



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

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1959 · 50 · 2009

FIRST SECTION

**CASE OF SENCHENKO AND OTHERS  
and 35 other “Yakut pensioners” cases v. RUSSIA**

*(Applications nos. 32865/06, 3137/07, 3158/07, 5650/07, 5654/07, 5657/07,  
5663/07, 6727/07, 6822/07, 6828/07, 6846/07, 8553/07, 8560/07, 11576/07,  
11578/07, 11582/07, 11583/07, 11584/07, 11585/07, 12966/07, 13830/07,  
13831/07, 13833/07, 13835/07, 19001/07, 19003/07, 19736/07, 19738/07,  
19740/07, 19741/07, 19744/07, 19746/07, 19749/07, 19752/07, 20343/07,  
and 20939/07)*

JUDGMENT

STRASBOURG

28 May 2009

**FINAL**

**06/11/2009**

*This judgment may be subject to editorial revision.*

**In the case of** Senchenko and Others and 35 other “Yakut pensioners” cases v. Russia,

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

Christos Rozakis, *President*,

Nina Vajić,

Anatoly Kovler,

Khanlar Hajiyeu,

Dean Spielmann,

Sverre Erik Jebens,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 7 May 2009,

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

## PROCEDURE

1. The case originated in 36 applications 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 90 Russian nationals whose names and dates of birth are tabulated in the Annex (“the applicants”). The applications’ dates of introduction are also tabulated in the Annex.

On 4 September 2007 one of the applicants, Ms Skripka Nadezhda Yegorovna, died, and her daughter, Ms Skripka Oksana Vasiliyevna, adopted her application. On an unspecified date another applicant, Mr Maznitsa Dmitriy Anatolyevich, died, but no heir showed interest in pursuing his application.

2. The applicants were represented by Mr I. Novikov, a lawyer practising in Novosibirsk. The Russian Government (“the Government”) were represented by Mrs V. Milinchuk, former Representative of the Russian Federation at the European Court of Human Rights.

3. The President of the First Section decided to communicate the applications to the Government. It was also decided to examine the merits of the applications at the same time as their admissibility (Article 29 § 3) and to join the applications (Rule 42 of the Rules of Court).

## THE FACTS

4. The applicants are pensioners. They sued a pension authority for miscalculating their pensions. The Neryungri Town Court of Yakutia held

for the applicants. The Supreme Court of Yakutia upheld those judgments on appeal and they became binding. Later, on the pension authority's request, the Presidium of the Supreme Court of Yakutia quashed the judgments on supervisory review because it considered that the courts below had misinterpreted material law. The dates of the court decisions are tabulated in the Annex.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1

5. The applicants complained under Articles 6 and 13 of the Convention, and Article 1 of Protocol No. 1 about the quashing of their judgments. The Court considers it appropriate to examine this complaint under Article 6 of the Convention and Article 1 of Protocol No. 1 only. Insofar as relevant, these Articles read as follows:

#### **Article 6 § 1**

“In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing ... by [a] ... tribunal...”

#### **Article 1 of Protocol No. 1**

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

#### **A. Admissibility**

6. The Government argued that the applications were inadmissible.

The proceedings in question had been outside the sphere of Article 6 because they had concerned pension laws of a general application.

Supervisory review had been a legitimate feature of Russia's legal system. The judgments had had to be quashed because they had been based on a misapplication of law and hence had contained a fundamental defect.

The supervisory review had aimed to ensure a uniform application of pension laws and hence promoted legal certainty. The domestic procedure for supervisory review had been respected. The supervisory review had been set in motion by a party to the proceedings and had happened shortly after the judgments had become binding.

Annulment of binding judgments had been legitimate in a democratic society and known, for example, to such countries as Germany, Austria, and Switzerland. Besides, the Committee of Ministers of the Council of Europe had found that Russia's supervisory-review procedure had improved.

In the cases at hand, the supervisory review had not breached Article 1 of Protocol No. 1 because the authorities left to the applicants the sums paid before the quashing. Besides, since the Presidium had in the end found that the applicants' claims had been unfounded, they had not had a “possession” within the meaning of Article 1 of Protocol No. 1.

7. The applicants insisted that their applications were admissible.

The judgments had been correct. The Presidium's disagreement with the lower courts' reading of the law had not justified the quashing. Even though the State had left to the applicants the sums paid before the quashing, these sums had still been lower than they should have been under the judgments.

8. The Court notes, first, that Mr Maznitsa has died and that no heir has shown interest in pursuing his part of application no. 6727/07. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of that application. In view of the above, it is appropriate to strike Mr Maznitsa's part of application no. 6727/07 out of the list.

9. As to the other applicants, the Court finds that their disputes concerned their individual pensions and hence fell within the ambit of Article 6 of the Convention and Article 1 of Protocol No. 1 (see *Magomedov v. Russia*, no. 20111/03, § 16, 4 December 2008).

10. The Court notes that the applications are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

## **B. Merits**

11. The Court has earlier found violations of Article 6 § 1 and Article 1 of Protocol No. 1 where, like in the present cases, supervisory review was used to quash a binding judgment on the ground of an alleged misinterpretation of material law (see, for example, *Kot v. Russia*, no. 20887/03, § 29, 18 January 2007). There is no reason to depart from that finding in the present case.

12. There has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. 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.”

14. The applicants set out claims for just satisfaction in their initial application forms, but failed to resubmit these claims at the appropriate stage of the proceedings, i.e. after notice of the applications had been given to the Government.

15. Nevertheless, the Court considers it reasonable in the circumstances of the present applications to grant the applicants just satisfaction *ad hoc* (see *Levochkina v. Russia*, no. 944/02, §§ 53–55, 5 July 2007). Making its assessment on an equitable and reasonable basis, the Court awards each applicant 2,000 euros in respect of pecuniary damage, non-pecuniary damage, and costs and expenses.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to join the applications;
2. *Decides* to strike out of its list of cases Mr Maznitsa’s part of application no. 6727/07;
3. *Declares* the other applications admissible;
4. *Holds* that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1;
5. *Holds*
  - (a) that the respondent State is to pay each applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,000 (two thousand euros), plus any tax that may be chargeable, in respect of pecuniary damage, non-pecuniary damage, and costs and expenses, to be converted into Russian roubles at the rate applicable at the date of settlement;

(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 28 May 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen  
Registrar

Christos Rozakis  
President

**ANNEX**

| <b>Appl. no.</b> | <b>Introduced on</b> | <b>Name of Applicant</b>         | <b>Born</b> | <b>Judgment of</b> | <b>Binding on</b> | <b>Quashed on</b> |
|------------------|----------------------|----------------------------------|-------------|--------------------|-------------------|-------------------|
| 32865/06         | 17/06/06             | Senchenko Naylya Rukhkhulovna    | 19<br>40    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Dmitriyeva Alevtina Ivanovna     | 19<br>52    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Dmitriyeva Margarita Petrovna    | 19<br>39    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Levitskiy Nikolay Savelyevich    | 19<br>34    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Levitskaya Natalya Aleksandrovna | 19<br>36    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Lebedeva Vera Yevdokimovna       | 19<br>49    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Makusheva Svetlana Aleksandrovna | 19<br>35    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Moskaleva Galina Yegorovna       | 19<br>50    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Moskalev Nikolay Vasilyevich     | 19<br>46    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Plakhotnichenko Pavel Igorevich  | 19<br>46    | 01/04/04           | 12/05/04          | 09/02/06          |
|                  |                      | Spiridonova Taisiya Vasilyevna   | 19<br>49    | 01/04/04           | 12/05/04          | 09/02/06          |
| 3137/07          | 29/11/06             | Zhmurin Yuriy Viktorovich        | 19<br>48    | 03/05/04           | 28/03/05          | 27/07/06          |
|                  |                      | Karbovskaya Galina Ivanovna      | 19<br>50    | 03/05/04           | 28/03/05          | 27/07/06          |
| 3158/07          | 01/12/06             | Chumakova Anna Dmitriyevna       | 19<br>44    | 05/10/04           | 21/03/05          | 24/08/06          |
| 5650/07          | 15/11/06             | Sagaydakova Lyudmila Vasilyevna  | 19<br>40    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Demakova Natalya Vladislavovna   | 19<br>51    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Kozlova Lyudmila Alekseyevna     | 19<br>40    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Korshikova Vera Pavlovna         | 19<br>34    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Khvorova Lyubov Alekseyevna      | 19<br>49    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Muzyreva Nina Vasilyevna         | 19<br>49    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Myzyrev Yuriy Pavlovich          | 19<br>43    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Ilchuk Valeriy Georgiyevich      | 19<br>50    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Kazarenko Vladimir Savelyevich   | 19<br>30    | 05/10/04           | 21/03/05          | 24/08/06          |
|                  |                      | Labzin Nikolay Ivanovich         | 19<br>45    | 05/10/04           | 21/03/05          | 24/08/06          |

| Appl. no. | Introduced on | Name of Applicant                | Born     | Judgment of | Binding on | Quashed on |
|-----------|---------------|----------------------------------|----------|-------------|------------|------------|
| 5654/07   | 17/11/06      | Ostrova Lyudmila Petrovna        | 19<br>52 | 30/11/04    | 21/03/05   | 27/07/06   |
| 5657/07   | 29/12/06      | Matveyeva Lidiya Ivanovna        | 19<br>48 | 21/04/05    | 06/06/05   | 12/10/06   |
|           |               | Loseva Tamara Moiseyevna         | 19<br>54 | 21/04/05    | 06/06/05   | 12/10/06   |
|           |               | Solovyova Galina Stepanovna      | 19<br>46 | 21/04/05    | 06/06/05   | 12/10/06   |
| 5663/07   | 17/11/06      | Loginova Tamara Ivanovna         | 19<br>41 | 28/09/04    | 21/03/05   | 24/08/06   |
| 6727/07   | 01/10/06      | Vasilyeva Nina Leonidovna        | 19<br>45 | 17/03/05    | 18/04/05   | 27/07/06   |
|           |               | Doruda Yevgeniy Nikiforovich     | 19<br>45 | 17/03/05    | 18/04/05   | 27/07/06   |
|           |               | Lefterova Lyudmila Aleksandrovna | 19<br>54 | 17/03/05    | 18/04/05   | 27/07/06   |
|           |               | Maznitsa Dmitriy Anatolyevich    | 19<br>71 | 17/03/05    | 18/04/05   | 27/07/06   |
|           |               | Podozyorov Vladimir Mikhaylovich | 19<br>49 | 17/03/05    | 18/04/05   | 27/07/06   |
|           |               | Fyodorova Mariya Lukinichna      | 19<br>54 | 17/03/05    | 18/04/05   | 27/07/06   |
| 6822/07   | 29/12/06      | Vinnik Grigoriy Yakovlevich      | 19<br>49 | 23/03/05    | 04/05/05   | 24/08/06   |
| 6828/07   | 29/12/06      | Sharshavina Lyubov Demyanovna    | 19<br>54 | 17/03/05    | 18/04/05   | 24/08/06   |
| 6846/07   | 22/12/06      | Pyankov Viktor Arkadyevich       | 19<br>50 | 28/06/05    | 01/08/05   | 16/11/06   |
|           |               | Pyankova Mariya Mikhaylovna      | 19<br>50 | 28/06/05    | 01/08/05   | 16/11/06   |
| 8553/07   | 12/01/07      | Krupa Tamara Ivanovna            | 19<br>47 | 04/03/05    | 18/04/05   | 24/08/06   |
| 8560/07   | 16/01/07      | Lebid Roman Petrovich            | 19<br>63 | 18/11/04    | 21/03/05   | 27/07/06   |
| 11576/07  | 11/12/06      | Burlakova Tatyana Andreyevna     | 19<br>57 | 22/11/04    | 21/03/05   | 13/07/06   |
|           |               | Vintovkina Nadezhda Alekseyevna  | 19<br>54 | 22/11/04    | 21/03/05   | 13/07/06   |
| 11578/07  | 08/11/06      | Torlova Tatyana Nikitichna       | 19<br>53 | 05/10/04    | 23/03/05   | 27/07/06   |
| 11582/07  | 09/11/06      | Avdeyeva Valentina Stepanovna    | 19<br>48 | 27/09/04    | 21/03/05   | 27/07/06   |
|           |               | Ovechkin Grigoriy Pavlovich      | 19<br>49 | 27/09/04    | 21/03/05   | 27/07/06   |
| 11583/07  | 11/12/06      | Bystrov Aleksandr Mikhaylovich   | 19<br>53 | 16/08/04    | 21/03/05   | 27/07/06   |
| 11584/07  | 11/12/06      | Belyayev Viktor Fyodorovich      | 19<br>39 | 17/03/05    | 18/04/05   | 27/07/06   |
| 11585/07  | 07/11/06      | Shipitsyna Lyudmila Georgiyevna  | 19<br>49 | 30/11/04    | 23/03/05   | 24/08/06   |



| Appl. no. | Introduced on | Name of Applicant                  | Born     | Judgment of | Binding on | Quashed on |
|-----------|---------------|------------------------------------|----------|-------------|------------|------------|
| 12966/07  | 02/01/07      | Ananyeva Tamara Nikolayevna        | 19<br>50 | 31/03/05    | 08/06/05   | 27/07/06   |
| 13830/07  | 15/02/07      | Samikova Lyudmila Alekseyevna      | 19<br>54 | 30/03/05    | 06/06/05   | 16/11/06   |
|           |               | Yesipenko Nikolay Stepanovich      | 19<br>47 | 30/03/05    | 06/06/05   | 16/11/06   |
| 13831/07  | 11/02/07      | Gredasova Lyubov Vasilyevna        | 19<br>51 | 07/04/05    | 06/06/05   | 16/11/06   |
| 13833/07  | 15/02/07      | Kim Lev Borisovich                 | 19<br>49 | 09/03/05    | 11/04/05   | 24/08/06   |
| 13835/07  | 15/02/07      | Kostovarov Aleksandr Mikhaylovich  | 19<br>52 | 23/03/05    | 23/05/05   | 16/11/06   |
| 19001/07  | 21/03/07      | Varnakova Larisa Aleksandrovna     | 19<br>52 | 21/04/05    | 29/06/05   | 19/10/06   |
|           |               | Morozova Nadezhda Alekseyevna      | 19<br>48 | 21/04/05    | 29/06/05   | 19/10/06   |
|           |               | Skripka Nadezhda Yegorovna         | 19<br>47 | 21/04/05    | 29/06/05   | 19/10/06   |
|           |               | Fritz Galina Fyodorovna            | 19<br>35 | 21/04/05    | 29/06/05   | 19/10/06   |
| 19003/07  | 16/02/07      | Derevyannykh Valentina Mikhaylovna | 19<br>56 | 28/06/05    | 01/08/05   | 30/11/06   |
|           |               | Davletov Talgat Shakirovich        | 19<br>50 | 28/06/05    | 01/08/05   | 30/11/06   |
|           |               | Oleynikova Vera Georgiyevna        | 19<br>55 | 28/06/05    | 01/08/05   | 30/11/06   |
|           |               | Ryazanova Svetlana Ivanovna        | 19<br>62 | 28/06/05    | 01/08/05   | 30/11/06   |
|           |               | Pavlik Pyotr Nikitovich            | 19<br>49 | 28/06/05    | 01/08/05   | 30/11/06   |
| 19736/07  | 07/03/07      | Fedko Vladimir Mikhaylovich        | 19<br>50 | 10/06/05    | 06/07/05   | 12/10/06   |
| 19738/07  | 01/03/07      | Shumikhina Lyudmila Mikhaylovna    | 19<br>46 | 07/04/05    | 06/06/05   | 12/10/06   |
| 19740/07  | 01/03/07      | Gaponova Olga Aleksandrovna        | 19<br>54 | 07/04/05    | 06/06/05   | 12/10/06   |
|           |               | Drozhdzhina Galina Alekseyevna     | 19<br>48 | 07/04/05    | 06/06/05   | 12/10/06   |
| 19741/07  | 01/03/07      | Aleksandrov Nikolay Mikhaylovich   | 19<br>54 | 27/06/05    | 27/07/05   | 12/10/06   |
| 19744/07  | 23/02/07      | Veretelnik Anatoliy Mikhaylovich   | 19<br>47 | 21/03/05    | 23/05/05   | 12/10/06`  |
| 19746/07  | 27/02/07      | Godunova Natalya Ivanovna          | 19<br>54 | 08/04/05    | 08/06/05   | 16/11/06   |
|           |               | Zolotukhina Tatyana Prokopyevna    | 19<br>54 | 08/04/05    | 08/06/05   | 16/11/06   |
|           |               | Samoylova Lyubov Davydovna         | 19<br>54 | 08/04/05    | 08/06/05   | 16/11/06   |
| 19749/07  | 23/02/07      | Koreneva Lyudmila Georgiyevna      | 19<br>55 | 29/04/05    | 20/06/05   | 09/11/06   |

| Appl. no. | Introduced on | Name of Applicant                       | Born     | Judgment of | Binding on | Quashed on |
|-----------|---------------|-----------------------------------------|----------|-------------|------------|------------|
|           |               | Skipelyova Valentina Mikhaylovna        | 19<br>54 | 29/04/05    | 20/06/05   | 09/11/06   |
|           |               | Stolova Tamara Vladimirovna             | 19<br>54 | 29/04/05    | 20/06/05   | 09/11/06   |
| 19752/07  | 07/03/07      | Stepanova Tatyana Ivanovna              | 19<br>51 | 04/04/05    | 08/06/05   | 16/11/06   |
|           |               | Sinityna Anna Ivanovna                  | 19<br>51 | 04/04/05    | 08/06/05   | 16/11/06   |
| 20343/07  | 16/02/07      | Andrianova Yelena Fyodorovna            | 19<br>54 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Dorokhov Gennadiy Petrovich             | 19<br>50 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Davletova Firuza Shaykhenurovna         | 19<br>55 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Kotova Olga Igorevna                    | 19<br>57 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Parshin Sergey Aleksandrovich           | 19<br>56 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Shcherbakov Aleksandr<br>Aleksandrovich | 19<br>49 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Shcherbakova Tatyana Innokentyevna      | 19<br>54 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Kravchenko Yekaterina Filippovna        | 19<br>31 | 11/05/05    | 15/06/05   | 16/11/06   |
|           |               | Pigolkina Tatyana Pavlovna              | 19<br>54 | 11/05/05    | 15/06/05   | 16/11/06   |
| 20939/07  | 10/04/07      | Plakhotnik Mariya Yevstafyevna          | 19<br>38 | 26/09/05    | 31/10/05   | 16/11/06   |
|           |               | Kolesnikova Yelena Dmitriyevna          | 19<br>43 | 26/09/05    | 31/10/05   | 16/11/06   |
|           |               | Sergeyeva Lyudmila Mikhaylovna          | 19<br>45 | 26/09/05    | 31/10/05   | 16/11/06   |