



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

1959 · 50 · 2009

FIRST SECTION

**CASE OF GONCHAROVA AND OTHERS
and 68 other “Privileged pensioners” cases v. RUSSIA**

(Applications nos. 23113/08, 23123/08, 23130/08, 23137/08, 23143/08, 23146/08, 23149/08, 23157/08, 33921/08, 35054/08, 35068/08, 35073/08, 35130/08, 35189/08, 35194/08, 35197/08, 35222/08, 35234/08, 35244/08, 35249/08, 35255/08, 35257/08, 37978/08, 38012/08, 38130/08, 38147/08, 38152/08, 41789/08, 41791/08, 41792/08, 41793/08, 41797/08, 41801/08, 41811/08, 41812/08, 41813/08, 41816/08, 41818/08, 41831/08, 41878/08, 41882/08, 41885/08, 41887/08, 41889/08, 41892/08, 41894/08, 41898/08, 41908/08, 41909/08, 41915/08, 41918/08, 41980/08, 41983/08, 41987/08, 41989/08, 41994/08, 41998/08, 42008/08, 42010/08, 42013/08, 42015/08, 42016/08, 42018/08, 42020/08, 42021/08, 42022/08, 42023/08, 42024/08 and 42025/08)

JUDGMENT

*This version was rectified on 10 March 2010
under Rule 81 of the Rules of Court*
STRASBOURG

15 October 2009

FINAL

15/01/2010

This judgment may be subject to editorial revision.

In the case of Goncharova and Others and 68 other “Privileged 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,

Elisabeth Steiner,

Khanlar Hajiyeu,

Giorgio Malinverni,

George Nicolaou, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having deliberated in private on 24 September 2009,

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

PROCEDURE

1. The case originated in 69 applications (nos. 23113/08, 23123/08, 23130/08, 23137/08, 23143/08, 23146/08, 23149/08, 23157/08, 33921/08, 35054/08, 35068/08, 35073/08, 35130/08, 35189/08, 35194/08, 35197/08, 35222/08, 35234/08, 35244/08, 35249/08, 35255/08, 35257/08, 37978/08, 38012/08, 38130/08, 38147/08, 38152/08, 41789/08, 41791/08, 41792/08, 41793/08, 41797/08, 41801/08, 41811/08, 41812/08, 41813/08, 41816/08, 41818/08, 41831/08, 41878/08, 41882/08, 41885/08, 41887/08, 41889/08, 41892/08, 41894/08, 41898/08, 41908/08, 41909/08, 41915/08, 41918/08, 41980/08, 41983/08, 41987/08, 41989/08, 41994/08, 41998/08, 42008/08, 42010/08, 42013/08, 42015/08, 42016/08, 42018/08, 42020/08, 42021/08, 42022/08, 42023/08, 42024/08 and 42025/08) 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 109 Russian citizens whose names and dates of birth are tabulated in the Annex (“the applicants”). The applications’ dates of introduction are also tabulated in the Annex.

2. In the course of the proceedings applicants Vladimir Nikolayevich Yeremin and Igor Mikhaylovich Semyonov died, and their relatives adopted the applications.

3. The applicants were represented by Mr M. Antonov, Mr I. Fedotov, Mr V. Glukhov, Ms O. Gurova, Mr G. Migay, Mr. Y. Pakin, and Ms L. Yerokhina, consultants from the Moscow Region. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

4. In July–October 2008 the President of the First Section decided to give notice of 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). The Government objected to the joint examination of the admissibility and merits, but the Court rejected this objection.

THE FACTS¹

5. The applicants are pensioners who live in the Moscow Region. Before retirement they used to work in hazardous industry. They had a dispute with a pension authority about the scope of their privileged pensions and appealed to the Region’s district and town courts.

6. In March–November 2006 the courts held for the applicants and ordered the pension authority to recalculate the pensions. The courts based their finding on the Law on Labour Pensions. In May 2006–February 2007 these judgments became binding and were executed.

7. On the pension authority’s request, in October 2007–March 2008 the district and town courts quashed their judgments due to discovery of new circumstances. The courts found, in particular, that the judgments had ignored the interpretation of the Law on Labour Pensions given by the Supreme Court in December 2005 and March 2007.

8. The applicants’ cases were remitted for a rehearing and eventually dismissed.

THE LAW

I. JOINDER OF THE APPLICATIONS

9. In view of the similarity of the applications in terms of both fact and law, the Court finds it appropriate to join them.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1

10. The applicants complained under Article 6 of the Convention and Article 1 of Protocol No. 1 that the quashing of the binding judgments was unjustified. Insofar as relevant, these Articles read as follows:

1. Factual details concerning individual applications are given in the Annex.

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

11. The Government argued that the applications were inadmissible. The Supreme Court’s interpretations of the Law on Labour Pensions revealed fundamental errors in the district and town courts’ reasoning, and hence those judgments had had to be quashed. The quashing had been legitimate, lawful, and compliant with the principle of legal certainty. The quashing was aimed at a uniform and coherent functioning of the State pension scheme.

12. The applicants argued that their applications were admissible. The quashing had been unjustified because the district and town courts did take into account the interpretation of 2005, and because the interpretation of 2007 had been given after the judgments. In any event, a legislative interpretation of laws might come only from a lawmaker, not from a court. Besides, the pension authority had missed the statutory time-limit for the quashing, and the courts had extended that limit without good reason.

13. 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

14. The Court reiterates that for the sake of legal certainty implicitly required by Article 6, final judgments should generally be left intact. They may be disturbed only to correct fundamental defects (see *Ryabykh v. Russia*, no. 52854/99, §§ 51–52, ECHR 2003-IX). Quashing of judgments because of newly-discovered circumstances is not by itself incompatible

with this requirement, but the manner of its application may be (see *Pravednaya v. Russia*, no. 69529/01, §§ 27–34, 18 November 2004).

15. In the case at hand, the domestic courts justified the quashing with the Supreme Court’s two interpretations of the Law on Labour Pensions.

As to the interpretation of 2005, the Court considers that differing judicial interpretations of a law represent a ground for an ordinary appeal, rather than a discovery warranting a quashing of a binding judgment (see *Yerogova v. Russia*, no. 77478/01, § 34, 19 June 2008).

As to the interpretation of 2007, the Court reiterates that newly-discovered circumstances are circumstances that exist during the trial, remain hidden from the court, and become known after trial. Since the interpretation of 2007 was posterior to the Town Court’s judgments, it did not justify the quashing either (see *Yerogova*, cited above, § 33).

16. It follows that the quashing of the applicants’ judgments was unjustified, and that there has, accordingly, been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. 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.”

A. Damage, costs, and expenses

18. In respect of pecuniary damage, the applicants claimed sums ranging from 384 euros (EUR) to EUR 10,447. According to the applicants, these sums represented the difference between the pensions they had been receiving after the quashing and the pensions they would have received in their lifetime if there had been no quashing. The Government contested the applicants’ method of calculation as having no basis in domestic law. They stressed that before their quashing, the judgments had been duly enforced.

19. The Court rejects this claim in view of its speculative character (see *Tarnopolskaya and Others v. Russia*, nos. 11093/07, 14558/07, 19660/07, 30166/07, 46736/07, 52681/07, 52985/07, 10633/08, 10652/08, 12694/08, 15437/08, 16691/08, 19447/07, 19457/08, 20857/08, 20872/08, 22546/08, 25820/08, 25839/08 and 25845/08, § 51, 9 July 2009).

20. In respect of non-pecuniary damage, the applicants claimed sums ranging from EUR 2,000 to EUR 10,000. The Government contested this claim as ill-founded.

21. In respect of costs and expenses incurred before the Court, the applicants claimed sums ranging from EUR 4 to EUR 1,640. The Government noted that any possible award should cover only proven expenses.

22. The Court reiterates that it is an international judicial authority contingent on the consent of the States signatory to the Convention, and that its principal task is to secure the respect for human rights, rather than compensate applicants' losses minutely and exhaustively. Unlike in national jurisdictions, the emphasis of the Court's activity is on passing public judgments that set human-rights standards across Europe.

23. For this reason, in cases involving many similarly situated victims a unified approach may be called for. This approach will ensure that the applicants remain aggregated and that no disparity in the level of the awards will have a divisive effect on the applicants.

24. In view of the above, making its assessment on equitable and reasonable bases, the Court awards each applicant EUR 2,000 in respect of non-pecuniary damage, and costs and expenses.

B. Default interest

25. 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. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1;
4. *Holds*
 - (a) that the respondent State is to pay each applicant or his or her estate, 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 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 amount at a rate

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equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicants’ claims for just satisfaction.

Done in English, and notified in writing on 15 October 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Christos Rozakis
President

A N N E X

Application no.	Introduced on	Name of Applicant	Born in	Judgment of	Binding on	Quashed on
23113/08	08/05/08	Goncharova Lyudmila Anatolyevna	1955	25/05/06	18/07/06	14/11/07
		Kazakova Galina Mikhaylovna	1953	25/05/06	18/07/06	14/11/07
		Larina Larisa Mikhaylovna	1956	25/05/06	18/07/06	14/11/07
		Ryazanova Galina Ivanovna	1952	25/05/06	18/07/06	14/11/07
		Sergeenko Galina Viktorovna	1947	25/05/06	18/07/06	14/11/07
		Eleyev Aleksandr Fyodorovich	1952	25/05/06	18/07/06	14/11/07
23123/08	08/05/08	Gavrichenko Tatyana Vasilyevna	1954	25/08/06	08/12/06	24/12/07
23130/08	07/05/08	Zhuravlev Konstantin Ivanovich	1935	28/07/06	01/09/06	12/11/07
		Zhuravleva Sofya Nikolayevna	1935	28/07/06	01/09/06	12/11/07
		Chuban Lyudmila Petrovna	1954	28/07/06	01/09/06	12/11/07
		Savina Olga Aleksandrovna	1955	28/07/06	01/09/06	12/11/07
23137/08	30/04/08	Zamystskaya Lyudmila Petrovna	1950	05/07/06	18/07/06	12/11/07
23143/08	08/05/08	Zemzyulina Kira Aleksandrovna	1952	16/07/06	26/06/06	12/11/07
23146/08	10/05/08	Lisovskaya Raisa Georgiyevna	1945	04/08/06	08/12/06	26/11/07
23149/08	08/05/08	Pevneva Vera Yegorovna	1946	25/08/06	08/12/06	23/01/08
23157/08	08/05/08	Sizova Yevdokiya Andreyevna	1957	07/08/06	22/09/06	04/12/07
33921/08	20/06/08	Yerokhina Lyudmila Aleksandrovna	1946	13/09/06	28/12/06	26/02/08
35054/08	16/05/08	Vorobyeva Tatyana Nikolayevna	1959	14/08/06	08/12/06	28/11/07
		Gendina Natalya Vasilyevna	1958	14/08/06	08/12/06	28/11/07
		Rukhova Antonina Yakovlevna	1953	14/08/06	08/12/06	28/11/07
		Stolyarova Tatyana Galyevna	1947	14/08/06	08/12/06	28/11/07
		Chuvatkina Valentina Nikolayevna	1927	14/08/06	08/12/06	28/11/07

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		Sherkunova Lidiya Ivanovna	1951	14/08/06	08/12/06	28/11/07
		Zharkina Alla Alekseyevna	1949	14/08/06	08/12/06	28/11/07
35068/08	17/05/08	Kuznetsova Galina Nikolayevna	1956	16/03/06	10/05/06	20/11/07
		Platonova Larisa Viktorovna	1951	16/03/06	10/05/06	20/11/07
35073/08	17/05/08	Lyubimkina Tatyana Terentyevna	1948	12/07/06	25/07/06	20/11/07
		Myasoyedova Lyudmila Sergeyevna	1950	12/07/06	25/07/06	20/11/07
		Trusova Zinaida Vasilyevna	1945	12/07/06	25/07/06	20/11/07
35130/08	17/05/08	Antipov Valeriy Pavlovich	1951	21/06/06	26/10/06	29/11/07
		Belyayeva Nina Mikhaylovna	1920	21/06/06	26/10/06	29/11/07
		Bodatkov Aleksey Vladimirovich	1947	21/06/06	26/10/06	29/11/07
		Yeremin Vladimir Nikolayevich	1952	21/06/06	26/10/06	29/11/07
		Zemzyulin Yuriy Dmitriyevich	1953	21/06/06	26/10/06	29/11/07
		Luchkina Marina Borisovna	1959	21/06/06	26/10/06	29/11/07
		Rusakova Galina Ivanovna	1955	21/06/06	26/10/06	29/11/07
		Sklokin Anatoliy Grigoryevich	1946	21/06/06	26/10/06	29/11/07
35189/08	17/05/08	Alshina Nadezhda Vasilyevna	1953	07/08/06	22/09/06	22/11/07
		Makeyeva Natalya Aleksandrovna	1952	07/08/06	22/09/06	22/11/07
35194/08	17/05/08	Avercheva Tatyana Yuryevna	1946	25/08/06	08/12/06	24/12/07
35197/08	17/05/08	Krasnikova Tatyana Nikolayevna	1949	05/06/06	04/08/06	20/11/07
		Nesterov Viktor Borisovich	1955	05/06/06	04/08/06	20/11/07
		Nesterova Irina Yevgenyevna	1954	05/06/06	04/08/06	20/11/07
		Savchenkova Galina Serafimovna	1937	05/06/06	04/08/06	20/11/07
		Vorobyeva Valentina Nikolayevna	1950	05/06/06	04/08/06	20/11/07
		Lezhenin Vyacheslav Ivanovich	1949	05/06/06	04/08/06	20/11/07
		Pyrkova Lyudmila Mikhaylovna	1956	05/06/06	04/08/06	20/11/07

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		Babarina Lyubov Ivanovna	1929	05/06/06	04/08/06	20/11/07
		Babarina Tatyana Viktorovna	1957	05/06/06	04/08/06	20/11/07
		Saprykin Anatoliy Nikolayevich	1950	05/06/06	04/08/06	20/11/07
		Chernushkina Nadezhda Konstantinovna	1952	05/06/06	04/08/06	20/11/07
35222/08	17/05/08	Smirnova Olga Lvovna	1956	30/05/06	20/07/06	21/11/07
		Golovan Vera Mikhaylovna	1958	30/05/06	20/07/06	21/11/07
		Igolnikova Natalya Kirillovna	1954	30/05/06	20/07/06	21/11/07
		Semenov Aleksandr Mikhaylovich	1942	30/05/06	20/07/06	21/11/07
		Semenova Lyubov Ivanovna	1959	30/05/06	20/07/06	21/11/07
		Semenov Igor Mikhaylovich	1923	30/05/06	20/07/06	21/11/07
35234/08	25/06/08	Zezegov Vladimir Alekseyevich	1936	20/11/06	02/02/07	04/03/08
35244/08	01/07/08	Subbotina Tamara Pavlovna	1944	16/08/06	08/12/06	24/01/08
35249/08	03/06/08	Kemenova Galina Ivanovna	1954	21/08/06	10/11/06	14/01/08
35255/08	05/04/08	Bykova Lyudmila Mikhaylovna	1942	31/05/06	04/08/06	23/10/07
35257/08	21/06/08	Sidorova Tatyana Nikolayevna	1955	12/10/06	21/12/06	21/02/08
37978/08	01/07/08	Medvedeva Kavsaria Khabriyevna	1929	28/09/06	21/12/06	05/02/08
38012/08	17/06/08	Lebedeva Nadezhda Trifonovna	1950	25/08/06	08/12/06	24/12/07
38130/08	08/07/08	Korobova Roza Aleksandrovna	1939	16/08/06	08/12/06	21/03/08
38147/08	03/07/08	Malyshkina Antonina Mikhaylovna	1932	28/09/06	21/12/06	05/02/08
38152/08	18/07/08	Trifonov Aleksey Alekseyevich	1951	29/09/06	02/02/07	20/02/08
41789/08	07/07/08	Pakin Yuriy Gennadiyevich	1945	28/09/06	06/12/06	24/01/08
41791/08	15/07/08	Smirnova Tatyana Dmitriyevna	1953	21/09/06	28/12/06	12/02/08
41792/08	01/07/08	Samsonova Nina Dmitriyevna	1934	04/09/06	28/12/06	11/01/08
41793/08	04/07/08	Ivashkin Nikolay Vasilyevich	1951	16/08/06	08/12/06	06/02/08

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41797/08	04/07/08	Ivashkina Tatyana Aleksandrovna	1947	16/08/06	08/12/06	18/01/08
41801/08	17/06/08	Yevdokimova Maria Andreyevna	1930	25/08/06	18/10/06	13/02/08
41811/08	11/07/08	Lavrenov Nikolay Yegorovich	1944	01/06/06	28/12/06	12/02/08
41812/08	03/06/08	Melnikova Aleksandra Fyodorovna	1938	31/07/06	26/10/06	24/12/07
41813/08	24/06/08	Makarova Faina Mikhaylovna	1935	11/10/06	21/12/06	13/03/08
41816/08	14/07/08	Tyrtova Vera Konstantinovna	1958	13/11/06	28/12/06	28/01/08
41818/08	09/07/08	Aleksandrov Yuriy Ivanovich	1945	15/11/06	02/02/07	27/03/08
41831/08	25/06/08	Vasyunin Viktor Nikolayevich	1950	08/09/06	28/12/06	22/02/08
41878/08	13/08/08	Khakimov Boris Aisovich	1929	16/11/06	02/02/07	25/03/08
41882/08	13/08/08	Ukolova Tatyana Alekseyevna	1933	16/10/06	21/12/06	17/03/08
41885/08	11/07/08	Malyshkin Vladimir Ivanovich	1954	28/09/06	21/12/06	11/03/08
41887/08	30/07/08	Pimenova Vera Viktorovna	1944	19/10/06	21/12/06	28/03/08
41889/08	02/08/08	Bernikova Zoya Prokhorovna	1925	13/11/06	26/01/07	28/03/08
41892/08	27/06/08	Khismatulin Munir Khalilovich	1941	21/09/06	28/12/06	12/02/08
41894/08	09/07/08	Sesin Pyotr Grigoryevich	1937	25/09/06	28/12/06	24/01/08
41898/08	11/07/08	Matyukhina Lyubov Pavlovna	1954	30/10/06	28/12/06	31/03/08
41908/08	29/07/08	Savina Alla Mikhaylovna	1932	28/09/06	21/12/06	05/02/08
41909/08	30/07/08	Savin Viktor Petrovich	1933	28/09/06	28/12/06	19/02/08
41915/08	08/08/08	Gerasimova Tatyana Zinovyevna	1947	05/10/06	08/12/06	14/02/08
41918/08	06/08/08	Gusarova Tatyana Ivanovna	1959	17/10/06	21/12/06	28/03/08
41980/08	02/07/08	Shatilova Maria Aleksandrovna	1952	06/10/06	28/12/06	28/02/08
41983/08	17/07/08	Kuznetsova Klavdia Dmitriyevna	1925	20/10/06	21/12/06	23/01/08
41987/08	23/07/08	Yegorshina Yevgeniya Ivanovna	1928	11/09/06	08/12/06	25/03/08
41989/08	16/07/08	Teselkina Anna Yakovlevna	1948	09/10/06	21/12/06	31/03/08

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Application no.	Introduced on	Name of Applicant	Born in	Judgment of	Binding on	Quashed on
41994/08	16/07/08	Teselkin Ivan Ivanovich	194 4	09/10/0 6	21/12/0 6	31/03/0 8
41998/08	31/07/08	Malgina Zoya Sergeyevna	195 2	17/10/0 6	21/12/0 6	31/03/0 8
42008/08	22/07/08	Popova Anna Antonovna	193 4	15/09/0 6	28/12/0 6	31/03/0 8
42010/08	24/07/08	Shmeleva Nina Pavlovna	192 7	17/11/0 6	28/12/0 6	31/03/0 8
42013/08	23/07/08	Spiridonova Rimma Khuzakhmitovna ¹	193 8	17/11/0 6	28/12/0 6	31/03/0 8
42015/08	05/08/08	Yermakov Vasiliy Sergeevich	193 1	28/09/0 6	21/12/0 6	21/02/0 8
42016/08	30/07/08	Susaykova Natalya Ivanovna	194 9	14/09/0 6	28/12/0 6	26/03/0 8
42018/08	09/08/08	Ivankova Natalya Mikhaylovna	195 1	29/09/0 6	28/12/0 6	28/02/0 8
42020/08	13/08/08	Fortova Pelageya Sergeyevna	194 0	30/10/0 6	21/12/0 6	25/03/0 8
42021/08	13/08/08	Yefimenko Zinaida Timofeyevna	194 2	15/10/0 6	28/12/0 6	26/03/0 8
42022/08	29/07/08	Protasova Irina Igorevna	195 2	14/09/0 6	28/12/0 6	26/03/0 8
42023/08	08/08/08	Morozova Valentina Vasilyevna	194 2	13/10/0 6	21/12/0 6	05/03/0 8
42024/08	29/07/08	Kazantseva Neolinna Ivanovna	194 0	30/10/0 6	21/12/0 6	26/03/0 8
42025/08	29/07/08	Bokov Yuriy Stepanovich	194 5	09/10/0 6	21/12/0 6	27/02/0 8

¹ Rectified on 10 March 2010: the text was “Spiridonova Rimma Khuzamkhitovna”.