

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

FIRST SECTION

DECISION

This version was rectified on 17 August 2011 and 14 May 2012
under Rule 81 of the Rules of Court

Application no. 37865/04 and other applications
Vitaliy Kazimirovich RUDNITSKIY and Others
against Russia
(see appendix for other applications)

The European Court of Human Rights (First Section), sitting on 8 March 2011 as a Chamber composed of:

Nina Vajić, *President,*
Christos Rozakis,
Peer Lorenzen,
Anatoly Kovler,
Khanlar Hajiyev,
George Nicolaou,
Julia Laffranque, *judges,*

and Søren Nielsen, *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 v. Russia (no. 2)* (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 whose names and dates of birth are tabulated below.

Mr V. Rudnitskiy, Mr A. Gruntenko, Mr A. Dorofeyev and Mr A. Gridnev died after lodging their applications under Article 34 of the Convention. Their successors Ms G. Rudnitskaya, Ms V. Gruntenko, Ms L. Dorofeyeva and Ms Ye. Gridneva, 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.

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

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. Several applicants furthermore challenged the modalities of the execution of their judgments at the domestic level and, in particular, alleged inadequate indexation of regular payments in comparison with the inflation rate in the country. Finally, some applicants cast doubts as to whether the

Government acknowledged the violations and would comply with their terms once the Court struck the applications out of its list.

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 (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 further 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 also notes that in the cases of *Rudnitskiy, Gruntenko, Dorofeyev* and *Gridnev*, the Government undertook to pay the compensations to the persons who pursue the proceedings instead of the late applicants, as indicated in the appendix.

Insofar as several applicants contest the execution modalities, the Court reiterates that such grievances must be first and foremost submitted to domestic courts, which are better placed than the Court to ascertain the compliance with the Russian law in this area, including the specific index-linking requirements provided therein (see *Belkin and Others v. Russia* (dec.), nos. 14330/07 et al., 5 February 2009).

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:

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

Decides to join the applications;

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.

Søren Nielsen	Nina Vajić
Registrar	President

APPENDIX

No	Application No	Last name	Forename	Born	Compensation offered (Euros)
1.	37865/04	RUDNITSKIY[1]	Vitaliy Kazimirovich	1948	3,500
2.	40573/04	BADTIYEV	Mayrbek Mikhaylovich	1963	1,630
		BALAYEVA	Lyudmila Ivanovna	1950	1,570
		BITAROV	Aslanbek Davidovich[2]	1953	1,650
		BITIYEV	Aslan Ruslanovich	1967	1,600
		BURCHEVSKIY	Sergey Valeryanovich	1970	1,600
		GAGLOYEV	Akhsarbek Otariyevich	1958	1,750
		GAGLOYEV	Ibragim Borisovich	1960	1,660
		GOSTEV	Vladimir Yuryevich	1974	1,380
		GOSTEV	Dmitriy Yuryevich	1971	1,400
		MUZATY	Elgudzha Revazovich	1955	1,600
		PUKHOV	Temur[3] Shotayevich	1958	1,440
		SLANOV	Stalbek Chermenovich	1970	3,000
		TEKIYEV	Arsen Suleymanovich	1966	1,460
		TRANKADZE	Temur Shavlovich	1969	1,660
		VATAYEV	Valeriy Georgiyevich	1962	1,480
3.	5690/05	MUSTAFIN	Kamil Gaynulkhakovich	1957	1,195
4.	6434/05	GRUNTENKO[4]	Anatoliy Ivanovich	1947	710

1. Payment to be made to Ms G. Rudnitskaya instead of the late applicant
2. Rectified on 14 May 2012: the text was “Borisovich”
3. Rectified on 17 August 2011: the text was “Timur”
4. Payment to be made to Ms V. Gruntenko instead of the late applicant

5.	18601/05	KIRILLOV	Vladimir Petrovich	1946	1,500
6.	23156/05	ILCHENKO	Boris Ivanovich	1949	2,060
7.	25980/05	PERLOVSKAYA	Lyubov Viktorovna	1961	3,000
8.	29670/05	TAYANKO	Yuzef Ivanovich	1954	4,000
9.	30080/05	LUKYANOVA	Irina Ivanovna	1972	3,700
10.	34977/05	ZAYTSEVA	Svetlana Vasilyevna	1951	1,300
11.	2778/06	YEVSYUKOV DOROFEYEV[5] GONCHAROV KHARKOV MAKAROV	Aleksandr Dmitriyevich Aleksandr Viktorovich Sergey Vasilyevich Vyacheslav Yevseyevich Mikhail Alekseyevich	1954 1956 1961 1951 1957	1,840 2,330 1,930 1,960 1,840
12.	20905/06	ILYUSHIK	Viktor Yakovlevich	1949	1,660
13.	22754/06	VALEYEVA	Rakiya Ilyasovna	1960	5,500
14.	28483/06	YEVDOKIMOV	Aleksandr Sergeyevich	1948	1,856
15.	42053/06	MELNICHENKO	Mikhail Ivanovich	1952	5,500
16.	47040/06	KOPALINA	Olga Vyacheslavovna	1966	2,570
17.	6518/07	SERYAKOV	Aleksey Alekseyevich	1940	1,015
18.	19706/07	KOTOV	Yuriy Vladimirovich	1956	870
19.	20774/07	BONDARENKO	Zinaida Ivanovna	1948	1,550
20.	22639/07	SOROCHKIN	Aleksey Nikolayevich	1975	4,000
21.	28656/07	ZHIROVA	Tatyana Alekseyevna	1950	1,540
22.	35540/07	SAVOSTYANOVA	Tamara Dmitriyevna	1952	800
23.	38740/07	GRIDNEV[6]	Anatoliy Antonovich	1934	5,500

5. Payment to be made to Ms L. Dorofeyeva instead of the late applicant
6. Payment to be made to Ms Ye. Gridneva instead of the late applicant

24.	39262/07	PANCHENKO	Aleksandr Valeryevich	1976	5,000
25.	44875/07	VALSHMIDT	Aleksey Viktorovich	1985	2,500
26.	2668/08	SHIKHALEYEVA	Lyubov Vasilyevna	1953	2,000
27.	10308/08	ANISHCHENKO	Vasiliy Nikolayevich	1960	4,100
28.	12456/08	GUSOVA	Elda Kazbekovna	1975	750
29.	13658/08	GAYDUKOV	Vasiliy Yuryevich	1981	4,000
30.	14783/08	VELMOZHKO	Dmitriy Yuryevich	1977	4,940
31.	14792/08	SHCHIPOVSKOV	Roman Aleksandrovich	1978	4,560
32.	14797/08	CHEMERKIN	Nikolay Leonidovich	1976	4,950
33.	14800/08	ASLANBEKOV	Kunakbek Navruzbekovich	1974	3,570
34.	14806/08	KAREV	Nikolay Aleksandrovich	1978	4,940
35.	19780/08	BESSONOV	Yevgeniy Valeryevich	1980	4,560
36.	21626/08	CHURZIN	Dmitriy Aleksandrovich	1979	2,740
37.	22625/08	LOBODA	Aleksandr Sergeyevich	1977	4,380
38.	24142/08	RYABYKH	Konstantin Vladimirovich	1977	3,490
39.	28771/08	APOSTOLOV	Vladislav Viktorovich	1982	3,900
40.	30947/08	KHAMIDOV	Timur Ramzanovich	1977	1,540
41.	31814/08	CHEPELEVA	Tatyana Mefodiyevna	1930	3,780
42.		ZAKHAROV	Aleksandr Aleksandrovich	1983	2,970
	36412/08	ZAKHAROV	Ivan Aleksandrovich	1978	2,970
43.	36415/08	OVSYANNIKOV	Viktor Aleksandrovich	1965	4,940
44.	39228/08	KASHTANOV	Sergey Yegorovich	1964	2,030
45.	44265/08	KOMAROV	Andrey Vladimirovich	1981	5,350
46.	44270/08	PYLTSYN	Sergey Viktorovich	1975	1,175
		MARTYNOV	Sergey Viktorovich	Unspecified	1,175

47.	48845/08	CHIKMAZOV	Timur Stanislavovich	1983	3,490
48.	52360/08	SHAKHBANOV	Nazir Shakhbanovich	1978	2,760
49.	59735/08	ARIPSHEV	Zaurbek Aslanbiyevich	1977	3,380
50.	59755/08	VOROKOV	Anzor Borisovich	1977	3,300
51.	17725/09	TOLOKEVICH	Sergey Bronislavovich	1965	2,200
52.	64961/09	KLADKEVICH	Yuriy Vladimirovich	1960	2,200