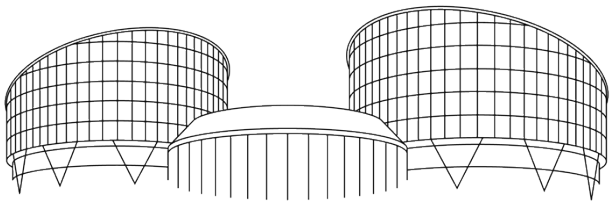

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 67471/09
Magomed Abdusalamovich ARSLANBEKOV against Russia
and 2 other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on 20 March 2012 as a Chamber composed of:

Nina Vajić, *President,*
Anatoly Kovler,
Elisabeth Steiner,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and Søren Nielsen, *Section Registrar,*

Having regard to the above applications lodged on 10 November 2009,

Having regard to the decision to grant priority to the above applications under Rule 41 of the Rules of Court,

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' reply to those declarations,

Having deliberated, decides as follows:

THE FACTS

The applicants are three Russian nationals whose names and dates of birth are tabulated below. They were represented before the Court by Ms T.I. Baskayeva, a lawyer practicing in Vladikavkaz. The Russian

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

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

Between 2001 and 2005 the applicants sued the State authorities in domestic courts for payment of various monetary sums due under domestic law. The courts held for the applicants and ordered the authorities to pay various amounts. These judgments became binding and the authorities executed them in the years 2005 to 2007, that is with a certain delay in each applicant's case.

In 2008 and 2009 the applicants lodged proceedings with the domestic courts asking for indexation of the judicial awards due to the delayed execution of the judgments mentioned above. The domestic courts rejected their claims.

COMPLAINTS

The applicants complained in substance under Article 1 of Protocol No. 1 about allegedly unlawful refusal by domestic courts to index-link the judicial awards due to delayed execution of the judgments delivered in their favour.

They also complained that the refusal to index-link the judicial awards amounted to a violation of their right to a fair hearing within a reasonable time, alleging violations of Articles 6 § 1 and 13 of the Convention in this regard.

THE LAW

The applicants maintained that the refusal by domestic courts to index-link the judicial awards was arbitrary and unlawful, thus violating their right to the peaceful enjoyment of their possessions guaranteed by Article 1 of Protocol No. 1, the relevant part of which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. "

By letter dated 17 January 2011 the Government provided the Court with unilateral declarations with a view to resolving the issue raised by the applications and requested the Court to strike out the applications in accordance with Article 37 of the Convention. The applicants objected to

the declarations, noting in particular that they did not offer adequate compensation for pecuniary damage. On 21 October 2011, the Government withdrew their declarations of 17 January 2011 and made revised unilateral declarations offering increased compensation amounts.

In those declarations, the Government aknowledged the violation of the applicants' rights under the Convention on account of the failure to index-link the judicial awards in the applicants' favour. In their written submissions accompanying the unilateral declarations, the Government notably stated that such refusal was inconsistent with the well-established domestic case-law requiring automatic and systematic indexation of monetary awards. They referred in this regard to the relevant findings of the European Court in *Burdov v. Russia (no. 2)*, no. 33509/04, §§ 93, 107, 15 January 2009 and a decision of the Constitutional Court of Russia of 20 March 2008. The Government declared their intention to pay the applicants the sums tabulated below as just satisfaction for both pecuniary and non-pecuniary damage, as well as for costs and expenses. The remainder of their declarations, formulated in similar terms, reads as follows:

> "The sums referred to above, 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. It 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 it 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."

In letters of 21 November 2011, the applicants' representative informed the Court that the applicants agreed with the conditions proposed in the Government's revised declarations.

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."

Having regard to the acknowledgement of a violation of the applicants' rights under Article 1 of Protocol No. 1 contained in the declarations

together with the amounts of compensations proposed, the Court considers that it is no longer justified to continue the examination of the present applications. Moreover, 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 the applications (see, for the relevant principles, *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI). The Court notes in this respect that the violations at issue clearly resulted from a breach of domestic law and established practice as aknowledged by the Government. The Court bears in mind the fact that the applicants agreed to the Government's remedial offers. The Court does not therefore see any compelling reason of public order to warrant the examination of the applications on the merits.

Accordingly, this part of the applications should be struck out of the list.

The applicants made complaints under Articles 6 § 1 and 13 of the Convention about the refusal to index-link the judicial awards in their favour and the abcense of effective remedies against that violation.

However, in 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 and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in so far as the complaints about refusal to index-link the judicial awards are concerned;

Declares the remainder of the applications inadmissible.

Søren Nielsen
Registrar

Nina Vajić
President

APPENDIX

No	Application No	Applicant Date of birth Place of residence	Compensation offered (Euros (EUR) and Russian roubles (RUB))
1.	67471/09	**Magomed Abdusalamovich ARSLANBEKOV** 18/06/1975 Vladikavkaz	1,840 EUR and 111,088.26 RUB
2.	67765/09	**Irina Valentinovna MIKHAYLOVA (BOKOVA)** 22/10/1960 Vladikavkaz	1,340 EUR and 182,331.74 RUB
3.	553/10	**Tamerlan Elvrikovich TETOV** 01/07/1979 Vladikavkaz	1,900 EUR and 96,658.33 RUB