

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

FIRST SECTION

DECISION

This version was rectified on 21 March 2011
under Rule 81 of the Rules of Court

AS TO THE ADMISSIBILITY OF

Application no. 7120/03
Lidiya Sergeyevna LUNINA and Others
against Russia
(see annex for other applications)

The European Court of Human Rights (First Section), sitting on 13 January 2011 as a Committee composed of:

Sverre Erik Jebens, *President,*
Anatoly Kovler,
George Nicolaou, *judges,*
and André Wampach, *Deputy Section Registrar,*

Having regard to the above applications,

Having regard to the decision to apply the pilot-judgment procedure taken in the case of *Burdov (no. 2) v. Russia* (no. 33509/04, ECHR 2009-...),

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases and the applicants' replies to those declarations,

Having deliberated, decides as follows:

THE FACTS

The applicants are Russian nationals. Their names and dates of birth are tabulated below.



Ms A. Issayeva, Ms M. Khabarova, Ms T. Yakovleva and Mr K. Mokhnatkin died after lodging their applications under Article 34 of the Convention. Their successors Mr I. Zhukov, Ms N. Khabarova, Ms N. Sokolova and Ms N. Makhnatkina, respectively, indicated their interest in pursuing the proceedings.

The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicants sued the State authorities in domestic courts for payment of various monetary sums due under the Russian law. The courts held for the applicants and ordered the authorities to pay various amounts in the form of lump sums and/or of periodic payments to be upgraded in line with the inflation in the country. These judgments became binding but the authorities delayed their enforcement.

In particular, on 27 November 2000 the Sovetskiy District Court of Voronezh awarded Ms Grigorenko's mother, who had died in September 2000, a certain amount for indexation of her pension (application no. 14218/06). The Government stated that Ms Grigorenko had obtained her inheritance certificate on 23 November 2005 and submitted it together with the writ of execution shortly thereafter. The judgment was enforced on 20 December 2005.

COMPLAINTS

The applicants complained about the delayed enforcement of the judgments in their favour and, in certain cases, of assorted faults that allegedly accompanied the judicial or enforcement proceedings.

THE LAW

I. LOCUS STANDI

The Court takes note of certain applicants' death and of the interest of their successors in pursuing the proceedings.

The Court reiterates that where an applicant dies during the examination of a case his or her heirs may in principle pursue the application on his or her behalf (see *Ječius v. Lithuania*, no. 34578/97, § 41, ECHR 2000-IX). Furthermore, in some cases concerning non-enforcement of court

judgments, the Court recognised the right of the relatives of the deceased applicant to pursue the application (see *Shiryayeva v. Russia*, no. 21417/04, §§ 8-9, 13 July 2006).

The Court notes that the rights at stake in the present case are very similar to those at the heart of the cases referred to above. Nothing suggests that the rights the applicants sought to protect through the Convention mechanism were eminently personal and non-transferable (see *Malhous v. the Czech Republic* [GC], no. 33071/96, § 1, 12 July 2001). The Government did not contend that any of the successors mentioned above had no standing to pursue the cases. Therefore, the Court considers that the applicants' successors have a legitimate interest in pursuing the applications.

II. COMPLAINTS OF NON-ENFORCEMENT

Regarding Ms Grigorenko's complaint of delayed enforcement of the judgment of 27 November 2000, the Court takes cognisance of the Government's submissions and is satisfied that it was the applicant's responsibility to inform the State of her status as heir to the deceased claimant with an award against the State. The Court considers that in this situation the State cannot bear responsibility for the delay in the payment of the award (see *Ziabreva v. Russia*, no. 23567/06, § 21, 18 December 2008). Accordingly, this complaint should be rejected as manifestly ill-founded under Article 35 §§ 3 and 4 of the Convention.

As to the other applications, following the *Burdov (no. 2)* pilot judgment cited above the Government informed the Court of the payment of the domestic court awards in the applicants' favour and submitted unilateral declarations aimed at resolving the issues raised by the applications. By these declarations the Russian authorities acknowledged in various but very similar terms that judgments in the applicants' favour were not enforced in a timely manner (*e.g.* "the excessive duration of the enforcement", "the delay in the enforcement" or "the lengthy enforcement"). They also declared that they were ready to pay the applicants *ex gratia* the sums tabulated below. The remainder of the declarations read as follows:

> "The authorities therefore invite the Court to strike [the applications] out of the list of cases. They suggest that the present declaration might be accepted by the Court as "any other reason" justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.
>
> The [sums tabulated below], which [are] to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. [They] will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay [these sums] within the said three-month period, the Government undertake to pay simple interest on [them] from 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.

This payment will constitute the final resolution of the case."

Some applicants agreed to the terms of the Government's declarations. Others failed to reply. A majority disagreed on various grounds, considering most often that the compensation amounts offered by the Government were insufficient.

The Court reiterates that under Article 37 of the Convention it may at any stage of the proceedings strike an application out of its list of cases where the circumstances lead to the conclusions specified under (a), (b), or (c) of that Article.

Article 37 § 1 (c) enables the Court in particular 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."

Article 37 § 1 *in fine* states:

"However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires."

The Court recalls that in its pilot judgment (*Burdov v. Russia (no. 2)*, cited above) it ordered the Russian Federation to

"grant [adequate and sufficient] redress, within one year from the date on which the judgment [became] final, to all victims of non-payment or unreasonably delayed payment by State authorities of a judgment debt in their favour who [had] lodged their applications with the Court before the delivery of the present judgment and whose applications [had been] communicated to the Government under Rule 54 § 2 (b) of the Rules of the Court."

In the same judgment the Court also held that:

"pending the adoption of the above measures, the Court [would] adjourn, for one year from the date on which the judgment [became] final, the proceedings in all cases concerning solely the non-enforcement and/or delayed enforcement of domestic judgments ordering monetary payments by the State authorities, without prejudice to the Court's power at any moment to declare inadmissible any such case or to strike it out of its list following a friendly settlement between the parties or the resolution of the matter by other means in accordance with Articles 37 or 39 of the Convention."

Having examined the terms of the Government's declarations, the Court understands them as intending to give the applicants redress in line with the pilot judgment (see *Burdov (no. 2)*, cited above, §§ 127 and 145 and point 7 of the operative part).

The Court is satisfied that the excessive length of the execution of judgments in the applicants' favour is acknowledged by the Government either explicitly or in substance. The Court also notes that the compensations offered are comparable with Court awards in similar cases,

taking account, *inter alia*, of the specific delays in each particular case (see *Burdov (no. 2)*, cited above, §§ 99 and 154).

The Court therefore considers that it is no longer justified to continue the examination of the applications. It is also 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.

Accordingly, in so far as the complaints about delayed enforcement of the judgments in the applicants' favour are concerned, the applications should be struck out of the list.

As regards the question of implementation of the Government's undertakings, the Committee of Ministers remains competent to supervise this matter in accordance with Article 46 of the Convention (see the Committee's decisions of 14-15 September 2009 (CM/Del/Dec(2009)1065) and Interim Resolution CM/ResDH(2009)1 58 concerning the implementation of the *Burdov (no. 2)* judgment). In any event the Court's present ruling is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the present applications to the list of cases (see *E.G. v. Poland* (dec.), no. 50425/99, § 29, ECHR 2008-... (extracts)).

III. OTHER COMPLAINTS

Some applicants made accessory complaints referring to assorted Articles of the Convention. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that the applications in this part are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously:

Decides to join the applications;

Declares the complaint of non-enforcement made by Ms L. Grigorenko inadmissible;

Takes note of the terms of the respondent Government's declarations;

Decides to strike the applications in respect of non-enforcement of the judgments in the applicants' favour out of its list of cases;

Declares the remainder of the applications inadmissible.

André Wampach
Deputy Registrar

Sverre Erik Jebens
President

ANNEX

No	Application No	Last name	Forename	Born	Compensation offered (euros)
1.	7120/03	**LUNINA**	**LIDIYA SERGEYEVNA**	1958	1,800
		BARKALOVA	**LIDIYA MITROFANOVNA**	1940	2,100
		CHERNYSHOVA	**OLGA MIKHAYLOVNA**	1952	2,000
		DAMARAD	**BORIS ALEKSANDROVICH**	1957	1,500
		DAVYDOVA	**ANASTASIYA IVANOVNA**	1940	2,150
		GLADILOVA	**GALINA SERGEYEVNA**	1944	850
		ISSAYEVA	**ALEKSANDRA PAVLOVNA**	1929	1900
		KALAYEVA	**RAISA ILYINICHNA**	1949	1,700
		KHABAROVA	**MARIYA ILYINICHNA**	1933	2,300
		KHVOSTOVA	**ANNA SEMENOVNA**	1940	2,150
		MALKHOVA	**ZOYA NIKOLAYEVNA**	1938	1,800
		MAMONOVA	**TAMARA ANDREYEVNA**	1944	1,800
		PLOTNIKOVA	**LIDIYA VYACHESLAVOVNA**	1960	2,300
		SAMSONOVA	**VALENTINA GRIGORYEVNA**	1943	2,000
		SELIVANOVA	**MARIYA VASILYEVNA**	1939	2,000
		SHUMILINA	**TATYANA VASILYEVNA**	1945	2,100
		SVIRIDOV	**GENNADIY MIKHAYLOVICH**	1932	1,980

		YERINA **ZABALUYEVA**	**YELENA PETROVNA** **NATALYA SERGEYEVNA**	1955 1953	1,900 1,600
2.	34436/04	**MOROZ** **YAKOVLEVA** **SELEZNEV**	**RAIDA VIKTOROVNA** **TATYANA PETROVNA** **YURIY IVANOVICH**	1936 1934 1940	2,500 2,600 2,500
3.	39945/04	**KRAVCHENKO**	**ALEKSANDR ANTONOVICH**	1941[1]	3,000
4.	2107/05	**KURZHALOV**	**OLEG PETROVICH**	1954	610
5.	3453/05	**TURMANOV**	**TARIYEL NIKOLAYEVICH**	1949[2]	2,456
6.	4249/05	**MAKSIM**	**ANDREY ANDREYEVICH**	1981	1,100
7.	4523/05	**PETUKHOV**	**ANATOLIY ALEKSANDROVICH**	1949	2,905
8.	4943/05	**SANIN**	**VIKTOR ALEKSANDROVICH**	1956	1,584
9.	12254/05	**KOSYGIN**	**VYACHESLAV FEDOROVICH**	1948	785
10.	13094/05	**DUBRAVIN**	**NIKOLAY GRIGORYEVICH**	1949	2,904
11.	18611/05	**GERASIMENKO**	**GALINA VASILYEVNA**	1945	1,760
12.	22256/05	**NOSKOV**	**ROMAN VIKTOROVICH**	1961	2,670
13.	22668/05	**MILKEVICH**	**YURIY STANISLAVOVICH**	1957	1,640
14.	31957/05	**MARTIROSYAN**	**EDVART NAPOLEONOVICH**	1956	766

[1] Rectified on 21 March 2011 : the text was “1954”
[2] Rectified on 21 March 2011 : the text was “1954”

15.	33595/05	**KUNDYUSOV**	**ANDREY IVANOVICH**	1962	966
16.	36458/05	**PUSTOVAROV**	**ANDREY VLADIMIROVICH**	1972	2,970
17.	38083/05	**ANDREYTSEVA** **CHERNENKO**	**GALINA ALEKSANDROVNA** **GALINA GRIGORYEVNA**	1955 1955	1,087 1,087
18.	42513/05	**VOBLIKOV**	**VLADIMIR NIKOLAYEVICH**	1948	620
19.	2060/06	**FEDOREY**	**ALEKSANDR VLADIMIROVICH**	1958	2,430
20.	4138/06	**USHAKOVA**	**NADEZHDA NIKOLAYEVNA**	1957	3,925
21.	4158/06	**SALMENKOVA**	**GALINA RUFOVNA**	1960	1,572
22.	14218/06	**GUBINA** **NOVIKOVA** **ZHIGULINA** **KARPOVA** **GRIGORENKO**	**TAMARA AFANASYEVNA** **VALENTINA VASILYEVNA** **PELAGEYA ALEKSEYEVNA** **LIDIYA IVANOVNA** **LIDIYA NIKOLAYEVNA**	1934 1931 1935 1941 1934	1,500 1,500 1,500 1,500 Declared inadmissible
23.	15400/06	**GREKOVA**	**OLGA PAVLOVNA**	1968	2,609
24.	18363/06	**SAZONOV**	**SERGEY ANATOLYEVICH**	1958	3,955
25.	28225/06	**GADZHIYEV**	**OMAR DZHABRAILOVICH**	1961	2,000
26.	31401/06	**YERMOLAYEV**	**VLADIMIR SEMENOVICH**	1953	990
27.	42611/06	**ZAO LIZINGOVAYA KOMPANIYA 'GEOLIZING'**			1,628
28.	44973/06	**SEMITKOVSKIY**	**VITALIY GRIGORYEVICH**	1957	1,553

		LAPIK	**ALEKSEY LEONIDOVICH**	1953	2,096
		SOKOLENKO	**IGOR VLADIMIROVICH**	1964	1,778
		KRAMARENKO	**DMITRIY ANATOLYEVICH**	1967	1,743
		SHCHEGELSKIY	**NIKOLAY NIKOLAYEVICH**	1962	1,447
		ALCHINSKIY	**NIKOLAY ANATOLYEVICH**	1960	1,592
29.	45414/06	**TSAPENKO**	**GEORGIY GEORGIYEVICH**	1950	650
30.	2258/07	**ANTOSHKIV**	**NADEZHDA ALEKSANDROVNA**	1937	835
31.	5669/07	**KONSTANTINOV**	**MIKHAIL VASILYEVICH**	1956	5,000
32.	5672/07	**LOSEVA**	**LYUBOV YAKOVLEVNA**	1950	700
33.	11344/07	**YEVSENOCHKIN**	**VLADIMIR PAVLOVICH**	1946	804
34.	14538/07	**MAKHNATKINA**	**NINA YEVGENYEVNA**	1935	1,610
35.	19514/07	**PRIKHODCHENKO**	**NIKOLAY GRIGORYEVICH**	1951	857
36.	19651/07	**GORSKAYA**	**NATALIYA MIKHAYLOVNA**	1946	927
37.	25181/07	**BAZAYEVA**	**SVETLANA FEDOROVNA**	1957	1,460
		BARSEGYANTS	**AVETIS SARKISOVICH**	1959	1,370
		DOROKHOV	**SERGEY NIKOLAYEVICH**	1956	1,600
		GAZZAYEV	**VIKTOR KAZBEKOVICH**	1970	1,750
		KIRICHENKO	**IGOR STANISLAVOVICH**	1973	1,450
		KOBLOV	**FELIKS CHERMENOVICH**	1966	1,600

		KOLIYEV	**ALAN KHASANBEKOVICH**	1967	1,320
		KORAYEV	**ANATOLIY PAVLOVICH**	1955	1,780
		KRAVCHENKO	**SERGEY NIKOLAYEVICH**	1965	1,350
		KULUMBEKOV	**VALERIY GAVRILOVICH**	1963	1,650
		PAVLIOSHVILI	**GELA SHAVLOVICH**	1967	1,350
		POSYAKIN	**DMITRIY VALENTINOVICH**	1955	3,000
		SAFIBEKOV	**ZANGIR KHALIDDIN-OGLY**	1969	1,670
		TIGIYEV	**RUSLAN ANDREYEVICH**	1961	1,470
		TOMAYEV	**OLEG IRAKLIYEVICH**	1953	1,550
		ZHITNIK	**SOSLAN YEVGENYEVICH**	1969	1,600
38.	30260/07	**BUGLEYEV**	**OLEG ALEKSEYEVICH**	1952	2,200
39.	35007/07	**TATARSHAO**	**AMIR KHADZHIBIYEVICH**	1952	1,394
40.	36894/07	**RESIN**	**ANDREY IGOREVICH**	1974	2,467
41.	37004/07	**BELYANIN**	**ANATOLIY VASILYEVICH**	1948	820
42.	44866/07	**BULATOV**	**NIKOLAY ILYICH**	1939	835
43.	56480/07	**YERIN**	**SERGEY VASILYEVICH**	1963	900
44.	10318/08	**ROZHKOV**	**VLADIMIR VASILYEVICH**	1955	3,600
45.	12376/08	**KALOYEV**	**TAYMURAZ MAISEYEVICH**	1981	2,800
46.	16247/08	**LISITSKAYA**	**ANNA MIKHAYLOVNA**	1931	5,000

47.	20802/08	**LEDENTSOV**	**GENNADIY YEVGENYEVICH**	1939	500
48.	20806/08	**SHAYEKHOV** **YANAGAYEV**	**ISKANDER MINNEKHANOVICH** **ALEKSEY DMITRIYEVICH**	1953 1987	1,150 1,150
49.	22165/08	**KOLKHITOVA**	**ANDZELINA KAZBEKOVNA**	1969	3,400
50.	30626/08	**KOCHKINA**	**IDEYA IVANOVNA**	1936	1,020
51.	30632/08	**SOKOL**	**BORIS MIRONOVICH**	1944	870
52.	32219/08	**KOPCHENKO**	**ZINAIDA IVANOVNA**	1943	860
53.	32221/08	**MITROFANOVA**	**NADEZHDA IVANOVNA**	1950	880
54.	32225/08	**KOCHKIN**	**VLADIMIR FEDOROVICH**	1936	1,050
55.	40332/08	**PETRAKI**	**VLADIMIR NIKOLAYEVICH**	1982	3,000
56.	59373/08	**SHERIYEV**	**KHABAS MUKHAMEDOVICH**	1975	3,900
57.	8421/09	**SHAMANAYEVA**	**TATYANA YEVGENYEVNA**	1950	3,010