

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

THIRD SECTION

DECISION

Application no. 15327/05
Aleksandr Dumaganovich KHANOV against Russia
and 15 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 30 June 2016 as a Committee composed of:

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicant and the relevant details of the applications are set out in the appended table.

The applicants' complaints under Article 6 § 1 of the Convention concerning the excessive length of criminal proceedings were communicated to the Russian Government ("the Government"). Some applicants also raised other complaints under the provisions of the Convention.

THE LAW

A. Joinder of the applications

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. The applicants' victim status in cases no. 24790/06, 40560/06 and 47042/06

In their observations the respondent Government drew the Court's attention to the fact that the criminal proceedings against the three applicants in the mentioned cases had been discontinued and that as a result of subsequent rehabilitation proceedings all three applicants had been fully compensated for any damage they had sustained during their criminal prosecution. Accordingly, the Government invited the Court to discontinue the proceedings in those cases for the loss of the applicants' victim status.

The applicants in these three cases did not contest having been in receipt of the said compensations, but argued that their amounts had been insufficient.

The Court observes that where domestic proceedings include an admission of the breach by the national authorities and the payment of a sum of money amounting to redress, the applicant can no longer claim to be a victim of a violation of the Convention (see, among many other authorities, *Shcherbakov v. Russia*, no. 23939/02, §§ 55-64, 17 June 2010).

In the present case, each of the three applicants brought actions for damages in connection with their unlawful prosecution and the domestic courts made the following awards:

- Ms Perova – by two separate court decisions dated 9 April 2007 and 25 February 2009 the respective sums of RUB 50,000 (EUR 1,438) and RUB 80,000 (EUR 1,743) in compensation of non-pecuniary damage resulting from unlawful prosecution;

- Mr Kondrashkin – by a court decision of 5 May 2006 the sum of RUB 100,000 (EUR 2,940) in compensation of non-pecuniary damage resulting from unlawful prosecution;

- Mr Semenov – by a court decision of 20 August 2009 the sum of RUB 3,644,257 (EUR 88,000) in compensation of pecuniary and non-pecuniary damage resulting from unlawful prosecution.

In all three cases the domestic courts emphasised that, in assessing the amount of compensation to be awarded to the applicants, they took account of particular circumstances in which the harm had been caused and the evidence submitted by the applicants concerning the physical and psychological suffering sustained as a result of their unlawful prosecution. The Court also notes that the domestic courts specifically took into account

the length of the proceedings when assessing the intensity of their respective physical and moral suffering.

In view of the above, the Court accepts that as a result of these proceedings the domestic courts explicitly recognised violations of the applicants' right to trial within a "reasonable time" within the meaning of Article 6 of the Convention and afforded them appropriate and sufficient redress.

The Court thus accepts the Government's argument concerning the loss of the applicant's victim status in respect of these complaints. Accordingly, in so far as the complaints about the length of proceedings are concerned, the cases brought by these three applicants are incompatible *ratione personae* with the provisions of the Convention and must be rejected pursuant to Article 35, §§ 3 and 4.

C. Complaints under Article 6 § 1 of the Convention (excessive length of criminal proceedings)

In the present applications, having examined all the material before it, the Court considers that for the reasons stated below, the respondent Government cannot be held liable for delays which occurred in the process of the examination of the applicants' criminal cases.

In particular, the Court notes that having regard to the overall length of the proceeding, the relevant complexity of the cases, the applicants' conduct and that of the authorities, including the diligence they displayed while dealing with the cases, and the levels of jurisdiction involved, the length of the proceedings was not excessive and met the "reasonable time" requirement (see, among other authorities, *Nikitin v. Russia* (dec.), no. 50178/99, ECHR 13/11/2003; *Stukalova v. Russia* (dec.), no. 58292/00, ECHR 19/10/2004; *Zenevich v. Russia* (dec.), no. 4567/02, ECHR 06/07/2006; *Mironov v. Russia* (dec.), no. 22625/02, ECHR 05/10/2006; *Kupreyanov v. Russia* (dec.), no. 21158/05, ECHR 12/02/2009; *Lyakhevich v. Russia* (dec.), no. 26704/02, ECHR 12/11/2013; *Burmistrova v. Russia* (dec.), no. 887/06, ECHR 17/02/2015)

In view of the above, the Court finds that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

D. Complaint under Article 13 of the Convention (lack of an effective remedy to complain about the excessive length of the proceedings)

Certain applicants complained that they did not have at their disposal an effective remedy to complain about the excessive length of the proceedings in their civil cases. The Court reiterates in this respect that this provision only applies to those with an arguable claim under the Convention (see

Silver and Others v. the United Kingdom, 25 March 1983, § 113, Series A no. 61). Given that the applicants' complaint under Article 6 was rejected for being manifestly ill-founded, the complaint under Article 13 should also be declared manifestly ill-founded and rejected under Article 35 §§ 3 and 4 of the Convention.

E. Remaining complaints

Some applicants also raised other complaints under various articles of the Convention.

The Court has examined the applications listed in the appended table and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the applications must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 21 July 2016.

Hasan Bakırcı
Deputy Registrar

Helena Jäderblom
President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth/Date of registration	Representative name and location	Start of proceedings	End of proceedings	Total length Level of jurisdiction Domestic court file number	Other complaints under well-established case-law
1.	15327/05 29/03/2005	**Aleksandr Dumaganovich KHANOV** 25/03/1963	**Yefremova Yekaterina Viktorovna** Moscow	07/12/2001	27/09/2005	3 year(s) and 9 month(s) and 21 day(s) 3 level(s) of jurisdiction	
2.	20340/06 03/04/2006	**Vladimir Nikiforovich KHRAPOV** 02/04/1966	**Koldin Gennadiy Ivanovich** Moscow	04/03/1999	25/10/2005	6 year(s) and 7 month(s) and 22 day(s) 3 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings -
3.	20656/06 26/04/2006	**Vasiliy Nikolayevich BYANKIN** 17/02/1978		20/06/2000 18/06/2001 30/08/2001 01/11/2002 16/05/2003	20/07/2000 02/08/2001 12/10/2001 29/11/2002 15/11/2005	1 month(s) and 1 day(s) 1 level(s) of jurisdiction 1 month(s) and 16 day(s) 1 level(s) of jurisdiction 1 month(s) and 13 day(s) 1 level(s) of jurisdiction 29 day(s) 1 level(s) of jurisdiction 2 year(s) and 6 month(s) 3 level(s) of jurisdiction	

No.	Application no. Date of introduction	Applicant name Date of birth/Date of registration	Representative name and location	Start of proceedings	End of proceedings	Total length Level of jurisdiction Domestic court file number	Other complaints under well-established case-law
4.	24790/06 11/05/2006	**Nina Antonovna PEROVA** 05/02/1953	**Smolskiy Aleksandr Arkadyevich** Vladivostok	24/10/2001 17/12/2001	11/12/2006 04/06/2008	5 year(s) and 1 month(s) and 18 day(s) 3 level(s) of jurisdiction 6 year(s) and 5 month(s) and 19 day(s) 3 level(s) of jurisdiction	
5.	40560/06 21/09/2006	**Oleg Vladimirovich KONDRASHKIN** 19/05/1955		05/09/2000	28/03/2006	5 year(s) and 6 month(s) and 24 day(s) 3 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings
6.	44142/06 17/10/2006	**Igor Anatolyevich ALEKSEYEV** 26/03/1970	**Pechenkina Svetlana Petrovna** Yekaterinburg	28/06/2004	18/04/2008	3 year(s) and 9 month(s) and 22 day(s) 3 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings
7.	47042/06 25/09/2006	**Vladimir Pavlovich SEMENOV** 02/10/1951		05/05/1998	30/05/2007	9 year(s) and 26 day(s) 3 level(s) of jurisdiction	
8.	1552/07 09/11/2006	**Aleksandr Vladimirovich ZEMLYANKIN** 02/03/1958		04/06/2003	13/09/2006	3 year(s) and 3 month(s) and 10 day(s) 3 level(s) of jurisdiction	
9.	21737/07 26/04/2007	**Mikhail Vladimirovich LEBEDEV** 30/08/1977		13/07/2004	15/02/2007	2 year(s) and 7 month(s) and 3 day(s) 2 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings

No.	Application no. Date of introduction	Applicant name Date of birth/Date of registration	Representative name and location	Start of proceedings	End of proceedings	Total length Level of jurisdiction Domestic court file number	Other complaints under well-established case-law
10.	32235/07 28/03/2007	**Dmitriy Nailyevich MUBARAKSHIN** 29/09/1978		23/12/2004 11/07/2007	22/01/2007 23/10/2007	2 year(s) and 1 month(s) 2 level(s) of jurisdiction 3 month(s) and 13 day(s) 3 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings
11.	3241/08 19/12/2007	**Konstantin Stanislavovich AVRAMENKO** 25/06/1969		05/04/2002	pending	More than 14 year(s) and 2 month(s) and 14 day(s) 2 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings
12.	23393/08 05/02/2008	**Albert Sarkisovich VARELDZHYAN** 16/11/1962		23/05/2003 22/03/2007	05/11/2003 15/08/2007	5 month(s) and 14 day(s) 2 level(s) of jurisdiction 4 month(s) and 25 day(s) 3 level(s) of jurisdiction	
13.	28616/08 24/04/2008	**Andrey Nikolayevich MOROZKIN** 03/04/1965	**Lavrov Aleksey Yevgenyevich** Yekaterinburg	14/04/2005	16/06/2008	3 year(s) and 2 month(s) and 3 day(s) 2 level(s) of jurisdiction	
14.	42258/08 20/06/2008	**Stanislav Vladimirovich KAPRALOV** 16/05/1975	**Denisov Dmitriy Arkadyevich** Astrakhan	14/08/2005	08/04/2009	3 year(s) and 7 month(s) and 26 day(s) 3 level(s) of jurisdiction	Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings
15.	15595/09 10/01/2009	**Valeriy Pavlovich SHMELEV** 26/05/1960		08/12/2004	30/07/2008	3 year(s) and 7 month(s) and 23 day(s) 2 level(s) of jurisdiction	

No.	Application no. Date of introduction	Applicant name Date of birth/Date of registration	Representative name and location	Start of proceedings	End of proceedings	Total length Level of jurisdiction Domestic court file number	Other complaints under well-established case-law
16.	42138/09 16/06/2009	**Roman Innokentyevich NIKIFOROV** 30/09/1975		07/08/2006	30/03/2009	2 year(s) and 7 month(s) and 24 day(s) 2 level(s) of jurisdiction	