

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

THIRD SECTION

DECISION

Application no. 12825/10
Yelena Fratovna AFANASYEVA against Russia
and 6 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 9 November 2017 as a Committee composed of:

Luis López Guerra, *President,*
Dmitry Dedov,
Jolien Schukking, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Russian Government ("the Government"). In some of the applications, complaints based on the same facts were also communicated under other provisions of the Convention.

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the inadequate conditions of detention. In some of the applications, they further acknowledged that the domestic authorities had violated the applicants' rights guaranteed by other provisions of the Convention. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the applications out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the 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.

The payment will constitute the final resolution of the cases.

The applicants were sent the terms of the Government's unilateral declarations several weeks before the date of this decision. The Court has not received a response from the applicants accepting the terms of the declarations.

The Court observes that Article 37 § 1 (c) enables it 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."

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued (see the principles emerging from the Court's case-law, and in particular the *Tahsin Acar v. Turkey* judgment (preliminary objections) ([GC], no. 26307/95, §§ 75-77, ECHR 2003-VI)).

The Court has established clear and extensive case-law concerning complaints relating to the inadequate conditions of detention (see, for example, *Ananyev and Others v. Russia,* nos. 42525/07 and 60800/08, 10 January 2012).

Noting the admissions contained in the Government's declarations as well as the amount of compensation proposed – which is 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 the light of the above considerations, 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*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications may be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the cases out of the list.

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations and of the arrangements 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.

Done in English and notified in writing on 30 November 2017.

Liv Tigerstedt	Luis López Guerra
Acting Deputy Registrar	President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Other complaints under well-established case-law	Date of receipt of Government's declaration	Date of receipt of applicant's comments, if any	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[i]
1.	12825/10 27/01/2010	**Yelena Fratovna Afanasyeva** 14/02/1966		Art. 3 - inadequate conditions of detention during transport - Transit cell - 07/02/2008 to 21/09/2009 (overcrowding, passive smoking, lack or inadequate furniture) Van - 07/02/2008 to 21/09/2009 (lack of fresh air, inadequate temperature), Art. 5 (3) - excessive length of pre-trial detention - 07/02/2008 to 21/09/2009	17/01/2017		10,700
2.	59450/11 21/09/2011	**Denis Sergeyevich Nyrenkov** 02/07/1981		Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	12/01/2017	15/03/2017	6,625
3.	19731/16 20/08/2016	**Shakhzod Sadriddin Ugli Sayfiyev** 24/06/1994		Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	03/04/2017		10,500
4.	27597/16 05/05/2016	**Yuriy Viktorovich Sudnev** 26/02/1980			16/01/2017	10/05/2017	6,625
5.	32892/16 29/05/2016	**Rustam Khamitovich Valiyev** 22/02/1981	Murashkin Igor Gennadyevich St Petersburg		18/01/2017		13,875
6.	36557/16 11/04/2016	**Komil Anor Ugli Tilovov** 27/12/1991		Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	23/01/2017		6,000
7.	43551/16 23/09/2016	**Dmitriy Anatolyevich Shirokov** 18/02/1979		Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	15/05/2017	19/09/2017	4,545

[i]. Plus any tax that may be chargeable to the applicants.