



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

1959 · 50 · 2009

FIRST SECTION

**CASE OF KRAYNOVA AND KRAYNOV
and 9 other “Yakut pensioners” cases v. RUSSIA**
*(Applications nos. 7306/07, 8555/07, 11905/07, 11908/07, 11912/07,
14314/07, 14316/07, 14322/07, 14323/07 and 14326/07)*

JUDGMENT

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

STRASBOURG

17 December 2009

FINAL

17/03/2010

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Kraynova and Kraynov and 9 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,

Elisabeth Steiner,

Khanlar Hajiyev,

Dean Spielmann,

George Nicolaou, *judges*,

and Søren Nielsen, *Section Registrar*,

Having deliberated in private on 26 November 2009,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in ten applications (nos. 7306/07, 8555/07, 11905/07, 11908/07, 11912/07, 14314/07, 14316/07, 14322/07, 14323/07 and 14326/07) 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 24 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.

2. The applicants were represented by Mr I. Novikov, a lawyer practising in Novosibirsk. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, the 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).

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. JOINDER OF THE APPLICATIONS

5. As the applications are similar in terms of both fact and law, the Court decides to join them.

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

6. 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

7. The Government argued that the applications were inadmissible.

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.

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.

8. 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.

9. 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

10. The Court has earlier found a violation of Article 6 § 1 and Article 1 of Protocol No. 1 in similar circumstances (see *Senchenko and Others and 35 other “Yakut pensioners” cases v. Russia*, 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, 28 May 2009). There is no reason to depart from that finding in the present case.

11. 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

12. 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.”

13. 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.

14. Nevertheless, the Court considers it reasonable in the circumstances of the present applications to grant the applicants just satisfaction *ad hoc* (see, with further references, *Senchenko and Others and 35 other “Yakut pensioners” cases v. Russia*, cited above). 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. *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, 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 amount 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 17 December 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Christos Rozakis
President

ANNEX

Application no.	Introduced on	Applicant	Born in	Judgment of	Binding on	Quashed on
7306/07	27/01/07	Kraynova Lidiya Andreyevna	1954	16/03/05	18/04/05	24/08/06
		Kraynov Anatoliy Borisovich	1953	02/03/05	30/03/05	24/08/06
8555/07	12/01/07	Orlova Nina Nikolayevna	1954	26/03/05	06/06/05	16/10/06
		Sborshchikova Galina Adamovna	1954			
		Kudryavtsev Aleksandr Nikolayevich	1950			
11905/07	20/02/07	Abdrakhimov Ramil Shakirovich	1954	14/04/05	15/05/05	12/10/06
11908/07	22/02/07	Petukhova Lyudmila Ivanovna	1945	07/04/05	06/06/05	16/11/06
		Slobodyanyuk Galina Grigoryevna	1950			
11912/07	20/02/07	Melnik Mircha Alekseyevich	1945	07/04/05	06/06/05	12/10/06
14314/07	19/12/06	Boyko Galina Alekseyevna	1953	18/11/04	21/03/05	27/07/06
14316/07	15/12/06	Grachev Viktor Timofeyevich	1941	27/01/05	28/03/05	27/07/06
		Gracheva Nella Yuryevna	1937			
		Alekseyeva Yevgeniya Ivanovna	1946			
		An Yevgeniy Vladimirovich	1952			
		Vtorushina Olga Aleksandrovna	1949			
		Garmashova Nina Aleksandrovna	1961			
		Rubleva Lyudmila Alekseyevna ¹	1947			
		Orlova Tatyana Terentyevna	1949			
		Timoshenko Nina Vasilyevna	1936			
		Chekanova Natalya Nikolayevna	1962			
14322/07	15/12/06	Kandyba Nikolay Ignatyevich	1936	04/10/04	21/03/05	24/08/06
		Kandyba Galina Aleksandrovna	1947			
14323/07	21/12/06	Ilchenko Vladimir Viktorovich	1958	27/09/04	23/03/05	27/07/06
14326/07	21/12/06	Dauyeva Tatyana Alekseyevna	1954	08/04/05	06/06/05	24/08/06

¹ Rectified on 10 March 2010: the text was “Rubleva Nina Alekseyevna”.