



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

FIRST SECTION

DECISION

Application no. 30351/06
Lyudmila Aleksandrovna VLASOVA and others against Russia
and 32 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 18 September 2012 as a Committee composed of:

Peer Lorenzen, *President*,

Khanlar Hajiyeu,

Julia Laffranque, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above applications lodged on dates tabulated in the appendix below,

Having regard to the declaration submitted by the respondent Government on 22 September 2010 requesting the Court to strike the applications out of the list of cases and the applicants' replies to that declaration,

Having deliberated, decides as follows:

THE FACTS

The applicants are one hundred and one Russian nationals whose names and dates of birth are tabulated in the appendix below. Ms Myasina (case no. 2409/07) is not represented in the proceedings before the Court. The rest of the applicants are represented by Mr I.V. 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.

In the course of the proceedings, Ms Kuntseva (application no 5686/07) passed away. On 18 December 2011, a Chamber decided that Mr N.V. Kuntsev, who is the late applicant's son, had standing to continue the proceedings before the Court in his late mother's stead.

The facts of the cases, as submitted by the parties, may be summarised as follows.

All the applicants are pensioners. They successfully sued the pension authorities for miscalculating their pensions. Subsequently, on the authorities' initiative, the Presidium of the Supreme Court of Yakutiya quashed the final judgments by way of supervisory review to the applicants' detriment on the ground of misinterpretation of the material law.

COMPLAINTS

The applicants complained under Article 6 and Article 1 of Protocol No. 1 about quashing of judgments in their favour by way of supervisory review.

THE LAW

The applicants complained about quashing of final and enforceable judgments in their favour by way of supervisory review. They relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 which, in so far as relevant, provide as follows:

Article 6 § 1 of the Convention

"In the determination of his [or her] civil rights and obligations [...], everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law [...]"

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."

By letter dated 22 September 2010 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the applications in all cases except for three applicants in application no. 11884/07, namely Ms N.A. Dyachenko, Mr M.N. Dyachenko and Ms L.S. Sukhova. They further requested the

Court to strike out the applications in accordance with Article 37 of the Convention.

In that declaration, the Government acknowledged the violation of the applicants' rights under the Convention on account of the quashing of the binding judgments on the ground of misinterpretation of substantial law by way of supervisory review. The Government mentioned that the judgments in the applicants' favour had been fully complied with prior to their quashing by way of supervisory review. The Government undertook to pay each applicant concerned 1,400 euros (EUR) as compensation for damage resulting from the violations mentioned above.

The reminder of their declaration reads as follows:

"The sum referred to above, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This payment will constitute the final resolution of the case."

In a letter of 2 December 2010, the applicants represented by Mr Novikov disagreed with the Government's suggestion to strike their cases out, insisting on examination of their complaints. They seem to complain about the unlawful termination of payment of pensions at a rate fixed by the judgments in their favour. They pointed out that arrears on payment amounted to around 80,000 Russian roubles with regard to each applicant, without submitting any documents in support of this sum. In addition, they contested the amounts proposed by the Government for non-pecuniary damage. In a letter of 13 November 2010, Ms Myasina indicated that the Government still had judgment debt, without submitting any documents in support of this allegation.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

"for any other reason established by the Court, it is no longer justified to continue the examination of the application".

It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (see, *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03, 18 September 2007).

Turning to the Government's unilateral declarations, the Court observes that the judgments providing the applicants with an enforceable claim were quashed by way of supervisory review. The Court is satisfied that the quashing of binding and enforceable judgments in the applicants' favour is explicitly acknowledged by the Government as violating the Convention.

As regards the pecuniary damage sustained by the applicants, the Court notes that according to the Government, the judgments in the applicants' favour were fully executed prior to their quashing. The Government provided documents supporting those payments. As far as the applicants' replies to the declaration can be understood as contesting the fact of those payments, the Court cannot accept this argument as they did not provide any documentary evidence. Thus it admits that the judgments in the applicants' favour were fully enforced by the Russian authorities until the moment of their quashing.

The Court recalls that after the final judgments were quashed they ceased to exist under domestic law; it cannot restore the power of these judgments nor assume the role of the national authorities in awarding social benefits for the future (see, among other authorities, *Tarnopolskaya and Others v. Russia*, nos. 11093/07 et al., § 51, 7 July 2009). Consequently, no pecuniary awards for the periods after the quashing could be legitimately claimed by the applicants before the Court.

As far as compensation for the non-pecuniary damage is concerned, the Court notes that the relevant sums offered by the Government are comparable with Court's awards in similar cases (see *Ryabov and 151 other "Privileged pensioners" cases v. Russia*, nos. 4563/07 et al., § 23, 17 December 2009, and *Streltsov and other "Novocherkassk military pensioners" cases v. Russia*, nos. 8549/06 et al., § 96, 29 July 2010).

Having regard to the nature of the admissions contained in the Government's declarations, as well as the amounts of compensation proposed – which are consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the applications (Article 37 § 1(c)).

In light of the above considerations, and given also the clear and extensive case-law on the topic (see, for example, *Kulkov and Others v. Russia*, nos. 25114/03 et al., 8 January 2009, and *Pugach and Others v. Russia*, nos. 31799/08 et al., 4 November 2010), the Court is satisfied that respect for human rights as defined in the Convention and the Protocols

thereto does not require it to continue the examination of the applications (Article 37 § 1 *in fine*).

In view of the above, it is appropriate to strike the cases out of the list, except for the case of Ms N.A. Dyachenko, Mr M.N. Dyachenko and Ms L.S. Sukhova (application no. 11884/07).

As regards Ms N.A. Dyachenko, Mr M.N. Dyachenko and Ms L.S. Sukhova who are the applicants in application no. 11884/07, the Court notes that the judgments in their favour have been quashed on 27 July 2006 and the applicants lodged their application on 9 February 2007. Nothing in the applicants' submissions indicates that they were not immediately aware of the ruling. It follows that the part of application no. 11884/07 concerning these applicants is introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention (see *Sardin v. Russia* (dec.), no. 69582/01, ECHR 2004-II).

For these reasons, the Court unanimously

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 and of the modalities for ensuring compliance with the undertakings referred to therein with regard to all applicants except for Ms N.A. Dyachenko, Mr M.N. Dyachenko and Ms L.S. Sukhova (application no. 11884/07);

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention, except for application no. 11884/07 with regard to Ms N.A. Dyachenko, Mr M.N. Dyachenko and Ms L.S. Sukhova;

Decides to declare inadmissible application no. 11884/07 with regard to Ms N.A. Dyachenko, Mr M.N. Dyachenko and Ms L.S. Sukhova in accordance with Article 35 § 1 of the Convention.

André Wampach
Deputy Registrar

Peer Lorenzen
President

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
1.	30351/06	17/06/2006	<p>Lyudmila Aleksandrovna VLASOVA 05/11/1948 Neryungri</p> <p>Nadezhda Leonidovna MERZLYAKOVA 18/09/1950 Neryungri</p> <p>Nina Mikhaylovna BARNOVSKAYA 14/03/1949 Neryungri</p> <p>Valentina Borisovna MANZANOVA 05/11/1945 Neryungri</p> <p>Aida Ivanovna MERKULOVA 02/01/1930 Neryungri</p> <p>Yevgeniy Ivanovich AGARKOV 12/01/1946 Neryungri</p> <p>Aleksandr Pavlovich DOROZHKO 20/09/1950 Neryungri</p> <p>Valentina Andreyevna MILOVANOV 15/12/1944 Neryungri</p>	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
			Tatyana Pavlovna BROVTSYNA 23/07/1945 Neryungri	
2.	30353/06	17/06/2006	Ivan Pavlovich BOSIKOV 15/06/1946 Neryungri Valentina Vasilyevna RYABOVA 15/11/1945 Neryungri Ivan Sergeevich POCHATOVSKIY 04/07/1947 Neryungri Valentina Fedorovna POCHATOVSKAYA 15/06/1950 Neryungri Valentina Petrovna KUPTSOVA 03/09/1951 Neryungri Vera Fedorovna VISHNEVSKAYA 24/02/1948 Neryungri Lyudmila Viktorovna TSVETKOVA 01/04/1952 Neryungri	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
3.	33264/06	17/06/2006	<p>Lyubov Vasilyevna TANKOVID 16/07/1951 Neryungri</p> <p>Marina Petrovna PODLESNAYA 09/10/1952 Nerungri</p> <p>Aleksandr Panteleymonovich SHIRYAYEV 22/04/1947 Neryungri</p> <p>Zinaida Vadimovna SHIRYAYEVA 07/11/1946 Neryungri</p> <p>Lyubov Dubdanovna AYUROVA 05/12/1952 Neryungri</p> <p>Nikolay Vasilyevich ALEKSANDROV 03/01/1946 Neryungri</p> <p>Galina Yuryevna SEDIK 23/01/1950 Neryungri</p> <p>Anna Nikolayevna PODGORNAYA 30/03/1951 Neryungri</p>	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
4.	33269/06	17/06/2006	<p>Tatyana Kuzminichna AZYAZOVA 19/08/1951 Neryungri</p> <p>Aleksey Stepanovich BALYKIN 10/04/1949 Neryungri</p> <p>Valentina Semenovna BALYKINA 27/06/1945 Neryungri</p> <p>Yevgeniya Dymbrenovna ZODBOYEVA 07/08/1945 Neryungri</p> <p>Irina Viktorovna PETROVA 11/01/1939 Neryungri</p> <p>Sofiya Konstantinovna TOTSKAYA 01/08/1946 Neryungri</p> <p>Vladimir Vasilyevich TOTSKIY 02/03/1943 Neryungri</p> <p>Vitaliy Dmitriyevich CHUKURNA 12/01/1931 Neryungri</p>	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
			Valentina Fedorovna CHUKURNA 15/04/1940 Neryungri	
5.	47938/06	28/10/2006	Viktor Vasilyevich KRAYNEV 11/08/1939 Neryungri Vera Nikolayevna KRAYNEVA 15/04/1937 Neryungri	1,400 to each applicant
6.	47939/06	28/10/2006	Shamil Magafurovich ZAMALUTDINOV 21/07/1949 Neryungri Galina Vasilyevna KROKHMAL 17/08/1954 Neryungri Yekaterina Andreyevna BOKLAG 18/04/1957 Neryungri	1,400 to each applicant
7.	49256/06	15/11/2006	Vladimir Aleksandrovich KHAKHULIN 09/09/1948 Neryungri Galina Trofimovna VERBITSKAYA 12/03/1959 Neryungri	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
8.	2409/07	11/12/2006	Vera Aleksandrovna MYASINA 03/04/1955 Novosibirsk	1,400
9.	4590/07	11/12/2006	Gennadiy Petrovich GREDASOV 29/04/1949 Neryungri	1,400
10.	5077/07	28/10/2006	Aleksandr Aleksandrovich GOLOVACH 11/09/1954 Neryungri	1,400
11.	5391/07	22/10/2006	Fanziya Shakirovna GAZIMULLINA 14/05/1951 Neryungri	1,400
12.	5461/07	11/12/2006	Mikhail Ivanovich YEFIMOV 21/02/1955 Neryungri Viktoriya Nikolayevna VLASOVA 06/10/1954 Neryungri	1,400 to each applicant
13.	5463/07	01/12/2006	Vera Grigoryevna POLIKARPOVA 07/11/1957 Neryungri Valentina Mikhaylovna PESTEREVA 07/09/1953 Neryungri	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
			<p>Andrey Pavlovich PLASTOVETS 23/11/1948 Neryungri</p> <p>Lidiya Spiridonovna KOROLKOVA 01/08/1952 Neryungri</p> <p>Galina Vladimirovna MOSHINSKAYA 02/12/1954 Neryungri</p> <p>Nina Yefimovna SHMAKOVA 13/11/1954 Neryungri</p>	
14.	5646/07	11/12/2006	<p>Vladimir Pertovich PUTINTSEV 04/01/1946 Neryungri</p> <p>Olga Radionovna PELIPAS 17/10/1949 Neryungri</p> <p>Valentina Pavlovna BORISENKO 15/12/1939 Neryungri</p>	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
15.	5686/07	11/12/2006	Yelena Vasilyevna KUNTSEVA 12/10/1954 Neryungri	1,400 ¹
16.	7311/07	25/01/2007	Petr Ivanovich NESKOROMNYKH 11/06/1949 Neryungri	1,400
17.	7832/07	26/01/2007	Valentina Mikhaylovna KOMISSAROVA 18/11/1949 Neryungri Yelena Nikolayevna NIKOLAYEVA 09/01/1947 Neryungri	1,400 to each applicant
18.	7848/07	26/01/2007	Galina Mikhaylovna BELYAK 05/03/1954 Neryungri	1,400
19.	10135/07	08/02/2007	Anatoliy Vissarionovich ALEKSEYEV 28/11/1943 Neryungri Anatloy Ivanovich KOSHKAROVSKIY 10/07/1941 Neryungri Zinaida Ivanovna KULKOVA 10/04/1946	1,400 to each applicant

¹ This amount is to be paid to Mr Kuntsev Nikita Vitalyevich

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
			<p>Neryungri</p> <p>Lyudmila Pavlovna MOLODTSOVA 05/05/1953 Neryungri</p> <p>Anna Avtomonovna SELIVERSTOVA 17/12/1952 Neryungri</p> <p>Vasiliy Ivanovich SHCHEGOLSKIY 29/03/1955 Neryungri</p>	
20.	10137/07	11/02/2007	<p>Viktor Ostafiyevich SIDORENKO 06/02/1950 Neryungri</p>	1,400
21.	10138/07	09/02/2007	<p>Nina Vladimirovna MONAKHOVA 27/03/1960 Neryungri</p>	1,400
22.	11331/07	05/02/2007	<p>Lyubov Petrovna REZIKOVA 27/06/1954 Neryungri</p> <p>Galina Nikiforovna BATSA 27/01/1955 Neryungri</p>	1,400 to each applicant
23.	11884/07	09/02/2007	<p>Lyudmila Ivanovna ROMANYUK 05/01/1955 Neryungri</p>	1,400 to the first three applicants

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
			<p>Olga Bayevna ABILDINOVA 01/01/1952 Neryungri</p> <p>Lidiya Denisovna SALEYEVA 01/09/1948 Neryungri</p> <p>Nadezhda Arkadyevna DYACHENKO 25/03/1954 Neryungri</p> <p>Mikhail Nikolayevich DYACHENKO 06/11/1948 Neryungri</p> <p>Lidiya Sergeyevna SUKHOVA 13/01/1954 Neryungri</p>	
24.	11914/07	05/02/2007	<p>Valentina Sidorovna BORZENKOVA 24/12/1952 Neryungri</p> <p>Valentina Vasilyevna DUMBROVSKAYA 12/02/1946 Neryungri</p>	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
25.	11919/07	05/02/2007	Zoya Viktorovna ALESHKINA 15/03/1949 Neryungri Olga Gennadyevna BURAKOVA 15/07/1948 Neryungri Yuriy Grigoryevich BURAKOV 14/07/1944 Neryungri Zhanna Vitalyevna ZAKHAROVA 15/02/1967 Neryungri	1,400 to each applicant
26.	17137/07	21/03/2007	Nadezhda Viktorovna BODNAR 10/10/1953 Neryungri Nina Nikolayevna SHIBKA 27/11/1955 Neryungri	1,400 to each applicant
27.	17140/07	21/03/2007	Minzilya Miniakhmetovna KAMALOVA 09/08/1962 Neryungri Rafit Rashitovich KAMALOV 01/01/1958 Neryungri	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
28.	17145/07	21/03/2007	Tamara Ivanovna KORCHASHKINA 17/07/1949 Neryungri	1,400
29.	17644/07	15/03/2007	Aleksandr Mikhaylovich GUSEV 15/12/1954 Neryungri Yuriy Anatolyevich ROMANENKO 14/11/1954 Neryungri	1,400 to each applicant
30.	17645/07	15/03/2007	Valentina Petrovna YEROKHINA 24/03/1958 Neryungri	1,400
31.	27386/07	08/06/2007	Vladimir Anatolyevich BADULIN 21/02/1936 Nerungri Valentina Fedorovna BADULINA 30/10/1937 Neryungri	1,400 to each applicant
32.	3361/08	04/12/2007	Yuriy Borisovich ZHILYABIN 06/05/1941 Neryungri Yekaterina Pavlovna ZHILYABINA 17/11/1942 Neryungri	1,400 to each applicant

No.	Application No.	Lodged on	Applicant Date of birth Place of residence	Compensation offered (EUR)
			<p>Lyudmila Vasilyevna KLIMOVICH 13/03/1947 Neryungri</p> <p>Galina Stepanovna NEZHINA 28/12/1950 Neryungri</p> <p>Valentina Konstantinovna AKHMETOVA 19/09/1949 Neryungri</p> <p>Zoya Ivanovna BURDA 25/11/1935 Neryungri</p> <p>Raisa Nikitichna GANTIMUROVA 29/03/1940 Neryungri</p>	
33.	10611/08	28/12/2007	<p>Galina Nikolayevna PUNTUSOVA 03/10/1951 Neryungri</p> <p>Aleksandr Yakovlevich PUNTUSOV 03/11/1950 Neryungri</p>	1,400 to each applicant