



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

THIRD SECTION

CASE OF NADTOKA v. RUSSIA (No. 2)

(Application no. 29097/08)

JUDGMENT
(Revision)

Art 41 • Revision of judgment in respect of deceased applicant • Award to be made to heir

STRASBOURG

6 October 2020

FINAL

06/01/2021

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

In the case of Nadtoka v. Russia (no. 2) (request for revision of the judgment of 8 October 2019),

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

Paul Lemmens, *President*,

Georgios A. Serghides,

Helen Keller,

Dmitry Dedov,

Branko Lubarda,

María Elósegui,

Erik Wennerström, *judges*,

and Milan Blaško, *Section Registrar*,

Having deliberated in private on 8 September 2020,

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

PROCEDURE

1. The case originated in an application (no. 29097/08) 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 a Russian national, Ms Yelena Mikhaylovna Nadtoka (“the applicant”), on 16 May 2008.

2. In a judgment delivered on 8 October 2019, the Court held that there had been a violation of Article 10 of the Convention. The Court also decided to award the applicant 3,000 euros (EUR) for non-pecuniary damage and EUR 850 for costs and expenses and dismissed the remainder of the claims for just satisfaction.

3. On 28 November 2019 the applicant’s representative informed the Court that she had learned that the applicant had died on 4 January 2019. She accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 4 February 2020 the Court considered the request for revision and decided to invite the Government to submit any observations. Those observations were received on 18 March 2020.

THE LAW

THE REQUEST FOR REVISION

5. The applicant’s representative requested revision of the judgment of 8 October 2019 which she had been unable to have executed because the applicant had died before the judgment had been adopted. Ms Elena Vladimirovna Lukyanova was the heir eligible to receive the sums awarded to the deceased.

6. The Government stated that neither the applicant's heir nor her representative had promptly informed the Court of the applicant's death. They suggested that the judgment should be revised in the sense that the application would be struck out of the Court's list of cases "due to [the applicant's] death and the absence of her next-of-kin who [had] in a timely manner intervened in the proceedings before the Court" and that the respondent Government be "relieved of their obligation to pay her compensation".

7. The Court notes from the documents submitted that Ms Elena Vladimirovna Lukyanova is the daughter of the applicant, Ms Elena Mikhaylovna Nadtoka, and that she is her mother's only heir.

8. In the light of the foregoing, the Court considers that Ms Elena Vladimirovna Lukyanova has standing to receive the sums awarded in the judgment in her deceased mother's stead.

9. Referring to its previously examined requests for revision (see *Cangöz and Others v. Turkey* (revision), no. 7469/06, § 9, 19 September 2017, and *Benzer and Others v. Turkey* (revision), no. 23502/06, § 13, 13 January 2015), the Court deems it unnecessary to draw any inferences from the applicant's representative's delay in informing the Court of the applicant's demise.

10. The Court considers that the judgment of 8 October 2019 should be revised pursuant to Rule 80 of the Rules of Court, the relevant parts of which provide:

"A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

..."

11. It accordingly decides to award Ms Elena Vladimirovna Lukyanova the amounts it previously awarded to the applicant, namely EUR 3,000 for non-pecuniary damage and EUR 850 for costs and expenses.

12. The Court considers it appropriate that the default interest rate 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. *Decides* to revise its judgment of 8 October 2019 in so far as it concerns the application of Article 41 of the Convention to the claims in application no. 29097/08;

2. *Holds*, accordingly,

- (a) that the respondent State is to pay Ms Elena Vladimirovna Lukyanova, the heir of Ms Yelena Mikhaylovna Nadtoka, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 850 (eight hundred and fifty euros), plus any tax that may be chargeable to her, in respect of costs and expenses;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 6 October 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Paul Lemmens
President