

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

THIRD SECTION

CASE OF LOBODOVA v. RUSSIA

(Application no. 25321/08)

JUDGMENT

STRASBOURG

9 June 2022

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



In the case of Lobodova v. Russia,

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

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 19 May 2022,

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

PROCEDURE

1. The case originated in an application against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 21 April 2008.

2. The Russian Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to the application are set out in the appended table.

4. The applicant complained of the non-enforcement of a domestic decision and of the lack of any effective remedy in domestic law in that regard. She also raised other complaints under the provisions of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 RELATED TO NON-ENFORCEMENT OF A DOMESTIC DECISION

5. The applicant complained of the non-enforcement of the domestic decision given in her favour. She relied on Article 6 § 1 and Article 13 of the Convention and Article 1 of Protocol No. 1, which read, in so far as relevant, as follows:

Article 6

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

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. ..."

A. Article 6 of the Convention

6. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a "hearing" for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, Reports of Judgments and Decisions 1997 II).

7. In the leading case of *Gerasimov and Others v. Russia* (nos. 29920/05 and 10 others, 1 July 2014), the Court has already found a violation in respect of the issues similar to those in the present case.

8. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of the applicant's complaint in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce fully and in due time the decision in her favour.

9. This complaint is therefore admissible and discloses a breach of Article 6 § 1 of the Convention.

B. Article 13 of the Convention

10. In view of the above findings and regard being had to the facts of the case, the Court declares the complaint about the lack of effective domestic remedies in respect of the prolonged non-enforcement by the authorities of the domestic decision in the applicant's favour admissible but considers that it is not necessary to give a separate ruling on it in the present case (see, for a similar approach, *Korotyayeva and Others v. Russia*, nos. 13122/11 and 2 others, §§ 36-40, 27 June 2017; and, *mutatis mutandis*, *Tkhyegepso and Others v. Russia*, no. 44387/04 and 11 others, §§ 2124, 25 October 2011).

C. Article 1 of Protocol No. 1

11. The Court notes that the judgment in the applicant's favour ordered the competent authority to consider her request for modifying certain data

concerning her employment history. While acknowledging that the obligation arising from the judgment was directly relevant to determination of the applicant's employment and pension rights, the Court discerns nothing in the judgment that would create a "legitimate expectation" of obtaining effective enjoyment of a particular pecuniary asset. The Court therefore concludes that the applicant's claim under Article 1 of Protocol No. 1 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

II. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

12. The applicant also complained under Article 6 § 1 and Article 13 of the Convention about the length of the civil proceedings in her case (see the appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes, in the light of its well-established case-law, that there has been a violation of Article 6 § 1 of the Convention (see *Gerasimov and Others*, cited above, §§ 140-74), and that there is no need to examine separately the complaint under Article 13 of the Convention (see *Palacheva v. Russia* [Committee], no. 39814/04, §§ 71-75, 19 June 2014).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

14. Regard being had to the documents in its possession and to its case-law (see, in particular, *Gerasimov and Others,* cited above, §§ 187-200), the Court considers it reasonable to award the sum indicated in the appended table and dismisses the remainder of the applicant's claims for just satisfaction.

15. The Court further considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Article 6 § 1 and Article 13 of the Convention related to the non-enforcement of the final domestic decision

and the length of civil proceedings, as well as availability of effective domestic remedies in respect of those complaints, admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention concerning the non-enforcement of the domestic decision in the applicant's favour;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention as regards the length of the civil proceedings (see the appended table);

4. *Holds* that there is no need to examine separately the complaints under Article 13 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

6. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 9 June 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 and Article 13 of the Convention and Article 1 of Protocol No. 1 (non-enforcement or delayed enforcement of domestic decisions and lack of any effective remedy in domestic law)

Application no. Date of introduction	Applicant's name Year of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law	Amount awarded for non-pecuniary damage per applicant (in euros)[1]
25321/08 21/04/2008	**Rimma Fedorovna LOBODOVA** 1941	Voronezh Regional Court, 30/10/2007	30/10/2007	23/04/2015 7 year(s) and 5 month(s) and 25 day(s)	Art. 6 (1) - excessive length of civil proceedings - 05/08/1998-30/10/2007, two levels of jurisdiction Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of civil proceedings	7,800

[1] Plus any tax that may be chargeable to the applicant.