



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

FIRST SECTION

DECISION

Application no. 4026/06
Dmitriy Vladimirovich VOLSKIY against Russia
and 6 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 10 December 2013 as a Committee composed of:

Khanlar Hajiyev, *President*,

Erik Møse,

Dmitry Dedov, *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),

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,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicants are all Russian nationals. Their details 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 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 delayed their enforcement.

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

1. Application no. 4026/06 was lodged with the Court on 15 November 2005 by Mr Dmitriy Vladimirovich Volskiy, who was born on 1 March 1972 and lives in Orel.

On 20 June 2005 the Zavodskoy District Court of Orel awarded the applicant 20,000 Russian Roubles (RUB) as compensation for non-pecuniary damage sustained as a result of unlawful prosecution. The judgment of 20 June 2005 became final on 12 October 2005 and was enforced on 16 February 2007.

2. Application no. 6405/06 was lodged with the Court on 21 December 2005 by Mr Ivan Yefimovich Grishchenko, who was born on 10 October 1940 and lives in Krasnodar.

On 28 April 2005 the Sovetskiy District Court of Krasnodar awarded the applicant RUB 30,060.31 for compensation of damage sustained as a result of unlawful conviction. On 26 July 2006 the same court granted the applicant's claims concerning indexation of amount due to him. He was awarded RUB 4,721.97. The decisions became final on 17 May 2005 and 8 August 2006, respectively.

On 14 June 2007 the applicant received the amounts awarded to him.

3. Application no. 9457/06 was lodged with the Court on 5 December 2005 by Ms Valentina Ivanovna Krotova, who was born on 3 July 1942 and lives in Voronezh. She is represented by Mr Andrey Anatolyevich Rashevskiy, a lawyer practising in Voronezh.

The applicant is a pensioner. She sued the Committee of Social Protection of Population of the Administration of the Sovetskiy District of Voronezh for indexation of a pension. On 20 November 2000, the Sovetskiy District Court of Voronezh granted the applicant's claim and awarded her RUB 498.98. The judgment became final and enforceable on 30 November 2000. On 22 December 2005, the applicant received the amount awarded to her by the court.

4. Application no. 14322/06 was lodged with the Court on 17 March 2006 by Ms Nina Ivanovna Tsyganova, who was born on 2 May 1940 and lives in Voronezh.

The applicant is a pensioner. She sued the Committee of Social Protection of Population of the Administration of Sovetskiy District of Voronezh for indexation of a pension. On 1 November 2000, the Sovetskiy District Court of Voronezh granted the applicant's claim and awarded her RUB 947.30. The judgment became final and enforceable on 12 November 2000. On 22 December 2005, the applicant received the amount awarded to her by the court.

5. Application no. 17279/06 was lodged with the Court on 10 March 2006 by Ms Lyudmila Georgiyevna Korneyeva, born on 21 July 1938,

Lidiya Nikolayevna Grigorenko, born on 30 November 1934, and Vladimir Dmitriyevich Grigorenko, born on 20 June 1930. They lived in Voronezh.

On 20 November 2006 Mr Grigorenko had died. By letter of 23 March 2007 Ms Lidiya Nikolayevna Grigorenko, the applicant's widow, expressed her wish to continue the proceedings before the Court instead of her late husband and on her own behalf.

The applicants are pensioners. They sued the Committee of Social Protection of Population of the Administration of Sovetskiy District of Voronezh for indexation of a pension. On different dates in December and November 2000, the Sovetskiy District Court of Voronezh granted the applicants' claims and awarded them RUB 1,057.01, RUB 1,112.49 and RUB 1,213.93, respectively. The decisions became final and enforceable on various dates in December 2000. On 20 February 2007, the first and second applicants received the amount awarded to them by the court. On 11 March 2010 the judgment in respect of the third applicant was fully enforced.

6. Application no. 17835/06 was lodged with the Court on 9 March 2006 by Mr Sergey Aleksandrovich Cheranov, who was born on 12 April 1958. He lives in Perm.

On 13 January 2004 and 7 June 2004 the Motovilikhinskiy District Court of Perm awarded the applicant RUB 950,969.04 in total for a compensation of pecuniary and non-pecuniary damage sustained as a result of unlawful conviction. The decisions became final on 30 March 2004 and 18 January 2005, respectively. They were fully enforced on 12 September 2006 and 1 November 2006.

7. Application no. 42449/06 was lodged with the Court on 17 September 2006 by Mr Andrey Aleksandrovich Shcherbakov, who was born on 26 September 1958 and lives in St Petersburg.

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 of St Petersburg claiming adjustment of various social security allowances due to him, compensation arrears, late payment penalties and moral damages.

By judgment dated 24 November 2005, which became final and enforceable on 3 March 2006, the Primorskiy District Court of St Petersburg 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 680,654.35. On 29 November 2007, the applicant received the amounts awarded to him.

The applications had been communicated to the Government.

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 that the domestic court decisions in the applicants' favour had been fully enforced 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 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.”

The applicants did not provide any comments on the unilateral declarations.

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 (point 7 of the operative part) 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 (point 8 of the operative part):

“... 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 all 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).

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 various 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 part of the applications concerning the applicants' complaint about the delayed enforcement of the judgments in their favour 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

Khanlar Hajiyev
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Delay in enforcement	Unilateral remedial offer (EUR)
1.	4026/06	15/11/2005	Dmitriy Vladimirovich VOLSKIY 01/03/1972 Orel Russian	1 year 4 months 4 days	850
2.	6405/06	21/12/2005	Ivan Yefimovich GRISHCHENKO 10/10/1940 Krasnodar Russian	2 years 27 days	1,300
3.	9457/06	05/12/2005	Valentina Ivanovna KROTOVA 03/07/1942 Voronezh Russian	5 years 22 days	2,800
4.	14322/06	17/03/2006	Nina Ivanovna TSYGANOVA 02/05/1940 Voronezh Russian	5 years 1 month 9 days	2,800
5.	17279/06	10/03/2006	Lyudmila Georgiyevna KORNEYEVA 21/07/1938 Voronezh Russian Lidiya Nikolayevna GRIGORENKO 30/11/1934 Voronezh Russian Vladimir Dmitriyevich GRIGORENKO 20/06/1930 Voronezh Russian	6 years 1 month 22 days 6 years 2 months 13 days 9 years 3 months 4 days	3,400 3,400 5,100
6.	17835/06	09/03/2006	Sergey Aleksandrovich CHERANEV 12/04/1958 Perm Russian	2 years 5 months and 12 days and 1 year 9 months 12 days	2,600
7.	42449/06	17/09/2006	Andrey Aleksandrovich SHCHERBAKOV 26/09/1958 St Petersburg Russian	1 year 8 months 25 days	1,099