FORMER FIRST SECTION

CASE OF OAO NEFTYANAYA KOMPANIYA YUKOS v. RUSSIA

(Application no. 14902/04)

JUDGMENT

This judgment was rectified on 17 January 2012
under Rule 81 of the Rules of Court

STRASBOURG

20 September 2011

FINAL

08/03/2012

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

the audit report of 29 December 2003, which became available to the applicant company on the same date and was later used in the decision of 14 April 2004, served on the applicant on 15 April 2004. It is true that these two documents were very detailed, and contained the attachments to substantiate the Ministry's position, and that the applicant company had on a few occasions opportunity to contest them. The fact remains, however, that the object of the trial court's examination during the hearings of 21 to 26 May 2004 was neither the audit report of 29 December 2003 and the decision of 14 April 2004 as such, nor the copies of the documents allegedly already in possession of the applicant company, but rather the Ministry's court claims based on the above-mentioned two documents and the additional body of evidence filed by the Ministry and comprising at least 43,000 pages. It is clear to the Court that in order to provide the applicant company with an adversarial trial and "adequate time and facilities for the preparation of [its] defence" the applicant company should have been given an adequate opportunity to study the entirety of these documents and, more generally, to prepare for the hearings of the merits of the case on reasonable terms.

540. Having regard to the parties' arguments and the circumstances of the case, the Court is of the view that the trial court failed to reach this objective, as the mere four days during which the applicant company could have access to the case materials were insufficient for the applicant company to prepare properly, no matter the number of lawyers in its defence team or the amount of other resources which the applicant company would have been able to commit during its preparations. As regards the Government's reference to the applicant company's conduct during the proceedings and its argument that the company had no real need to study that evidence, the Court finds that it was incumbent on the trial court in the situation at hand to ensure that the applicant company had a sufficiently long period of time during which it could study such a voluminous case file and prepare for the trial hearings and it was up to the applicant company to use this time as it wished. As regards the Government's argument that the trial court was simply doing its best to comply with the two-month time-limit set out in Article 215 of the Code of Commercial Court Procedure for examination of cases of this category, the Court is of the view that even though it is no doubt important to conduct proceedings at good speed, this should not be done at the expense of the procedural rights of one of the parties, especially given the relatively short overall duration of the proceedings for a case of such magnitude and complexity.

541. Overall, the Court is of the view that the applicant company did not have sufficient time to study the case file before the first instance hearings.

542. The Court takes note of the Government's argument that any possible defects in the fairness of the proceedings at first instance have been remedied on appeal or in the cassation instance. Since this argument is too