

EUROPEAN COURT OF HUMAN RIGHTS

250
7.5.2002

Press release issued by the Registrar

FIRST JUDGMENT CONCERNING RUSSIA:

BURDOV v. RUSSIA

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case *Burdov v. Russia* (application no. 59498/00). The Court held, unanimously, that there had been:

- a **violation of Article 6 § 1** (right to a fair trial) of the European Convention on Human Rights, and,
- a **violation of Article 1 of Protocol No. 1** to the Convention (protection of property).

Under Article 41 (just satisfaction), the Court awarded the applicant 3,000 euros (EUR) for non-pecuniary damage. (The judgment is available only in English.)

1. Principal facts

Anatoliy Tikhonovich Burdov is a Russian national. On 1 October 1986 he was called up by the military authorities to take part in emergency operations at the site of the Chernobyl nuclear disaster. He worked there until 11 January 1987 and, as a result, suffered from extensive exposure to radioactive emissions. In 1991, in the light of an expert opinion establishing the link between his poor health and his involvement in the Chernobyl operation, he was awarded compensation.

In 1997 he brought proceedings against Shakhty Social Security Service (*Управление социальной защиты населения по г. Шахты*), as the compensation had not been paid. On 3 March 1997 Shakhty City Court (*Шахтинский городской суд*) found in Mr Burdov's favour and awarded him 23,786,567 Russian roubles (RUR) of the outstanding compensation and an equal sum in the form of a penalty.

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its Protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

In 1999 Mr Burdov brought an action against the social security service to challenge a reduction in the amount of the monthly payment and to recover the unpaid compensation. On 21 May 1999 Shakhty City Court restored the original amount of the compensation and ordered the social security service to make monthly compensation payments of RUR 3,011.36 with subsequent indexation. The court also ordered the payment of RUR 8,752.65 still outstanding.

However, the applicant was informed, on a number of occasions between 16 September 1999 and 16 May 2000 that the payments could not be made because of lack of funding.

On 9 March 2000 Shakhty City Court ordered the indexation of the amount of the penalty awarded on 3 March 1997, which had still not been paid. An additional writ of execution for RUR 44,095.37 was also issued.

Following a decision taken by the Ministry of Finance, on 5 March 2001 Shakhty Social Security Service paid the applicant the outstanding debt of RUR 113,040.38. According to information provided by the social security service on 11 February 2002, the compensation for the period between April 2001 and June 2002 has been assessed at RUR 2,500 per month.

2. Procedure and composition of the Court

The application was lodged with the Court on 20 March 2000 and declared partly admissible on 21 June 2001.

Judgment was given by a Chamber of seven judges, composed as follows:

Christos **Rozakis** (Greek), *President*,
Françoise **Tulkens** (Belgian),
Peer **Lorenzen** (Danish),
Nina **Vajić** (Croatian),
Egils **Levits** (Latvian),
Anatoly **Kovler** (Russian),
Vladimiro **Zagrebelky** (Italian), *judges*,

and also Erik **Fribergh**, *Section Registrar*.

3. Summary of the judgment¹

Complaints

The applicant alleged, in particular, that the failure to execute final judgments in his favour was incompatible with the Convention. He relied on Article 6 § 1 and Article 1 of Protocol No. 1.

1. This summary by the Registry does not bind the Court.

Decision of the Court

Article 6 § 1

The Court recalled that execution of a judgment given by any court must be regarded as an integral part of the trial for the purposes of the fair trial requirement enshrined in Article 6. It was not open to a State authority to cite lack of funds as an excuse for not honouring a judgment debt. In the case under review the applicant should not have been prevented from benefiting from the success of the litigation in question on the ground of alleged financial difficulties experienced by the State.

The Court noted that Shakhty City Court's decisions of 3 March 1997, 21 May 1999 and 9 March 2000 had remained unenforced wholly or in part at least until 5 March 2001, when the Ministry of Finance took the decision to pay in full the debt owed to the applicant. The Court also noted that this last payment took place only after the application to the European Court of Human Rights had been communicated to the Government. By failing for years to take the necessary measures to comply with the final judicial decisions, the Russian authorities had deprived the provisions of Article 6 § 1 of all useful effect; there had, therefore, been a violation of Article 6 § 1.

Article 1 of Protocol No. 1

The Court noted that Shakhty City Court's decisions provided the applicant with enforceable claims and not simply a general right to receive support from the State. The decisions had become final as no ordinary appeal lay against them, and enforcement proceedings had been instituted. It followed that the impossibility for the applicant to obtain the execution of these judgments, at least until 5 March 2001, constituted an interference with his right to peaceful enjoyment of his possessions, as set out in Article 1 of Protocol No. 1.

By failing to comply with the Shakhty City Court judgments, the national authorities prevented the applicant from receiving the money he could reasonably have expected to receive. The Government had provided no justification for this interference and the Court considered that lack of funds could not justify such an omission. There had, therefore, been a violation of Article 1 of Protocol No. 1.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

Registry of the European Court of Human Rights

F – 67075 Strasbourg Cedex

Contacts: Roderick Liddell (telephone: (0)3 88 41 24 92)

Emma Hellyer (telephone: (0)3 90 21 42 15)

Fax: (0)3 88 41 27 91

The European Court of Human Rights was set up in Strasbourg in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. On 1 November 1998 a full-time Court was established, replacing the original two-tier system of a part-time Commission and Court.