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

FIRST SECTION

CASE OF ROMANENKO AND ROMANENKO V. RUSSIA

(Application no. 19457/02)

JUDGMENT

STRASBOURG

19 October 2006

FINAL

19/01/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Romanenko and Romanenko v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr L. LOUCAIDES,
Mrs F. TULKENS,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 28 September 2006,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 19457/02) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Russian nationals, Mrs Lyubov Vasilyevna Romanenko and Mr Andrey Vladimirovich Romanenko ("the applicants"), on 30 April 2002.

2. The applicants were represented by Ms A. E. Stavitskaya and Mr R. S. Karpinskiy, lawyers practising in Moscow. The Russian Government ("the Government") were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

3. On 4 March 2005 the Court the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicants were born in 1942 and 1980 respectively and live in Moscow.

1. Court proceedings between 1991 and 5 May 1998

5. The first applicant is the second applicant's mother. On 19 September 1991, she filed a court action on behalf of her son against the second applicant's schoolmate claiming damages for battery.

6. On 24 October 1991 the Krasnogvardeyskiy District Court ("the District Court") initiated proceedings in this connection.

7. On 27 February 1998 the District Court examined her action and partly granted it. The court ordered the defendants jointly to pay RUR 1,500.

8. Unhappy with the amount of award, the first applicant appealed against the judgment of 27 February 1998 to the City Court on 27 February 1998.

2. Court proceedings from 5 May 1998 onwards

9. On 10 June 1998 the first applicant filed supplementary appeal arguments. In June 1998 the Moscow City Court quashed the judgment of 27 February 1998 and remitted the case to the first instance court for a fresh examination.

10. The first applicant submits that from September 1998 to February 2000 the hearings in her case were rare, mostly due to the unavailability of judges, and that each time they took place the District Court failed properly to notify her.

11. According to the Government, on 10 July 1998 the case was transmitted to a judge of the District Court who scheduled the hearing for 15 September 1998. This hearing was adjourned due to the judge's illness until 27 October 1998. The case was adjourned due to the judge's involvement in a different set of proceedings on 29 December 1998, 29 January 1999 and 24 March 1999.

12. On the latter date the first applicant requested a forensic examination to be carried out. The request was granted and the hearing scheduled for 14 May 1999.

13. Thereafter the case was adjourned repeatedly due to the judge's involvement in other proceedings, in particular on 20 July, 12 October 1999 and 12 January 2000.

14. It appears that on an unspecified date the second applicant attained his majority and by decision of 4 February 2000 the first applicant was replaced in the proceedings by the second applicant. Due to one of the defendant's absence, the case was adjourned until 2 March 2000.

15. On 2 March 2000 the District Court ordered another forensic examination and suspended the proceedings accordingly.

16. By decision of 9 June 2000, upon the second applicant's motion, the District Court amended the list of question put before the expert body and on 5 July 2000 the case-file was transferred to the expert body.

17. On 2 April 2001 the proceedings resumed and the hearing was scheduled for 16 April 2001.

18. On 16 April 2001 the District Court examined the case on the merits and ordered the second applicant's school to pay non-pecuniary damages of RUR 10,000 to the second applicant as well as to cover his dental prosthesis expenses.

19. The parties appealed against this judgment but some time later the applicants retracted their appeal.

20. According to the applicants, the first instance judge erred in fixing the amount of stamp duty in the appeal proceedings for one of the defendants and it took the judicial authorities several months (between June and October 2001) to rectify this mistake.

21. The Moscow City Court upheld the judgment of 16 April 2001 on appeal on 14 November 2001.

22. The judgment of 16 April 2001, as upheld on appeal on 14 November 2001, was enforced in full on 6 June 2002.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

23. The applicants complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

24. The Government contested that argument and submitted that the proceedings had not breached the reasonable time requirement of Article 6.

25. The Court recalls that the proceedings in question commenced on 19 September 1991 when the first applicant filed a civil action with the District Court. However, the period to be taken into consideration began on 5 May 1998, when the Convention entered into force in respect of Russia. Nevertheless, in assessing the reasonableness of the time that elapsed after that date, account may be taken of the state of proceedings at the time.

26. In the circumstances of the present case, the Court finds that the period in question ended on 6 June 2002 when the judgment of 16 April 2001, as upheld on appeal on 14 November 2001, was enforced in full (see the *Di Pede v. Italy* and *Zappia v. Italy* judgments of 26 September 1996, *Reports of Judgments and Decisions* 1996-IV, pp. 1383-1384, §§ 20-24, and pp. 1410-1411, §§ 16-20 respectively). Thus, the total length of the

proceedings was ten years and almost nine months of which four years and almost one month fall within the Court's competence *ratione temporis*.

A. Admissibility

27. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

28. The Court reiterates that the reasonableness of the length of the proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and the conduct of the competent authorities (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII)

29. The Court observes that the proceedings relating to the tort dispute between the applicants and the second applicant's school and a schoolmate's family were not particularly complex. It furthermore considers that the applicants' conduct did not noticeably contribute to the length of the proceedings.

30. As regards the conduct of the judicial authorities, the Court notes that it led to substantial delays in the proceedings during the period falling within the Court's competence *ratione temporis*. In particular, it took eight months and thirteen days between 10 July 1998 and 24 March 1999 for the judicial authorities to commence the proceedings after the case had been remitted by the appeal instance to the first instance court. Furthermore, the case was adjourned repeatedly during the period of eight months and twenty-two days between 14 May 1999 and 4 February 2000 with reference to the judge's involvement in a different set of proceedings. In addition, as was alleged by the applicant and not contested by the Government, it took the authorities another four months to correct a mistake in the amount of the stamp duty leading to a delay between June and October 2001 in the appeal proceedings.

31. Having regard to the above, to the fact that the proceedings within the Court's competence *ratione temporis* lasted more than four years in a relatively simple case and in view of the fact that on the date of ratification the proceedings were already pending for more than six years and seven months, the Court considers that the length of the proceedings did not satisfy the “reasonable-time” requirement. Accordingly, there has been a breach of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

32. The applicants also complained about the delay in the enforcement of the court award in their case. In this respect, the Court observes, and it is not contested by the parties, that the court judgment of 16 April 2001, as upheld on 14 November 2001, was executed in full on 6 June 2002. The overall period of enforcement was thus 6 months and 21 days which, in the Court's view, does not appear excessive (see *Grishchenko v. Russia* (dec.), no. 75907/01, 8 July 2004 and *Presnyakov v. Russia* (dec.), no. 41145/02, 10 November 2005).

33. Accordingly, this part of the application must be rejected pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

34. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

35. The applicants claimed 10,000 euros (EUR) in respect of non-pecuniary damage.

36. The Government considered these claims excessive.

37. Making its assessment on an equitable basis, the Court awards the applicants EUR 900 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

38. The applicants also claimed EUR 3,000 and 6,000 Russian roubles (RUR) in relation to legal costs for retaining Ms A. E. Stavitskaya and Mr R. S. Karpinskiy respectively as their counsel in the proceedings before the Court.

39. The Government contested this claim as excessive and unfounded.

40. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,700 for the proceedings before the Court, plus any tax that may be chargeable on the above amount.

C. Default interest

41. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
      (i) EUR 900 (nine hundred euros) in respect of non-pecuniary damage;
      (ii) EUR 1,700 (one thousand seven hundred euros) in respect of costs and expenses;
      (iii) any tax that may be chargeable on the above amounts;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 19 October 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN Registrar	Christos ROZAKIS President