



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

FIRST SECTION

DECISION

Application no. 45293/05
Valentin Mikhaylovich POPOV against Russia
and 12 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 28 May 2013 as a Committee composed of:

Elisabeth Steiner, *President*,
Mirjana Lazarova Trajkovska,
Ksenija Turković, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above applications,

Having regard to the decision to apply the pilot-judgment procedure taken in the case of *Burdov v. Russia* (no. 2) (no. 33509/04, ECHR 2009 (extracts)),

Having regard to the declarations submitted by the respondent Government on various dates requesting the Court to strike the applications out of the list of cases and the applicants' replies to these declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicants are all Russian nationals. Their details and those of their representatives appear in the appendix.

The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

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

The applicants are thirteen Russian nationals whose details are listed below. They have obtained court decisions awarding them monetary sums against the State, as detailed below. Those decisions in the applicants' favour became final and enforceable but the State either did not enforce them fully or in part or delayed their enforcement.

All applications were lodged with the Court before 15 January 2009, the date of the delivery of the pilot judgment (*Burdov v. Russia (no. 2)*, cited above).

1. Application no. 45293/05 was lodged with the Court on 16 November 2005 by Mr Valentin Mikhaylovich Popov, who was born on 25 April 1941 and lives in Uglegorsk, Sakhalin Region.

At the material time, the applicant worked as a teacher. In 2004, he was provided with a regular leave with the right of reimbursement of travel expenses to and from the place of destination. Following the employer's failure to reimburse the travel expenses, the applicant sued the Division of Education of the Administration of the Municipal Unit "Uglegorskiy District" for compensation of these expenses.

On 23 November 2004, the Uglegorsk Town Court of the Sakhalin Region granted the applicant's claim concerning the compensation of the travel expenses in full and awarded him 45,080 Russian roubles (RUB). The judgment became final on 3 December 2004 and was fully enforced on 25 June 2007.

2. Application no. 629/06 was lodged with the Court on 14 November 2005 by Mr Konstantin Davidovich Shkolnik, who was born on 20 June 1942 and lived in Moscow.

By the letter of 10 April 2012 the Government informed the Court that Mr Shkolnik had died. By the letter of 12 May 2012 Ms Shkolnik Galina Ivanovna, the widow of the applicant, stated her wish to pursue the application. On 3 July 2012 the Court decided that the applicant's widow had standing to continue the proceedings on behalf of her late husband.

The applicant was a former participant of the Chernobyl nuclear disaster relief operation. He brought several sets of proceedings against the Municipal Department of Social Protection of Population "Shchukino" of Moscow claiming adjustment of various social security allowances due to him, compensation arrears, late payment penalties and moral damages.

By judgments dated 19 May 2004, 17 January 2005, 3 June 2005 and 20 June 2005, which became final and enforceable, the Khoroshevkiy District Court of Moscow granted in part the claims concerning indexation of monthly social security allowances due to him. He was also awarded compensation arrears and late payment penalties of RUB 52,067.02.

By judgments dated 19 April 2006 and 27 October 2006 (additional letter dated 7 December 2006), which became final and enforceable, the

Khoroshevskiy District Court of Moscow granted in part the claims concerning adjustment of annual and monthly social security allowances due to him. He was also awarded RUB 6,693.99 in compensation arrears.

On 14 January 2008, the applicant received the amounts awarded to him.

3. Application no. 897/06 was lodged with the Court on 12 November 2005 by Ms Praskovya Tikhonovna Filina, who was born on 26 October 1939 and lives in Balashov, Saratov Region. She is represented by Ms Svetlana Igorevna Dobrovolskaya, a lawyer practising in Moscow.

By a judgment dated 6 February 1984 of the Balashov Town Court of the Saratov Region (as modified by decisions dated 24 April and 10 December 1984 of the Saratov Regional Court), the applicant was convicted of theft of state property, abuse of office and forgery in public office. On 12 December 1991, the Supreme Court of the RSFSR reversed these decisions and terminated the proceedings against the applicant. She sued the State for compensation of pecuniary damages for wrongful prosecution and conviction.

By two judgments rendered by the Balashov Town Court on 29 January 2002 and 23 December 2005 (as upheld by appeal decisions of the Saratov Regional Court dated 26 March 2002 and 15 March 2006, respectively), the applicant's claims were granted in part. She was awarded in total RUB 406,956.73. The judgement of 23 December 2005 was enforced on 16 September 2008.

4. Application no. 1329/06 was lodged with the Court on 2 February 2006 by Ms Lyudmila Viktorovna Osipova, who was born on 29 April 1961 and lives in Oktyabrskiy, Chelyabinsk Region.

The applicant sued the Town Administration of Kopeysk of the Chelyabinsk Region for payment of child allowances due to her two children for the period from January 1996 to December 1997. On 24 September 1998, the Kopeysk Town Court of the Chelyabinsk Region granted the applicant's claim and awarded her RUB 3,079.44. The judgment became final on 5 October 1998 and was fully enforced in 2006.

5. Application no. 2195/06 was lodged with the Court on 5 December 2005 by Mr Rustem Ramazanovich Khusnutdinov, who was born on 13 August 1982 and lives in Uchaly, Republic of Bashkortostan.

At the material time, the applicant served in the military. For the participation in the antiterrorist operations on the territory of the Chechen Republic from 21 October 2003 to 31 August 2004, he was entitled to receive remuneration and daily allowances, which the Russian authorities failed to pay. The applicant sued the State for the payment of these amounts.

By a judgment dated 3 December 2004, the Uchalinskiy District Court of the Republic of Bashkortostan granted the applicant's claim in full and awarded him RUB 238,696.72. The judgment became final and enforceable on 13 December 2004. It has not been enforced.

6. Application no. 10126/06 was lodged with the Court on 20 January 2006 by Ms Yelena Stepanovna Matyushina, who lives in Neryungri, Republic of Sakha (Yakutia).

The applicant sued the State for compensation of damages in connection with the non-execution of obligations under a special purpose deposit agreement for the acquisition of a car (commodity voucher). By a judgment of the Neryungrinskiy Town Court of the Republic of Sakha (Yakutia) dated 12 September 2002 (as modified by a supervisory decision of the Presidium of the Supreme Court of the Republic of Sakha (Yakutia) dated 25 November 2004), the applicant's claim was granted in part. She was awarded RUB 43,464 in damages. The judgment became final and enforceable on 25 November 2004. It has not been enforced.

7. Application no. 9528/08 was lodged with the Court on 19 May 2006 by Ms Antonina Ivanovna Shchurevich, who was born on 4 October 1934 and lives in Voronezh.

The applicant is a pensioner. She sued the Committee of Social Protection of Population of the Administration of Leninskiy District of Voronezh for indexation of a pension. On 25 September 2000, the Leninskiy District Court of Voronezh granted the applicant's claim and awarded her RUB 981.77. The judgment became final and enforceable on 5 October 2000. On 13 December 2005, the applicant received the amount awarded to her by the court.

8. Application no. 13456/08 was lodged with the Court on 3 February 2008 by Mr Dmitriy Vladimirovich Nazarenko, who was born on 12 June 1974 and lives in Moscow. He is represented by Ms Raisa Vasilyevna Stupakova, a lawyer practising in Krasnodar.

The applicant is a former military officer. He sued the North-Caucasus Military Institute of Internal Military Forces of the Ministry of Internal Affairs of the Russian Federation for compensation of military allowances due to him for the participation in military operations in the Republic of North Ossetia-Alania and Ingush Republic in 1997-2002.

On 10 June 2002, the Military Court of the Vladikavkaz Garrison granted the applicant's claim in full. On 23 July 2010, the Institute paid RUB 449,923.84 to the applicant.

9. Application no. 13802/08 was lodged with the Court on 3 February 2008 by Mr Kamil Abubakarovich Gadzhiyev, who was born on 16 August 1975 and lives in Achkhoy Martan, Chechen Republic. He is represented by Ms Raisa Vasilyevna Stupakova, a lawyer practising in Krasnodar.

The applicant is a former military officer. He sued the North-Caucasus Military Institute of Internal Military Forces of the Ministry of Internal Affairs of the Russian Federation for compensation of military allowances due to him for the participation in military operations in the Republic of North Ossetia-Alania in 1993-1998.

On 9 October 2001, the Military Court of the Rostov Garrison granted the applicant's claim. On 8 September 2010, the Institute paid RUB 172,500 to the applicant.

10. Application no. 18062/08 was lodged with the Court on 3 February 2008 by Mr Pavel Anatolyevich Koshel, who was born on 13 June 1976 and lives in Rostov. He is represented by Ms Raisa Vasilyevna Stupakova, a lawyer practising in Krasnodar.

The applicant is a former military officer. He sued the North-Caucasus Military Institute of Internal Military Forces of the Ministry of Internal Affairs of the Russian Federation for compensation of military allowances due to him for the participation in military operations in the Republic of North Ossetia-Alania in 1993-1998.

On 9 October 2001, the Military Court of the Rostov Garrison granted the applicant's claim. On 8 September 2010, the Institute paid RUB 196,022.90 to the applicant.

11. Application no. 18333/08 was lodged with the Court on 1 March 2008 by Mr Rishat Shagaleyevich Khametov, who was born on 1 March 1952 and lives in Chekmagush, Republic of Bashkortostan.

By the letter of 10 April 2012 the Government informed the Court that Mr Shkolnik had died. By the letter of 12 May 2012 Ms Khametova Rozaliya Gadlyanovna, the widow of the applicant, stated her wish to pursue the application. On 3 July 2012 the Court decided that the applicant's widow had standing to continue the proceedings on behalf of her late husband.

On 15 March 2004, the Chekmagushevskiy District Court of the Republic of Bashkortostan, in connection with the criminal proceedings pending against the applicant, temporarily dismissed the applicant from his office and granted him a monthly social allowance in the amount of five minimum wages. On 14 February 2006, the Chekmagushevskiy District Court of the Republic of Bashkortostan issued an execution order to the applicant for RUB 15,516.15 in monthly allowances due to the applicant for the period of his temporary dismissal from 15 March 2004 to 9 August 2004. The judgment has not been enforced.

12. Application no. 60854/08 was lodged with the Court on 23 October 2008 by Mr Vladimir Klavdiyevich Kuzmin, who was born on 27 April 1957 and lives in Syktyvkar, Komi Republic.

On 11 December 2003, the Golovinskiy District Court of Moscow convicted the applicant of smuggling and ordered to confiscate 18,435 euros (EUR) from the applicant. On 17 May 2007, in the course of supervisory review proceedings, the Presidium of the Moscow City Court quashed the judgment of the Golovinskiy District Court of Moscow dated 11 December 2003 and an appeal decision of the Moscow City Court dated 9 February 2004, whereby the applicant's conviction was reversed. The

Presidium of the Moscow City Court ordered to return EUR 18,435 to the applicant. The decision has not been executed.

13. Application no. 14617/09 was lodged with the Court on 18 October 2008 by Mr Asker Betalovich Maremkulov, who was born on 27 August 1978 and lives in Sarmakovo, the Republic of Kabardino-Balkaria. He is represented by Ms Raisa Vasilyevna Stupakova, a lawyer practising in Krasnodar.

The applicant is a former military officer. He sued the North-Caucasus Military Institute of Internal Military Forces of the Ministry of Internal Affairs of the Russian Federation for compensation of military allowances due to him for the participation in military operations in the Republic of North Ossetia-Alania and Ingush Republic in 1995-1998.

On 28 March 2005, the Military Court of the Vladikavkaz Garrison granted the applicant's claim in full. On 8 September 2010, the Institute paid RUB 265,910.91 to the applicant.

COMPLAINTS

1. The applicants complained under Article 6 of the Convention and Article 1 of Protocol No. 1 about the delayed enforcement of the judgments in their favour.

2. The applicants also made accessory complaints under assorted Articles of the Convention.

THE LAW

1. Given that the applications at hand concern similar facts and complaints and raise identical issues under the Convention, the Court decides to join them.

2. In line with the *Burdov* (no. 2) pilot judgment cited above, the Government informed the Court of the state of execution of the domestic court decisions in the applicants' favour and submitted unilateral declarations aimed at resolving the issues raised by the applications. By these declarations the Russian authorities acknowledged the lengthy enforcement of the judgments in the applicants' favour. They also declared that they were ready to pay the applicants the sums listed in the appendix in respect of non-pecuniary and, where appropriate, pecuniary damage. The remainder of the declarations read as follows:

“The authorities therefore invite the Court to strike [the applications] out of the list of cases. They suggest that the present declaration might be accepted by the Court as

“any other reason” justifying the striking out of the case of the Court’s list of cases, as referred to in Article 37 § 1 (c) of the Convention.

The [sums tabulated below], which [are] to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. [They] 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 [these sums] within the said three-month period, the Government undertake to pay simple interest on [them] 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 their comments to the above declarations some of the applicants appeared to insist that they were also entitled to compensation of pecuniary damage that they had sustained due to the inflation in the years that had passed since the delivery of the judgments in their favour. They also presented their own calculations of the amounts that were allegedly due to them in respect of non-pecuniary damage.

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.”

Article 37 § 1 *in fine* states:

“However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.”

The Court recalls that in its pilot judgment cited above it ordered the Russian Federation to:

“... grant [adequate and sufficient] redress, within one year from the date on which the judgment [became] final, to all victims of non-payment or unreasonably delayed payment by State authorities of a judgment debt in their favour who [had] lodged their applications with the Court before the delivery of the present judgment and whose applications [had been] communicated to the Government under Rule 54 § 2 (b) of the Rules of the Court.”

In the same judgment the Court also held that:

“... pending the adoption of the above measures, the Court [would] adjourn, for one year from the date on which the judgment [became] final, the proceedings in all cases concerning solely the non-enforcement and/or delayed enforcement of domestic judgments ordering monetary payments by the State authorities, without prejudice to the Court’s power at any moment to declare inadmissible any such case or to strike it out of its list following a friendly settlement between the parties or the resolution of the matter by other means in accordance with Articles 37 or 39 of the Convention.”

Having examined the terms of the Government's declarations, the Court understands them as intending to give the applicants redress in line with the pilot judgment (see *Burdov (no. 2)*, cited above, §§ 127 and 145 and point 7 of the operative part).

The Court is satisfied that the excessive length of the execution of judgments in the applicants' favour is explicitly acknowledged by the Government. The Court also notes that the domestic judgment debts were paid to the applicants in most of the cases and that the compensations offered by the Government for non-pecuniary damage are comparable with Court awards in similar cases, taking account, *inter alia*, of the specific delays in each particular case (see *Burdov (no. 2)*, cited above, §§ 99 and 154). In several cases where the domestic judgment debts remained unpaid up to date the Government's offers included a separate compensation in respect of pecuniary damage sustained by the applicants (see appendix).

As to the applicants' objections, the Court accepts that the applicants may also have sustained certain pecuniary damage as a result of late payment of the judgment debts by the State and the related inflation losses. However, it notes that it was open to them to claim index-linking of the original awards in the domestic courts, pursuant to Article 208 of the Russian Code of Civil Procedure.

Some of the applicants contested the fact of full enforcement of the domestic judgments in so far as they also awarded them various social benefits without indicating particular sums to be paid. The Court points out that this argument should also have been submitted to domestic courts which are best placed to ensure compliance with the domestic legal requirements regarding the payment of social benefits (see *Belkin and Others v. Russia*, no. 14330/07 et al., 5 February 2009).

In any event it is not for the Court to reassess the question of the applicants' entitlement to social benefits under domestic law (see *Larioshina v. Russia* (dec.), no. 56869/00, 23 April 2002).

The Court therefore considers that it is no longer justified to continue the examination of the applications, nor is it required by respect for human rights as defined in the Convention and the protocols thereto. Accordingly, the applications should be struck out of the list.

As regards the question of implementation of the Government's undertakings, the Committee of Ministers remains competent to supervise this matter in accordance with Article 46 of the Convention (see the Committee's decisions of 14-15 September 2009 (CM/Del/Dec(2009)1065) and Interim Resolution CM/ResDH(2009)158 concerning the implementation of the *Burdov (no. 2)* judgment). In any event the Court's present ruling is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the present applications to the list of cases (see *E.G. and Others v. Poland* (dec.), no. 50425/99, § 29, ECHR 2008 (extracts)).

3. As for the applicants' accessory complaints referring to assorted Articles of the Convention, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the applications is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the applications inadmissible.

André Wampach
Deputy Registrar

Elisabeth Steiner
President

APPENDIX

No.	Application number, date of lodging	Applicant, Date of birth, Place of residence	First instance judgment, of	Last instance decision, of	Enforcement status	Delay in enforcement	Unilateral remedial offer
1.	45293/05 16/11/2005	Valentin Mikhaylovich POPOV 25/04/1941 Ulegorsk	The Ulegorsk Town Court of the Sakhalin Region 23/11/2004	N/A	Enforced	2 years 6 months	EUR 800
2.	629/06 14/11/2005	Konstantin Davidovich SHKOLNIK 20/06/1942 Moscow - died. Galina Ivanovna SHKOLNIK – the applicant's legal successor	The Khoroshevskiy District Court of Moscow 1) 19/05/2004 2) 17/01/2005 3) 03/06/2005 4) 20/06/2005 5) 19/04/2006 6) 27/10/2006	N/A	Enforced	1) 1 year 6 months 2) 1 year 6 months 3) 1 year 5 months 4) 1 year 4 months 5) 6 months 6) 1 year	EUR 3,500
3.	897/06 12/11/2005	Praskovya Tikhonovna FILINA 26/10/1939 Balashov	The Balashov Town Court of the Saratov Region 1) 29/01/2002 2) 23/12/2005	The Saratov Regional Court 1) 26/03/2002 2) 15/03/2006	1) Not enforced 2) Enforced	1) Not enforced 2) 1 year 11 months	EUR 4,370 (non-pecuniary damage) RUB 329,149.43 (pecuniary damage)
4.	1329/06 02/02/2006	Lyudmila Viktorovna OSIPOVA 29/04/1961 Oktyabrskiy	The Kopeysk Town Court of the Chelyabinsk Region 24/09/1998	N/A	Enforced	8 years	EUR 4,000

No.	Application number, date of lodging	Applicant, Date of birth, Place of residence	First instance judgment, of	Last instance decision, of	Enforcement status	Delay in enforcement	Unilateral remedial offer
5.	2195/06 05/12/2005	Rustem Ramazanovich KHUSNUTDINOV 13/08/1982 Uchaly	The Uchalinskiy District Court of the Republic of Bashkortostan 03/12/2004	N/A	Not enforced	Not enforced	EUR 4,600 (non-pecuniary damage) RUB 238,696.72 (pecuniary damage)
6.	10126/06 20/01/2006	Yelena Stepanovna MATYUSHINA 13/03/1965 Neryungri	The Neryungri Town Court of the Republic of Sakha (Yakutia) 12/09/2002	The Presidium of the Supreme Court of the Republic of Sakha (Yakutia) 25/11/2004	Not enforced	Not enforced	EUR 2,500 (non-pecuniary damage) RUB 43,464 (pecuniary damage)
7.	9528/08 19/05/2006	Antonina Ivanovna SHCHUREVICH 04/10/1934 Voronezh	The Leninskiy District Court of Voronezh 25/09/2000	N/A	Enforced	5 years 2 months	EUR 2,900
8.	13456/08 03/02/2008	Dmitriy Vladimirovich NAZARENKO 12/06/1974 Moscow	The Military Court of the Vladikavkaz Garrison 10/06/2002	N/A	Enforced	8 years 1 months	EUR 5,100
9.	13802/08 03/02/2008	Kamil Abubakarovich GADZHIYEV 16/08/1975 Achkhoy Martan	The Military Court of the Rostov Garrison 09/10/2001	N/A	Enforced	8 years 10 months	EUR 5,600

No.	Application number, date of lodging	Applicant, Date of birth, Place of residence	First instance judgment, of	Last instance decision, of	Enforcement status	Delay in enforcement	Unilateral remedial offer
10.	18062/08 03/02/2008	Pavel Anatolyevich KOSHEL 13/06/1976 Rostov	The Military Court of the Rostov Garrison 09/10/2001	N/A	Enforced	8 years 10 months	EUR 5,600
11.	18333/08 01/03/2008	Rishat Shagaleyevich KHAMETOV 01/03/1952 Chekmagush - died. Rozaliya Gadlyanovna KHAMETOVA – the applicant's legal successor	The Chekmagushevskiy District Court of the Republic of Bashkortostan 15/03/2004	N/A	Not enforced	Not enforced	EUR 4,500 (non-pecuniary damage) RUB 15,516 (pecuniary damage)
12.	60854/08 23/10/2008	Vladimir Klavdiyevich KUZMIN 27/04/1957 Syktyvkar	The Presidium of the Moscow City Court 17/05/2007	N/A	Not enforced	Not enforced	EUR 1,700 (non-pecuniary damage) EUR 18,435 (pecuniary damage)
13.	14617/09 18/10/2008	Asker Betalovich MAREMKULOV 27/08/1978 Sarmakovo	The Military Court of the Vladikavkaz Garrison 28/03/2005	N/A	Enforced	5 years 5 months	EUR 3,400