

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

THIRD SECTION

# CASE OF YAGODNIKOVA v. RUSSIA

*(Application no. 40671/09)*

JUDGMENT

STRASBOURG

16 May 2017

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

**In the case of Yagodnikova v. Russia,**

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

Branko Lubarda, *President,*
Pere Pastor Vilanova,
Georgios A. Serghides, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having deliberated in private on 25 April 2017,

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

# PROCEDURE

1. The case originated in an application (no. 40671/09) 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 Ms Olga Yevgenyevna Yagodnikova ("the applicant"), on 6 July 2009.

2. The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by Mr A. Fedorov, Head of the Office of the Representative of the Russian Federation to the Court.

3. On 18 May 2015 the complaint about non-enforcement of a final court decision in the applicant's favour was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

# THE FACTS

4. The applicant was born in 1966 and lives in Vladimir.

5. In 2008 the applicant was indicted with fraud. On 21 March 2008 the Frunzenskiy District Court of Vladimir ("the district court") ordered temporary suspension of the applicant from the post of the chief accountant of municipal hospital no. 4. At the same time, the district court awarded the applicant an allowance for the period of the suspension in the amount of five statutory monthly wages. The decision came into force on 1 April 2008.

6. On 11 August 2009 the district court cancelled the suspension of the applicant from the office as no longer necessary. The decision came into force on 24 August 2009.

7. On 12 July 2010 the Presidium of the Vladimir Regional Court ("the regional court") quashed the decision of the district court of 21 March 2008 in the part concerning the monthly allowance. The Presidium of the regional

court found that while ordering the suspension and the allowance for the period of such suspension, the district court had failed to specify from which funds the allowance was payable, thus the decision of the district court in that part had remained unenforced. The case was remitted for a new examination.

8. On 3 August 2010 the district court awarded the applicant monthly allowance for the period of her suspension from the office in the amount of 266,812.92 Russian roubles. The allowance was to be paid from the federal budget. That decision was upheld on appeal on 22 September 2010.

9. On 31 January 2011 the amount mentioned above was transferred to the applicant.

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

10. The applicant complained about the failure by the authorities to honour the judgment of 21 March 2008. She relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, the relevant parts of which read as follows:

**Article 6 § 1**

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

**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. The Government's request for the case to be struck out under Article 37 of the Convention

11. On 9 September 2015 the Government submitted a unilateral declaration inviting the Court to strike the case out of its list. They acknowledged the lengthy enforcement of the judgment of the district court of 21 March 2008 and offered to pay a sum of money as just satisfaction.

12. The applicant did not comment on the Government's offer.

13. Having studied the terms of the Government's declaration, the Court is satisfied that the Government have acknowledged the breach of the applicant's right to have a judicial decision in her favour enforced within

reasonable time. However, the amount of compensation appears to be substantially lower than what the Court generally awards in comparable cases (see paragraph 25 below).

14. Without prejudging its decision on the admissibility and merits of the case, the Court considers that the declaration does not provide a sufficient basis for concluding that respect for human rights as defined in the Convention and its Protocols does not require it to continue its examination of the case.

15. For the above reasons, the Court rejects the Government's request to strike the case out of its list under Article 37 of the Convention and will accordingly pursue its examination of the admissibility and merits of the complaint.

### B. Admissibility

16. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

### C. Merits

17. The Government submitted that the judgment of 21 March 2008 came into force on 1 April 2008 and was fully enforced on 31 January 2011.

18. The Court reiterates that an unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III).

19. The Court has consistently held that a delay of less than one year in payment of a monetary judicial award was in principle compatible with the Convention, while any longer delay was *prima facie* unreasonable (see, among many others, *Kosheleva and Others v. Russia*, no. 9046/07, § 19, 17 January 2012).

20. The Court observes that the delay in enforcement of the final domestic decision in the present case amounts to approximately 2 years and 10 months.

21. The Court has frequently found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention in cases raising issues similar to the ones in the present case (see *Gizzatova v. Russia*, no. 5124/03, §§ 19 et seq., 13 January 2005; *Petrushko v. Russia*, no. 36494/02, §§ 23 et seq., 24 February 2005; *Wasserman v. Russia*, no. 15021/02, §§ 35 et seq., 18 November 2004; and *Burdov*, cited above, §§ 34 et seq.).

22. Having examined the material submitted to it, the Court notes that the Government have not put forward any fact or argument capable of

persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court finds that by failing to comply with the enforceable judgment in the applicant's favour for more than thirty months, the domestic authorities impaired her right to a court and prevented her from receiving the money she could reasonably have expected to receive.

23. There has accordingly been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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."

25. Regard being had to the documents in its possession and to its case-law in similar cases (see, for example, *Aleksentseva and Others v. Russia*, nos. 75025/01 and 18 others, § 24, 17 January 2008), the Court considers it reasonable to award the applicant 2,500 euros (EUR).

26. The Court 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. *Rejects* the Government's request to strike the application out of its list of cases under Article 37 of the Convention;

2. *Declares* the application admissible;

3. *Holds* that there has been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 2,500 (two thousand five hundred euros), 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.

Done in English, and notified in writing on 16 May 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Fatoş Aracı<br>Deputy Registrar | Branko Lubarda<br>President |