

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

FIRST SECTION

DECISION

Application no. 7142/05 and other applications
Tamara Nikolayevna POBUDILINA and Others
against Russia
(see appendix for other applications)

The European Court of Human Rights (First Section), sitting on 29 March 2011 as a Chamber composed of:

Nina Vajić, *President,*
Anatoly Kovler,
Christos Rozakis,
Peer Lorenzen,
Elisabeth Steiner,
Mirjana Lazarova Trajkovska,
Julia Laffranque, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having regard to the above applications,

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 whose names and dates of birth are tabulated below. The Russian Government ("the Government") were represented by Mr G. Matyushkin, 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 were parties to civil proceedings that took place in courts of ordinary jurisdiction in various regions of Russia. These disputes concerned various civil matters such as housing, labour, property and monetary issues. Some of these disputes have resulted in a final decision, while others are still pending. In both of the above instances the domestic courts took lengthy periods of time to examine the applicants' claims ranging between three and ten years.

COMPLAINTS

The applicants complained about the length of the proceedings in their cases. In certain cases they also complained of lack of an effective domestic remedy in respect of undue length of the proceedings, assorted faults that accompanied the proceedings and other issues.

THE LAW

A. Complaints about the length of proceedings

The applicants complained about excessive length of the proceedings in their civil cases.

On various dates the Government submitted unilateral declarations aimed at resolving this issue. By these declarations the Russian authorities acknowledged that the length of the proceedings in the applicants' cases had not complied with the "reasonable time" requirement set down in Article 6 of the Convention. They also declared that they were ready to pay the applicants *ex gratia* the sums tabulated below. The relevant part of the declarations reads as follows:

> "...[T]he Russian authorities acknowledge that the length of proceedings in [the applicants' cases] was in breach of the "reasonable time" requirement.
>
> ...The authorities of the Russian Federation are ready to pay [the applicants] *ex gratia* [the amount suggested] as just satisfaction.
>
> 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. Some disagreed on various grounds, considering most often that the compensation amounts offered by the Government were insufficient or insisting on examination of other complaints raised in their applications.

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."

To this end, the Court will examine carefully the declarations in the light of the principles emerging from its case-law.

The Court is satisfied that the excessive length of the proceedings in the applicants' cases is acknowledged by the Government. 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 the proceedings in each particular case. The Court therefore considers that it is no longer justified to continue the examination of the applications.

As to whether the respect for human rights as defined in the Convention and the protocols thereto requires the Court to continue the examination of the present applications, it notes that the Convention organs have consistently interpreted Articles 37 and 38 of the Convention as compelling them to continue the examination of a case, notwithstanding its settlement by the parties or the existence of any other ground for striking the case out of its list. A further examination of a case was thus found to be necessary when it raised questions of a general character affecting the observance of the Convention (see *Tyrer v. the United Kingdom*, no. 5856/72, Commission's report of 14 December 1976, Series B 24, p. 2, § 2).

Such questions of a general character would arise, for example, where there is a need to clarify the States' obligations under the Convention or to induce the respondent State to resolve a structural deficiency affecting other

persons in the same position as the applicant. The Court has thus been frequently led, under Articles 37 and 38, to verify that the general problem raised by the case had been or was being remedied and that similar legal issues had been resolved by the Court in other cases (see, among many others, *Can v. Austria*, 30 September 1985, §§ 15-18, Series A no. 96, and *Léger v. France* (striking out) [GC], no. 19324/02, § 51, ECHR 2009-...).

The Court does not see any compelling reason of public order to warrant examination of the present applications on the merits. Firstly, the Court has on numerous occasions determined issues analogous to those arising in the instant cases and ascertained in great detail the States' obligations under the Convention in that respect (see, among many others, *Kudła v. Poland* [GC], no. 30210/96, §§ 131 and 160, ECHR 2000-XI, *Kormacheva v. Russia*, no. 53084/99, §§ 57 and 64, 29 January 2004). Secondly, on 4 May 2010 the Russian authorities introduced a new domestic remedy against unreasonable length of court proceedings, which was deemed *prima facie* effective by the Court and now requires to be exhausted (see *Fakhretdinov and Others v. Russia* (dec.), no. 26716/09 *et al*., 23 September 2010). As a consequence, an examination on the merits of the present cases would not bring any new element in this regard.

Accordingly, in so far as the complaint about the length of proceedings is concerned, the applications should be struck out of the list.

B. Complaint of lack of an effective domestic remedy

Some applicants complained under Article 13 that they did not have at their disposal an effective domestic remedy in respect of excessive length of proceedings.

The Government did not specify their position in relation to this complaint.

The Court takes cognisance of the existence of a new remedy against excessive length of proceedings introduced by the federal laws № 68-*ФЗ* and № 69-*ФЗ* on 4 May 2010 in the wake of the pilot judgment adopted in the case of *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009-...).

On 23 September 2010 the Court decided that all new cases introduced after the *Burdov* pilot judgment and falling within the scope of the new domestic remedy had to be submitted in the first place to the national courts (see *Fakhretdinov and Others*, cited above, § 32). The Court also stated that its position may be subject to review in the future, depending in particular on the domestic courts' capacity to establish consistent practice under the new law in line with the Convention requirements (*ibid*, § 33).

Finally, the Court notes that all the applicants were in principle enabled to claim compensation under the transitional provisions of the new law and that they will in any event receive pecuniary compensation in respect of

their grievances in accordance with the Government's declarations examined above.

Having regard to these special circumstances, the Court does not find it necessary to continue a separate examination of the complaint under Article 13 in the present case (see, among others, *Kravchenko and Others v. Russia*, nos. 11609/05 et al., § 45, 16 September 2010).

C. 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 (a) and 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;

Decides to strike the applications in respect of the length of proceedings out of its list of cases;

Decides that there is no need for separate examination of the complaint of lack of an effective remedy;

Declares the remainder of the applications inadmissible.

André Wampach	Nina Vajić
Deputy Registrar	President

APPENDIX

No	Application No	Lodged on	Applicant name and date of birth	Compensation offered (euros)
1.	7142/05	27/12/2004	**Tamara Nikolayevna POBUDILINA** 09/04/1957	3,000
2.	9865/05	24/02/2005	**Aleksey Bayramovich ALTYYEV** 01/08/1973	2,000
3.	26221/05	31/05/2005	**Lidiya Aleksandrovna ZAYTSEVA** 20/05/1949	3,000
4.	26621/05	21/06/2005	**Natalya Nikolayevna GADZHIYEVA** 1963	3,000
5.	38809/05	12/10/2005	**Renat Galimovich AKHMETZYANOV** 20/12/1958	3,000
6.	19946/06	21/04/2006	**Valentina Aleksandovna KREMSA** 11/08/1940	3,000
7.	26331/06	08/06/2006	**Yuriy Sergeyevich SOKOLOV** 23/06/1951	3,000
8.	29222/06	10/05/2006	**Nikolay Nikolayevich SUKHOV** 03/05/1950	3,000
9.	3531/07	07/01/2007	**Vladimir Nikolayevich LOVYGIN** 18/06/1956	3,000
10.	12141/07	18/01/2007	**Aleksandr Dmitriyevich CHEREPOV** 04/08/1951	2,700
11.	19014/07	21/02/2007	**Anastasiya Ivanovna KALAYDA** 15/12/1932	2,000
12.	28278/07	01/06/2007	**Nataliya Yevgenyevna STARTSEVA** 18/09/1970	2,000
13.	29837/07	15/05/2007	**Nikolay Mikhaylovich ORLOV** 05/10/1950	4,000
14.	33072/07	15/06/2007	**Anatoliy Petrovich ZHURAVLEV** 08/02/1972	2,500
15.	39427/07	23/07/2007	**Andrey Yevgenyevich NEUYMIN** 25/11/1967	2,000
16.	51351/07	15/05/2007	**Igor Konstantinovich POLYUKH** 20/01/1947	2,700
17.	39802/08	14/07/2008	**Yuriy Timofeyevich TKACHEV** 10/01/1942	3,000
18.	51864/08	19/08/2008	**Eduard Aleksandrovich KOVANOVSKIY** 04/07/1960	2,500
19.	58366/08	12/05/2008	**Vladimir Yakubovich USTAYEV** 10/06/1957	2,700

20.	60797/08	06/10/2008	**Igor Vasilyevich KUZMIN** 03/10/1974	3,000
21.	9173/09	29/01/2009	**Yelena Anatolyevna NAGIBINA** 27/07/1961 **Aleksandr Vasilyevich NAGIBIN** 02/03/1990	2,000
22.	10061/09	27/01/2009	**Yuliya Valentinovna SHARKOVA** 29/07/1969 **Valeriy Dmitriyevich MUKHIN** 28/12/1967 **Aleksandr Mikhaylovich FEDIRKO** 12/08/1965 **Mikhail Yevgenyevich SMIRNOV** 05/08/1970 **Tatyana Yuryevna IVANOVA** 14/12/1975 **Sergey Olegovich SMIRNOV** 14/08/1970	2,700 each
23.	15397/09	28/01/2009	**Tatyana Filosofovna ILMOVSKAYA** 10/03/1930	3,200
24.	35439/09	16/06/2009	**Nadezhda Georgiyevna DOLGIREVA** 17/07/1957	3,000
25.	47366/09	13/08/2009	**Yuriy Gennadyevich TROSHCHANOVSKIY** 01/01/1953	3,000
26.	48073/09	18/08/2009	**Nadezhda Vasilyevna MAKAROVA** 10/03/1942	3,000
27.	49050/09	12/08/2009	**Aleksandr Isaakovich TSEKHOVOY** 03/12/1931	2,000
28.	52320/09	02/09/2009	**Aleksey Yuryevich CHUDNOVETS** 27/04/1956	2,400
29.	53164/09	09/09/2009	**Tamara Aleksandrovna KALININA** 23/07/1933	5,000
30.	57114/09	29/09/2009	**Aleksandr Alekseyevich ANTONOV** 12/06/1967	1,500