

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

THIRD SECTION

DECISION

Application no. 20065/20
Olga Vladimirovna ISLAMOVA and Amina Osmapashayevna ISLAMOVA
against Russia

The European Court of Human Rights (Third Section), sitting on 25 January 2022 as a Committee composed of:

Georgios A. Serghides, *President,*
Anja Seibert-Fohr,
Frédéric Krenc, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 20065/20) against Russia 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, Ms Olga Vladimirovna Islamova ("the first applicant"), on behalf of herself and her daughter, Ms Amina Osmapashayevna Islamova ("the second applicant"), also a Russian national, on 13 May 2020;

the decision to give notice of the complaints under Articles 8 and 13 of the Convention to the Russian Government ("the Government"), initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in that office, Mr M. Vinogradov, and to declare inadmissible the remainder of the application;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

Having deliberated, decides as follows:

SUBJECT-MATTER OF THE CASE

1. The case concerns the failure of the domestic authorities to enforce the judgment granting the first applicant a residence order in respect of the second applicant.

2. In 1996 the first applicant married Mr O.I. In 2004 they divorced, but continued to live together in the Khanty-Mansiysk Region. The second applicant, born in 2011, is the youngest of their three children. In June 2014 the first applicant and the children moved out to the Samara Region. O.I. did not object.

3. In July 2015 O.I. collected the second applicant from the playing ground and moved her to the Republic of Dagestan to live with him.

4. In November 2015 the first applicant initiated the proceedings for a residence order in respect of the second applicant.

5. In December 2015 the Privolzhskiy District Court of the Samara Region ("the District Court") granted the first applicant's claim. In March 2016 the Samara Regional Court ("the Regional Court") upheld the judgment on appeal. The enforcement proceedings were instituted in June 2016.

6. While the enforcement proceedings were pending, following O.I.'s application, on 16 August 2017 the Khasavyurt Town Court in Dagestan ("the Town Court") determined the second applicant's residence as being with him. On 27 November 2017 the Supreme Court of the Republic of Dagestan upheld the above judgment on appeal. The first applicant did not challenge the judgment in question in the cassation-review procedure.

7. Regardless of the above judgment granting the residence order in respect of the second applicant to the latter's father O.I., the enforcement proceedings in respect of the 2015 judgment remained pending.

8. On 16 July 2019 the first applicant challenged the bailiff's inactivity before the Town Court under the Code of Administrative Procedure.

9. On 20 August 2019 the Town Court held that the bailiff's inaction in the enforcement proceedings had been unlawful. On 28 November 2019 the judgment in question became final.

10. On 14 September 2020 the enforcement proceedings in respect of the 2015 judgment were terminated.

11. On 1 February 2021 the above decision was cancelled as it could not be found in the material of the enforcement proceedings. The enforcement proceedings were resumed, and an application for termination of the enforcement proceedings was sent to a court.

12. The first applicant complained, on behalf of herself and the second applicant, under Articles 8 and 13 of the Convention about the failure of the domestic authorities to secure the enforcement of the 2015 judgment and the absence of an effective domestic remedy in this respect.

THE COURT'S ASSESSMENT

13. The present case concerns the non-enforcement of the 2015 judgment determining the second applicant's residence as being with the first applicant. At the same time, while the enforcement proceedings in respect of the above judgment were pending, in August 2017 a new judgment granting the residence order in respect of the second applicant to the latter's father O.I. was taken. This judgment became final on 27 November 2017, and the first applicant chose not to challenge it in cassation-review procedure.

14. Although the enforcement proceedings in respect of the 2015 judgment remained pending until the formal decision on their termination in September 2020, it should have become obvious to the first applicant as early as 27 November 2017 that she no longer had a realistic hope of enforcement of the 2015 judgment in her favour. She should have therefore introduced her application to the Court within the six-month period of the above date, her action against the bailiffs in 2019 not capable of securing the enforcement. However, the first applicant remained inactive for almost two and a half years before bringing her grievance to the attention of the Court on 13 May 2020.

15. In such circumstances, the first applicant has missed the time-limit for lodging her complaints before the Court. It follows that the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention (compare to *Bichenok v. Russia* (dec.), no. 13731/08, 31 March 2015, with further references).

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 24 February 2022.

Olga Chernishova Deputy Registrar	Georgios A. Serghides President