

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

THIRD SECTION

DECISION

Application no. 4991/06
Lidiya Grigoryevna SHEVCHENKO against Russia
and 5 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 21 September 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 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 applicants and the relevant details of the applications are 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

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. Complaints under Articles 6 § 1 and 13 of the Convention and Article 1 of the Protocol No. 1

1. Applications nos. 1898/07, 18026/07and 33224/11

Having examined all the material before it, the Court considers that for the reasons stated below, the three applications, nos. 1898/07, 18026/07 and 33224/11, are inadmissible in view of the applicants' failure to comply with the six-month requirement.

In particular, the Court reiterates that non-enforcement of a judgment is a continuing situation (see, among many others, *Trunov v. Russia*, no. 9769/04, § 15, 6 March 2008). However, in a number of cases the Court has rejected non-enforcement complaints in accordance with Article 35 § 1 of the Convention if they were introduced more than six months after the date when the judgment was enforced or ceased to be binding and enforceable (see, in the context of the quashing of a judgment by way of supervisory-review proceedings, *Kravchenko v. Russia*, no. 34615/02, § 34, 2 April 2009, and *Nikolay Zaytsev v. Russia*, no. 3447/06, § 26, 18 February 2010) or when an applicant knew, or ought to have known, that the enforcement of the judgments in her favour was no longer possible (see, for instance, *Babich and Azhogin v. Russia* (dec.), nos. 9457/09 and 9531/09, §§ 47-54 and 57-58, 15 October 2013; or *Bichenok v. Russia* (dec.), no. 13731/08, 31 March 2015, when the applicant learned of the liquidation of the company and absence of any legal venues to seek further enforcement more than six months before her application to the Court).

Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility of these applications.

The applicants did not argue that they had any available legal avenue at their disposal which could have brought them closer to their goal, that is, either the enforcement of the judgments in their favour, or, alternatively, engaging the authorities' responsibility for the failure to properly assist them in the enforcement of the judicial awards in their favour. In these circumstances, the six-month period runs from the date of the enforcement of the judgment or the date when the applicants learned, or ought to have learned, that the judgments could no longer be enforced (see *Bichenok,* cited above, § 25; and, *mutatis mutandis*, *Norkin v. Russia* (dec.), no. 21056/11,

§ 20, 5 February 2013). The Court notes that as follows from the parties' submissions the judgments in the applicants' favour had been duly enforced or the applicants had become aware that there was no realistic hope of a favourable outcome or progress of the enforcement proceedings at the domestic level more than six month before they lodged their application with the Court (for details see the appended table below).

In view of the above, the Court finds that applications nos. 1898/07, 18026/07 and 33224/11 were submitted too late and that they therefore must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

2. Applications nos. 4991/06 and 8015/06

The Court reiterates that an unreasonably long delay in the enforcement of a binding judgment may breach the Convention (see *Burdov v. Russia*, no. 59498/00, ECHR 2002-III). In such cases, the defendant State authority must be duly notified of the judgment and is thus well placed to take all necessary initiatives to comply with it or to transmit it to another competent State authority responsible for execution.

At the same time, the Court has accepted that a successful litigant may be required to undertake certain procedural steps in order to recover the judgment debt (see *Shvedov v. Russia*, no. 69306/01, § 32, 20 October 2005). Accordingly, it is not unreasonable that the authorities request the applicant to produce additional documents, such as bank details or personal information, to allow or speed up the execution of a judgment (see, *Gadzhikhanov and Saukov v. Russia*, nos. 10511/08 and 5866/09, § 22, 31 January 2012, with further references). The creditor's uncooperative behaviour may be an obstacle to timely enforcement of a judgment, thus alleviating the authorities' responsibility for delays (see *Belayev v. Russia* (dec.), 36020/02, 22 March 2011).

The Court has been frequently led to apply the above principles in numerous non-enforcement cases brought against Russia, notably for calculation of enforcement delays for which the State was responsible under the Convention.

Turning to the circumstances of applications nos. 4991/06 and 8015/06, the Court notes that it cannot establish the existence of the State's responsibility for non-enforcement of the judgments in a situation where the applicants, for a number of years, have not taken any steps to receive the judgment award or even, as the applicant in case no. 8015/06, had a direct access to publicly open information, provision of which was ordered by the final judgment, but still insisted on being given it in a special form by the specific State agency. The applicants' failure to comply with the necessary formalities made it either impossible for the State to properly and in due time enforce the final judgment (application no. 4991/06) or made the enforcement plainly futile, given the changes which had occurred in the

meantime in the official gathering and provision of the information by the State (application no. 8015/06).

In view of the above circumstances, the Court finds that the authorities cannot be held responsible under the Convention for the non-enforcement of the judgments in the two applications nos. 4991/06 and 8015/06.

The Court accordingly finds that the complaints about the delayed enforcement of the final judgments are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention. Given this finding, the applicants' complaint about the lack of an effective remedy for their non-enforcement complaint raises no issue and is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention (see *Yeremenko v. Russia* (dec.), no. 42372/08, §§ 35-38 ECHR 2016).

3. Application no. 3276/08

Turning to the circumstances of the present application, the Court notes that the applicants complained about belated enforcement of the judgment rendered in their favour on 21 August 2007. According to them, the judgment was entirely enforced on 11 July 2008. The Government submitted that the final judgment was enforced within a reasonable time, slightly less than eleven months, particularly in view of the fact that the judgment dealt with the provision of housing and required the compliance with a number of formalities, including on the applicants' part.

The Court accepts the Government's argument about the need for the applicants to duly cooperate with the authorities within the enforcement proceedings, particularly those which concern the provision of housing, and finds that the judgment in the applicants' favour was enforced within a reasonable time-frame (see *Belayev v. Russia* (dec.), no. 36020/02, 22 March 2011).

The Court concludes that this application is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and must be declared inadmissible pursuant to 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 12 October 2017.

Liv Tigerstedt
Acting Deputy Registrar

Luis López Guerra
President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic order
1.	4991/06 21/12/2005	**Lidiya Grigoryevna Shevchenko** 07/09/1938	Leninskiy District Court of Penza, 14/05/2002	28/05/2002	12/04/2006 3 year(s) and 10 month(s) and 16 day(s)	"... to sign [with the applicant and her family] a contract transferring title to the flat ... into [the applicant's] ownership..."
2.	8015/06 01/03/2004	**Oleg Viktorovich Tsvetkov** 15/12/1968	Khoroshevskiy District Court of Moscow, 21/05/2002	03/06/2002	30/07/2004 More than 2 year(s), 1 month and 28 day(s)	"... [Committee of Land Resources] to provide [the applicant] with information regarding land for construction..."
3.	1898/07 12/11/2006	**Yesob Khakimovich Negmadyanov** 16/07/1951	Uchalinsky District Court of the Bashkortostan Republic, 03/06/2004	22/06/2004	14/10/2004 3 month(s) and 23 day(s)	"to register [the applicant] in the list of citizens for priority provision of housing ..."
4.	18026/07 13/03/2007	**Aleksey Nikolayevich Smolnyakov** 05/03/1949	Ocherskiy District Court of the Perm Region, 31/10/2002	05/12/2002	03/06/2003 5 month(s) and 30 day(s)	"... assign the housing to [the applicant] ..."
5.	3276/08 21/11/2007 (3 applicants)	**Igor Sergeyevich Zabolotskikh** 14/05/1968 **Aleksandr Sergeyevich Zabolotskikh** 10/02/1973 **Dmitriy Igorevich Zabolotskikh** 24/09/1990	Kirov Regional Court, 21/08/2007	21/08/2007	11/07/2008 10 month(s) and 21 day(s)	provision of housing
6.	33224/11 29/03/2011	**Valeriy Enderbiyevich Zhelikhazhev** 31/05/1973	the Rostov-On -Don Garrison Military Court, 22/01/2004	03/02/2004	24/10/2006 2 year(s) and 8 month(s) and 21 day(s)	"the command of the military unit 6782...to recalculate the applicant's term of service and entitlement to leave on account of [several periods of the applicant's participation in counter-terrorist operations]; pay [the applicant] RUB 360,032.72 of emoluments and 12,985.44 of allowance