It appears that this ruling remained without enforcement to date.

4. Fourth set of proceedings

On 13 October 2006 the District Court granted the applicant's request and obliged the JSC to index-link the periodic payments due to the applicant in line with inflation. This ruling was not appealed against and became final on 24 October 2006.

It appears that this ruling remained without enforcement to date.

5. Fifth set of proceedings

On 23 May 2008 the District Court granted the applicant's lawsuit and obliged the Ministry of Finance of the Russian Federation to pay him the lump sum of RUB 123,937.11 and start making the monthly payments in his favour in the amount of RUB 2,499.34 from 1 January 2008. The District Court observed in its judgment that in accordance with domestic law the obligation to make the periodic payments had passed from the JSC to the Russian Federation. The appeal court upheld that judgment on 1 July 2008.

On 17 August 2011 the District Court partly granted the applicant's claim and obliged the Ministry of Finance of the Russian Federation to index-link the monthly payments awarded by the judgment of 23 May 2008 in line with inflation.

It appears that the judgment of 23 May 2008 was enforced fully as regards the payment of the lump sum, and partly as regards the monthly payments.

6. Proceedings under the 2010 Compensation Act

On 18 February 2011 the applicant made an application under the 2010 Compensation Act, alleging the breach of his right to enforcement of the above court decisions within a reasonable time. On 16 March 2011 the Krasnodar Regional Court ("the Regional Court") dismissed that application on the grounds that the decisions of 3 August 2004, 21 July 2005 and 13 October 2006 had been taken against the JSC, whereas the 2010 Compensation Act was only applicable to monetary claims against the State. The Regional Court ignored the applicant's claims regarding the alleged non-enforcement of the decisions of the District Court of 26 September

2005 and of 23 May 2008. On 8 June 2011 the appeal court upheld the Regional Court's judgment.

B. Relevant domestic law

On 30 April 2010 Russian Parliament adopted a Federal Law, no. 68-FZ, "On Compensation for Violation of the Right to a Trial within a Reasonable Time or the Right to Enforcement of a Judgment within a Reasonable Time" ("the Compensation Act"). On the same date the Parliament adopted a Federal Law, no. 69-FZ, introducing a number of corresponding changes to the relevant federal laws. Both laws entered into force on 4 May 2010.

The Compensation Act entitles a party concerned ("an applicant") to bring an action for compensation of the violation of his or her right to a trial within a reasonable time or of the right to enforcement within a reasonable time of a judgment establishing a debt to be recovered from the State budgets (Section 1, § 1). Further details of the Compensation Act may be found in the Court's decision in *Nagovitsyn and Nalgiyev v. Russia* (dec.), nos. 27451/09 and 60650/09, § 40, 23 September 2010.

COMPLAINTS

The applicant complains under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention about the non-enforcement of the decisions of the Severskiy District Court of the Krasnodar Region of 3 August 2004, 21 July 2005, 26 September 2005, 13 October 2006, 23 May 2008 and 17 August 2011.

The applicant also complains under Article 13 of the Convention that he was deprived of effective domestic remedies against non-enforcement or delayed enforcement of the court decisions in his favour.

QUESTIONS TO THE PARTIES

1. Were the court decisions in the applicant's favour enforced fully and in due time?
2. If the court decisions in the applicant's favour were not enforced fully and in due time, is this fact compatible with Article 6 of the Convention and Article 1 of Protocol No. 1?
3. Did the applicant have effective domestic remedies against non-enforcement or delayed enforcement of the court decisions in his favour as required by Article 13 of the Convention?

4. When did the obligation to make periodic payments to the applicant pass from the JSC to the Russian Federation? Did the passing of this obligation concern all the court decisions delivered in the applicant's favour against the JSC? Was the passing of this obligation automatic or did it require a certain procedure to follow by the applicant? If a certain procedure was required, did the applicant follow it? The Government are invited to submit the relevant documents, if any.