

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

THIRD SECTION

CASE OF LITVINOVICH v. RUSSIA

(Application no. 43038/11)

JUDGMENT
(Revision)

STRASBOURG

19 July 2022

This judgment is final but it may be subject to editorial revision.



In the case of Litvinovich v. Russia (request for revision of the judgment of 15 December 2020),

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

Georgios A. Serghides, *President,*
Georges Ravarani,
María Elósegui, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having deliberated in private on 15 December 2020,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in the application (no. 43038/11) 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 a Russian national, Mr Vitaliy Andreyevich Litvinovich ("the applicant"), on 16 June 2011.

2. In a judgment delivered on 15 December 2020, the Court held that there had been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 on account of the non-enforcement of the judgments of 2 August 2006 and of 27 May 2010 in the applicant's favour. The Court held that the respondent State should ensure, by appropriate means, within three months, the enforcement of the domestic judicial decisions in the applicant's favour which remain unenforced, in so far as the arrears in index-linked periodic payments were concerned; and further decided to award the applicant 3,900 euros for non-pecuniary damage and dismissed the remainder of the claims for just satisfaction.

3. On 13 May 2021 the Government informed the Court that on an unspecified date in April 2021, at the stage of execution, they received a letter from the applicant's widow Mrs Galina Vladimirovna Litvinovich informing them that on 10 January 2017 the applicant had died. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 8 June 2021 the Court considered the request for revision and decided to give the applicant's widow three weeks in which to submit any observations. Those observations were received on 26 November 2021. In a letter of 21 January 2022, the Government submitted their comments in reply.

THE LAW

THE REQUEST FOR REVISION

5. The Government requested revision of the judgment of 15 December 2020, which they had been unable to execute because the applicant had died before the judgment had been adopted. The Government submitted that the information about the applicant's death was new, and noted that neither Mrs Litvinovich nor any other legal successor had notified the Court of the applicant's death earlier or had expressed a wish to maintain the case in the late applicant's stead. Referring to Article 37 § 1(c) of the Convention and Rule 47 § 7 of the Rules of Court they asked the Court "to quash the judgment in the part awarding compensation" to the applicant and to discontinue the proceedings on account of the applicant's death.

6. The applicant's widow requested the Court to declare her the applicant's legal successor, to reopen the case and to decide on the just satisfaction issue. She submitted a copy of the marriage certificate.

7. The Government maintained in reply that Ms Litvinovich could not inherit the Court' award under the domestic law and reiterated that for years she had failed to inform the Court of her husband's death.

8. The Court considers that the applicant's death constitutes "the discovery of a fact ... which when [the] judgment was delivered, was unknown to the Court". It also constitutes a fact of "decisive influence" on the outcome of the judgment within the meaning of Rule 80 § 1, namely the allocation of the amount awarded under Article 41 of the Convention. The Court accepts that this decisive fact "could not reasonably have been expected to be known" to the Government, which became aware of the applicant's death in April 2021 (see *Manushaqe Puto and Others v. Albania* (revision), nos. 604/07 and 3 others, §§ 9-10, 4 November 2014).

9. Therefore, the Court considers that the judgment of 15 December 2020 should be revised pursuant to Rule 80 of the Rules of Court, the relevant parts of which provide:

> "A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment. ..."

10. The Court further recalls that it has been its practice to strike applications out of the list of cases in the absence of any heir or close relative who has expressed in a timely manner a wish to pursue the application, without providing an explanation for such failure (see *Cacuci and S.C. Virra & Cont Pad S.R.L. v. Romania* (revision), no. 27153/07, §§ 6-11, 13 November 2018; *Association of Victims of Romanian Judges and Others v. Romania* (revision), no. 47732/06, §§ 9-11, 22 March 2016; and *Gabay v. Turkey* (revision), no. 70829/01, 27 June 2006). The Court sees no reason

to depart from this approach in this case, taking into account that the applicant's death had occurred almost four years before the date of the Court's judgment, and noting that Ms Litvinovich had failed to provide any valid reason for not being able to inform the Court about the applicant's death since January 2017, that is for four years and three months (see, by contrast, *Nicolae Augustin Rădulescu v. Romania* (revision), no. 17295/10, § 9, 19 May 2015), or to submit the relevant documents, such as a copy of an inheritance certificate. The Court further finds no special circumstances relating to respect for human rights as defined in the Convention and its Protocols which require it to continue the examination of the present application (see *Cacuci and S.C. Virra & Cont Pad S.R.L.*, cited above).

11. Accordingly, the application should be struck out of the Court's list of cases in accordance with Article 37 § 1 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to revise its judgment of 15 December 2020;

2. *Decides* to strike the application out of its lists.

Done in English, and notified in writing on 19 July 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Georgios A. Serghides President