

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

THIRD SECTION

DECISION

Application no. 65646/11
Maksim Sergeyevich GOVORIN against Russia
and 5 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 7 September 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 Articles 6 § 1 and 13 of the Convention and Article 1 of the Protocol No. 1 concerning the non-enforcement or delayed enforcement of domestic decisions and the lack of any effective remedy in domestic law 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.

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 non-enforcement or delayed enforcement of domestic decisions. 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 non-enforcement or delayed enforcement of domestic decisions (see, for example, *Gerasimov and Others v. Russia,* nos. 29920/05 and 10 others, 1 July 2014).

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 in so far as they relate to the non-enforcement complaint under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention.

Some applicants also complained under Article 13 of the Convention about the lack of an effective domestic remedy in respect of the non-enforcement complaints. The Court has already noted the existence of a new domestic remedy against the non-enforcement of domestic judgments imposing obligations of a pecuniary and/or non-pecuniary nature on the Russian authorities, introduced in the wake of the pilot judgment, which enables those concerned to seek compensation for damage sustained as a result of excessive delays in the enforcement of court judgments (see *Kamneva and Others v. Russia* (dec.), nos. 35555/05 and 6 others, 2 May 2017). In the light of the adoption of the new domestic remedy, the Court, as in its previous decisions, considers that it is not necessary to examine separately the admissibility and merits of the applicants' complaint under Article 13 in the present cases (see, for a similar approach, *mutatis mutandis*, *Pobudilina and Others v. Russia* (dec.), nos. 7142/05 and 29 others, 29 March 2011; *Zemlyanskiy and Others v. Russia* (dec.), nos. 18969/06 and 4 others, 13 March 2012; and several other cases). This ruling is without prejudice to the Court's future assessment of the new remedy.

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 in so far as they concern the complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention about the delayed enforcement of the domestic judgments in the applicants' favour;

Decides that it is not necessary to examine the admissibility and merits of the applicants' complaint under Article 13 of the Convention.

Done in English and notified in writing on 28 September 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.	65646/11 05/10/2011	**Maksim Sergeyevich Govorin** 28/10/1978		Art. 13 - lack of any effective remedy in domestic law in respect of non-enforcement or delayed enforcement of domestic decisions -	18/01/2016		4,460
2.	44950/12 23/04/2012	**Vladimir Vasilyevich Martynov** 19/11/1964			18/01/2016		3,430
3.	48463/12 11/07/2012	**Vladimir Nikolayevich Ivanov** 02/02/1958			14/07/2016		3,490
4.	19090/13 20/02/2013	**Mikhail Nikolayevich Lukovnikov** 12/03/1963		Art. 13 - lack of any effective remedy in domestic law in respect of non-enforcement or delayed enforcement of domestic decisions	17/02/2016		3,850
5.	23620/13 25/03/2013	**Olga Borisovna Romanova** 29/06/1957	Velikokhatskaya Yelena Konstantinovna St Petersburg	Art. 13 - lack of any effective remedy in domestic law in respect of non-enforcement or delayed enforcement of domestic decisions	17/02/2016	24/03/2016	1,460
6.	23802/13 06/03/2013	**Kyuri-Said Sulimovich Yashurkayev** 15/07/1949			20/07/2016	05/10/2016	1,520

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