

Information Note on the Court's case-law 42

May 2002

Burdov v. Russia - 59498/00

Judgment 7.5.2002 [Section I]

Article 6

Civil proceedings

Article 6-1

Access to court

Prolonged non-enforcement of court decisions by the authorities: *violation*

Facts: In 1991 the applicant was awarded compensation on the basis of an expert report linking his poor health to exposure to radiation during his participation in emergency operations at the Chernobyl nuclear plant. As the compensation had not been paid, the applicant brought proceedings against the local social security service. In March 1997 the City Court awarded him the outstanding compensation and a further sum in the form of a penalty. In 1999 the applicant 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. The City Court upheld his claim. However, the Bailiff's Service, which instituted enforcement proceedings in respect of both judgments, informed the applicant that the payments could not be made because the social security service was underfunded. This was confirmed by the Regional Department of Justice, which subsequently informed the applicant that funds had been allocated from the federal budget. In March 2000 the City Court ordered the indexation of the amount of the penalty awarded in March 1997, which had still not been paid. In March 2001 the social security service paid the outstanding sum to the applicant.

Law: Victim status – While the applicant has been paid the outstanding debt in accordance with the domestic court's judgments, the payment, which was made only after communication of the application to the Government, did not involve any acknowledgement of the violations alleged or afford adequate redress. The applicant could therefore still claim to be a victim.

Article 6 § 1 – It is not open to a State authority to cite lack of funds as an excuse for not honouring a judgment and, while a delay in the execution of a judgment may be justified in particular circumstances, it may not be such as to render Article 6 § 1 devoid of its purpose. The applicant's interest should not have been prejudiced by the alleged financial difficulties experienced by the State. By refraining for years from taking the necessary measures to comply with the final judgments, the authorities deprived Article 6 § 1 of all useful effect.

Conclusion: violation (unanimously).

Article 1 of Protocol No. 1 – The City Court's judgments provided the applicant with enforceable claims. As the

judgments had become final and enforcement proceedings had been instituted, the impossibility of obtaining their execution constituted an interference with the applicant's right to peaceful enjoyment of his possessions. By failing to comply with the judgments, the national authorities had prevented the applicant from receiving the money he could reasonably expect to receive. The Government had not advanced any justification for this interference and lack of funds could not justify such an omission.

Conclusion: violation (unanimously).

Article 41 – The Court awarded the applicant € 3,000 in respect of non-pecuniary damage.

© Council of Europe/European Court of Human Rights
This summary by the Registry does not bind the Court.

Click here for the [Case-Law Information Notes](#)