

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

THIRD SECTION

DECISION

Application no. 3413/04
Grigoriy Vasilyevich KHOMENKO against Russia
and 7 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 15 June 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").

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 acknowledged the delayed enforcement of domestic decisions, 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 this part 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 this part 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.

Finally, 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;

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 part of 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 complaint 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;

Declares the remainder of the applications inadmissible.

Done in English and notified in writing on 6 July 2017.

Liv Tigerstedt
Acting Deputy Registrar

Luis López Guerra
President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth	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/ household (in euros)[i]
1.	3413/04 10/12/2003	**Grigoriy Vasilyevich Khomenko** 11/08/1962	09/06/2016		2,350
2.	4520/05 27/12/2004	**Galina Aleksandrovna Zavalishina** 28/04/1946	01/06/2016		4,230
3.	24342/06 27/04/2006	**Aleksandr Vikentyevich Skovorodko** 09/08/1966	29/04/2011	27/11/2012	3,210
4.	41617/06 21/07/2006	**Aleksandr Petrovich Lagutin** 29/03/1975	26/09/2016		2,126
5.	14768/08 25/01/2008 (3 applicants)	Household **Aleksey Grigoryevich Zavitkov** 16/03/1956 **Nina Ivanovna Zavitkova** 09/01/1956 **Pavel Alekseyevich Zavitkov** 29/10/1984	26/09/2016		6,500
6.	59847/08 03/10/2008	**Tatyana Sergeyevna Soldatenkova** 01/12/1954	07/07/2016		1,790

No.	Application no. Date of introduction	Applicant name Date of birth	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/ household (in euros)[i]
7.	44283/09 27/07/2009	**Viktor Deomidovich Valkanesko** 12/03/1959	29/04/2011		1,260
8.	60577/10 20/09/2010	**Nina Nikolayevna Duplinskaya** 02/02/1951	10/12/2015		1,370

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