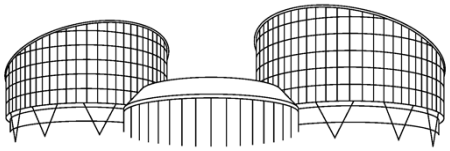

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF PALACHEVA v. RUSSIA

(Application no. 39814/04)

JUDGMENT

STRASBOURG

19 June 2014

This judgment is final but it may be subject to editorial revision.

In the case of Palacheva v. Russia,

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

Khanlar Hajiyev, *President,*
Erik Møse,
Dmitry Dedov, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 27 May 2014,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 39814/04) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Ms Patimat Gadzhishakhbanovna Palacheva ("the applicant"), on 10 October 2004.

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

3. On 14 January 2010 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1948 and lives in Kaspiysk, the Dagestan Republic. She worked as chief accountant in the finance department of Kaspiysk Town Council ("the Kaspiysk finance department") from 29 September 1980 until her dismissal on 25 January 1993.

5. On 13 May 1993 the applicant challenged the lawfulness of her dismissal. She also requested her reinstatement and salary arrears for the period of her enforced absence from work (*вынужденного прогула*).

6. By a final judgment of 21 September 1993 the Sovetskiy District Court of Makhachkala ("the Sovetskiy District Court") ordered the Ministry of Finance of the Republic of Dagestan to reinstate the applicant in the position she had held in the Kaspiysk finance department on 25 January 1993, and to pay her salary arrears in the amount of 364,708 Russian roubles (RUB), corresponding to the period of her enforced absence from

work, that is from 25 January to 21 September 1993. As regards the applicant's reinstatement, the judgment was subject to immediate enforcement.

7. On 20 October 1993 the Ministry of Finance issued an order to reinstate the applicant in her previous position. On 1 November 1993 the Kaspiysk finance department issued the relevant order and the applicant returned to work. The salary arrears awarded by the judgment of 21 September 1993 were paid to the applicant in December 1993 or February 1994.

8. On 7 February 1994 the applicant resigned. She subsequently alleged that she had written her resignation letter under pressure.

(a) First examination of the case

9. On 13 May 1994 the applicant brought a court action against the Kaspiysk finance department complaining of the delay in the execution of the judgment of 21 September 1993. On 10 December 1996 the applicant lodged additional claims.

10. On 27 December 1996 the Kaspiysk Town Court of the Republic of Dagestan ("the Town Court") rejected all the claims lodged by the applicant. The Town Court found it established that the judgment of 21 September 1993 had been executed, the applicant had been reinstated to her position and the sum due under that judgment had been paid to her in December 1993.

11. On 26 February 1997 the Supreme Court of the Republic of Dagestan quashed the judgment of 27 December 1996 and remitted the case for fresh examination. The Supreme Court indicated that the lower court had failed to establish whether the applicant had received the full amount of money due under the judgment of 21 September 1993 and whether she had the right to indexation.

(b) Second examination of the case

12. The applicant amended her claims on 21 May, 25 June, 14 November and 17 November 1997. She indicated that she had received the sum of RUB 317,734 under the judgment of 21 September 1993, but complained that the Sovetskiy District Court had miscalculated her salary arrears because it had not taken the indexation into account. She also asked for salary arrears from 21 September 1993 to 7 February 1994 and for the period in which delivery of her work record had been delayed.

13. On 28 November 1997 the Town Court allowed the applicant's claim in part. In particular, it stated as follows:

> "[T]he court has established that in accordance with the judgment of the Sovetskiy District Court of Machachkala, Palacheva P.G. received in December 1993, together with her salary and holiday pay, RUB 364,708 minus RUB 43,327 of income tax and 1% deduction for pension fund in the amount of RUB 3,647 = RUB 317,734. This is

confirmed by the payment record for December 1993 and Mrs. Palacheva's signature on this payment record certifying that this amount was paid to her. The claimant herself did not deny this fact before the court."

14. As regards the alleged miscalculation of the sum awarded by the Sovetskiy District Court, the Town Court noted that the judgment had become final and that the calculation made by the District Court had been based on the calculations submitted by the applicant herself. As regards the delay in her reinstatement, the Town Court awarded the applicant salary arrears for the delay, together with indexation. The applicant appealed.

15. On 18 February 1998 the Supreme Court of the Republic of Dagestan upheld the Town Court's judgment in substance, but reduced the global amount due to the applicant. It was explained to the applicant that the claim concerning indexation of the sum awarded by the judgment of 21 September 1993 should have been lodged with the Sovetskiy District Court which had delivered that judgment.

(c) Third examination of the case (claim for indexation)

16. On 20 August 1998 the judge of the Sovetskiy District Court rejected the applicant's claim concerning the payment of salary arrears and indexation, and invited her to lodge the claim with the Kaspiysk Town Court, which had jurisdiction in view of the defendant's address.

17. On 1 December 1998 the Sovetskiy District Court extended the time-limit for lodging an appeal against the decision of 20 August 1998 with the Supreme Court of the Republic of Dagestan.

18. On 17 February 1999 the Supreme Court of the Republic of Dagestan quashed the decision of 20 August 1998.

19. On 4 August 1999 the Sovetskiy District Court rejected the applicant's claim concerning the payment of salary arrears for her enforced absence from work on the ground that it lacked jurisdiction, given that the defendant had moved and was now located within the jurisdiction of the Leninskiy District Court of Makhachkala ("the Leninskiy District Court").

(d) Supervisory review and fourth examination of the case

20. On 11 May 1999 the Vice-President of the Supreme Court of the Russian Federation lodged a supervisory-review appeal with the Presidium of the Supreme Court of the Republic of Dagestan asking for the quashing of the judgments of 28 November 1997 and 18 February 1998. The Vice-President pointed out that the same shortcomings had already been identified by the Supreme Court of Dagestan in its decision of 26 February 1997. However, the Town Court, when considering the case for the second time, had failed to remedy them.

21. On 24 June 1999 the Supreme Court of the Republic of Dagestan, by way of supervisory review, quashed the judicial decisions of 28 November 1997 and 18 February 1998 and remitted the case to the Town Court for

fresh consideration. The Supreme Court also noted that its previous instructions had been ignored by the Town Court.

22. On 10 August 1999 the Town Court forwarded the case to the Leninskiy District Court, which had jurisdiction to examine the applicant's case in view of the defendant's new address.

(e) Fifth examination of the case

23. On 1 September 1999 the Leninskiy District Court rejected the applicant's claim for salary arrears corresponding to the period of her enforced absence on the ground that this dispute had already been decided by a final judgment. The District Court also noted that there was another case pending concerning similar claims after the quashing on 24 June 1999 by the Supreme Court of the Republic of Dagestan of the Town Court's judgment of 28 November 1997.

24. On 6 October 1999 the Supreme Court quashed the Leninskiy District Court's judgment of 1 September 1999. The Supreme Court indicated that if the applicant disagreed with the judgment of 21 September 1993, she could only lodge an application for a supervisory review of that judgment; her other claims, including that in respect of the non-enforcement of the aforementioned judgment, were to be considered in the course of the proceedings pending before the Town Court. Consequently, the Supreme Court discontinued the proceedings pending before the Leninskiy District Court.

(f) Supervisory review and sixth examination of the case

25. On 4 November 1999, following the request of its President, the Supreme Court of the Republic of Dagestan quashed the Town Court's order of 10 August 1999 by way of supervisory review (see paragraph 22 above) on the ground that a domestic court which had accepted its jurisdiction in accordance with the rules of jurisdiction existing at the material time should decide the case on the merits, even if those rules had subsequently changed. The case was thus remitted to the Town Court for consideration on the merits.

26. On 17 January 2000 the applicant amended her requests for the indexation of all the amounts claimed. On 12 May 2000 she again amended her claim. Further amendments were submitted by the applicant on 14, 22, 29 and 30 June 2000. As regards the judgment of 21 September 1993, the applicant claimed that the salary arrears due under that judgment had not been paid to her until 3 February 1994, and had been paid without indexation, and that not all the sums had been taken into account in the calculation of the amount due to her.

27. On 30 June 2000 the Town Court found for the applicant and awarded her different sums together with indexation, compensation for non-pecuniary damage, costs and expenses. As regards the judgment of

21 September 1993, the court noted that the payment of salary arrears had been executed with a delay of five months.

28. As the defendant had missed the deadline for appealing, it was extended on 23 October 2000 and the defendant appealed.

29. On 1 December 2000 the Supreme Court of the Republic of Dagestan rejected a number of the applicant's claims, reduced the amount awarded in respect of non-pecuniary damage, quashed the Town Court's judgment and sent the case back for re-consideration.

(g) Seventh examination of the case

30. On 19 April 2002 the applicant again amended her claims. She appears to have submitted the same claims as those rejected by the Supreme Court on 1 December 2000. The applicant notably claimed that the judgment of 21 September 1993 had still not been enforced as regards the payment of salary arrears for her enforced absence from work from 21 September to 1 November 1993.

31. On 16 May 2002 the Town Court decided to discontinue the proceedings in respect of the claims previously rejected by the Supreme Court of the Republic of Dagestan.

32. In a second decision adopted on the same day, the Town Court allowed the applicant's claim in part. It refused her claim for salary arrears corresponding to the delay in execution of the judgment of 21 September 1993 on the ground that that sum had been sent to her in February 1994 but she had refused to collect it. The applicant appealed.

33. On 10 July 2002 the Supreme Court of the Republic of Dagestan allowed the applicant's appeal. It quashed the Town Court's judgment on the basis of the same shortcomings as those previously indicated by it. Noting that the proceedings had been pending since 1993, the Supreme Court decided, with the agreement of both parties, to examine the case as a first-instance court. The Supreme Court rejected the part of the applicant's appeal concerning her claims decided by the decision of 1 December 2000.

(h) Eighth examination of the case (jurisdiction issue)

34. On 5 January 2003 the Supreme Court of the Republic of Dagestan, noting that the defendant had not agreed to the modification of jurisdiction in favour of the Supreme Court, decided to forward the case to the Town Court for consideration as the first-instance court. The applicant appealed.

35. On 13 March 2003 the Supreme Court of the Russian Federation quashed the decision of 5 January 2003 by the Supreme Court of the Republic of Dagestan on the grounds of a procedural irregularity (absence of parties at the hearing) and remitted the case to the Supreme Court of the Republic of Dagestan for consideration anew.

36. On 28 April 2003 the Supreme Court of the Republic of Dagestan, after hearing the parties and following a request lodged by the defendant's

representative, decided to forward the case to the Town Court for consideration as the first-instance court. The applicant appealed.

37. On 7 July 2003 the Supreme Court of the Russian Federation upheld the decision of the Supreme Court of the Republic of Dagestan of 28 April 2003 to remit the case to the Town Court.

(i) Ninth examination of the case

38. On 16 October 2003 the applicant further amended her claims.

39. On 30 October 2003 the Town Court decided to forward the case to the Leninskiy District Court. The applicant appealed.

(j) Supervisory review and tenth examination of the case

40. On 18 December 2003 the Supreme Court of the Republic of Dagestan quashed the Town Court's judgment of 30 October 2003 by way of supervisory review and remitted the matter to the same court for consideration anew. The reasons for the decision were the same than those indicated in the judgment of 4 November 1999 (see paragraph 25 above).

41. On 9 February 2004 the applicant amended her claim.

42. On 10 February 2004 the Town Court allowed the applicant's claim in part and awarded her certain financial compensation for salary arrears, legal costs and non-pecuniary damage. Both the applicant and the defendant appealed.

43. On 30 April 2004 the Supreme Court of the Republic of Dagestan quashed the Town Court's judgment and remitted the case for consideration anew. The Supreme Court noted that it appeared from the materials of the case file that the salary arrears awarded by the decision of 21 September 1993 had been paid to the applicant in February 1994.

(k) Eleventh examination of the case

44. On 22 June 2004 the proceedings were suspended because the applicant was ill. They were resumed on 23 September 2004.

45. On 1 November 2004 the Town Court discontinued the proceedings because the applicant failed to appear in court. It appears that this order became final.

II. RELEVANT DOMESTIC LAW AND PRACTICE

46. The domestic law and practice on the execution of judgments delivered against the State and its entities are summarised in *Burdov (no. 2) v. Russia* (no. 33509/04, §§ 23-24, ECHR 2009-...).

47. On 30 April 2010 the Russian Parliament enacted Federal Law No. 68-FZ "On Compensation for Violation of the Right to a Trial within a Reasonable Time or the Right to Enforcement of a Judgment within a

Reasonable Time" ("the Compensation Act"). The Compensation Act entered into force on 4 May 2010. It provides that in the event of a violation of the right to a trial within a reasonable time, an individual is entitled to seek compensation for non-pecuniary damage. Federal Law No. 69-FZ, also enacted on 30 April 2010, introduced the necessary changes to the Russian legislation.

48. Section 6 (2) of the Compensation Act provides that all individuals who have complained to the European Court of Human Rights that their right to a trial within a reasonable time has been violated may claim compensation in the domestic courts under the Act within six months of its entry into force, provided that the European Court has not ruled on the admissibility of the complaint.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 6 AND 13 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 ON ACCOUNT OF NON-ENFORCEMENT OF THE DOMESTIC JUDGMENT OF 21 SEPTEMBER 1993

49. The applicant complained that the non-enforcement of the domestic judgment delivered in her favour on 21 September 1993, in which the authorities had been ordered to pay her salary arrears, had breached Article 6 of the Convention and Article 1 of Protocol No. 1. She also complained that she did not have an effective remedy in this respect. The relevant parts of the provisions read as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ..., everyone is entitled to a fair ... hearing within a reasonable time by [a] ... tribunal ..."

Article 1 of Protocol No. 1

"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.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

Article 13

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

50. The Government contested that argument. They submitted that the judgment at issue had been enforced in December 1993 as regards the payment of the sum of RUB 364,708. They provided a copy of the payment record.

51. The Court notes that in the judgment of 21 September 1993 the Sovetskiy District Court found the applicant's dismissal on 25 January 1993 to have been unlawful and consequently awarded her salary arrears for the period from 25 January to 21 September 1993 in the amount of RUB 364,708 (see paragraph 6 above).

52. The Court further notes that the parties disagree about whether the judgment of 21 September 1995 was fully enforced as regards the payment of salary arrears awarded by this judgment: the Government argued that it had been fully enforced in December 1993 (see paragraph 50 above), whereas the applicant maintained that that part of the judgment had never been enforced in full (see paragraph 49 above).

53. The Court observes that the issue of whether the amount awarded by the judgment of 21 September 1993 had been fully paid to the applicant was examined by the domestic courts in several rounds of proceedings. Consequently, in determining whether or not the judgment was enforced, the Court should, in principle, rely on the findings made by the domestic courts, since its role in this matter is essentially subsidiary to that of the domestic authorities, who are better placed and equipped to assess the particular manner in which the enforcement should be carried out and the debtor's compliance with the enforcement modalities (see Belkin and Others v. Russia (dec.), no. 14330/07 5 February 2009, and Elinna Shevchenko v. Russia (dec.), no 1250/05, 14 October 2010).

54. The domestic courts first established that the amount awarded by the judgment of 21 September 1995, minus tax and contributions to the pension fund, had been paid to the applicant in December 1993. In doing so, the domestic courts referred to a payment record similar to that submitted by the Government to the Court (see paragraph 13 above).

55. However, the Court notes that in the subsequent proceedings, for some unexplained reason the domestic courts found that that sum had been paid to the applicant in February 1994 (see paragraphs 27 and 43 above).

56. The applicant alleged before the Court that the judgment of 21 September 1993 had not been enforced in full. The Court is not convinced by the applicant's argument that the judgment in her favour was not enforced in full as regards the payment of the salary arrears. The Court first observes that throughout the domestic proceedings the applicant did not contest as such the payment of the sum in question or the amount received

after tax (see paragraphs 12 and 26 above). It refers in this connection to the domestic courts' findings that the applicant's claims rather concerned her disagreement with the calculations made by the Sovestkiy District Court. The applicant's claims also concerned an alleged lack of indexation of the sums awarded. However, neither the former nor the latter issue are directly relevant to the payment of the salary arrears awarded in the main judgment, which were paid in February 1994 at the latest (see paragraph 55 above). Consequently, the Court assumes, in the absence of any clear indication to the contrary in the materials of the case file, that the sum awarded to the applicant by the judgment of 21 September 1993 was paid to her in full by that time (see, mutatis mutandis, Bogatyrev v. Russia (dec.), no 22960/04, 27 August 2009).

57. The Court therefore concludes that the judgment of 21 September 1993 was enforced in full by the authorities prior to the entry into force of the Convention in respect of the Russian Federation on 5 May 1998. Consequently, this part of the application should be declared inadmissible *ratione temporis* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF EXCESSIVE LENGTH OF PROCEEDINGS

58. The applicant complained that the courts had taken too long to examine her case and had thus breached the "reasonable-time" requirement provided for in Article 6 § 1 of the Convention.

59. The Government objected to the applicant's complaint. In particular, they stated that the case had been legally complex on account of the numerous claims submitted by the applicant. Furthermore, the applicant had contributed to the length of the proceedings by amending her claims several times and by constantly challenging the judgments adopted.

60. The Court observes that the proceedings complained of commenced on 13 May 1993 when the applicant lodged her claim with the Kaspiysk Town Court, and ended on 1 November 2004 when the same court discontinued the proceedings. The period to be taken into consideration for the purposes of the present case did not begin until 5 May 1998, when the Convention entered into force in respect of Russia. In assessing the reasonableness of the time that elapsed after that date, account must, nevertheless, be taken of the state of the proceedings at that time.

61. The Court further notes that the period from 5 May to 20 August 1998 has to be excluded from the overall length, as no proceedings were pending then. The periods from 6 October to 4 November 1999 and from 30 October to 18 December 2003, when the case was examined following an application for supervisory review and was not pending, must also be excluded (see paragraphs 25 and 40, respectively). Thus, the aggregate

length of the proceedings within the Court's competence *ratione temporis* amounts to almost six years, during which the applicant's case was considered seventeen times by the first-instance and the appeal courts, and three times by the supervisory review court (see paragraphs 16-45 above). The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

62. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities, and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

63. The Court is prepared to accept the Government's argument that the proceedings at issue were of some complexity. The Court notes in this respect that the applicant amended and supplemented her claims on numerous occasions and that the claims concerned different periods of her professional activity and various alleged violations of the Labour Code by her employer. The Court considers that the task of the courts was rendered more difficult by those factors, although it cannot accept that the complexity of the case, taken on its own, was such as to justify the overall length of the proceedings (see, among others, *Malinin v. Russia* (dec.), no. 58391/00, 8 July 2004).

64. In so far as the applicant's conduct is concerned, the Government considered that she contributed to the delays by constantly challenging the domestic courts' judgments. The Court reiterates in this respect that an applicant cannot be criticised for taking full advantage of resources afforded by national law in the defence of his or her interests (see, *mutatis mutandis*, *Yağcı and Sargın v. Turkey*, 8 June 1995, § 66, Series A no. 319-A). In any event, the Court considers that the applicant's behaviour cannot justify the examination of her case on twenty occasions by various courts during almost six years falling under the Court's jurisdiction.

65. Turning to the conduct of the authorities, the domestic courts examined the case in eleven rounds of proceedings. The Court accepts the Government's argument that the domestic courts did not in principle display any procrastination in scheduling the hearings and responding to the parties' requests, except in the period from 1 December 2000 to 19 April 2002 when the Supreme Court of the Republic of Dagestan quashed the Town Court's previous judgment and sent the case back for re-consideration. The case was pending for one year and almost five month before the Town Court without any steps being taken in view of its examination (see paragraphs 29-30 above).

66. Most importantly, the Court observes that the proceedings were tainted by two major deficiencies. First, the first-instance judgments in the

applicant's case were set aside eight times during the period falling under the Court's jurisdiction, either by the appellate courts or by the supervisory review courts, for erroneous application of the substantive law. On at least two occasions, the higher courts clearly indicated that their decision to quash was due to the first-instance court's failure to comply with their previous instructions (see paragraphs 20-21 and paragraph 40 above). The Court attaches particular weight to the fact that the Supreme Court of the Republic of Dagestan explicitly acknowledged the fact of the delay and even made an attempt to examine the case as a first-instance court in order to accelerate its final resolution. However, this eventually resulted in further prolongation of the proceedings (see paragraphs 33-37 above).

67. Secondly, the Court notes that the delay in the proceedings was also due to the fact that the domestic courts erred in the determination of their jurisdiction over the applicant's claims. As a result, they relinquished jurisdiction one to another, thus compelling the applicant to restart the same proceedings time and again with different courts (see, in particular, paragraphs 15-19, 22-25 and 39-40 above). The Court reiterates that the authorities are responsible for the delays stemming from the courts' mistakes concerning jurisdiction. It was incumbent upon the domestic authorities to ensure that the national law provided clear guidance on the application of the courts' jurisdiction (see *Salikova v. Russia*, no. 25270/06, § 58, 15 July 2010).

68. In this respect, the Court reiterates that the Convention and its Protocols must be interpreted as guaranteeing rights which are practical and effective as opposed to theoretical and illusory. The right to have one's claim examined within a reasonable time would be devoid of all sense if domestic courts examined a case endlessly, even if at the end the length of proceedings per instance did not appear particularly excessive (see, *mutatis mutandis*, *Svetlana Orlova v. Russia*, no. 4487/04, § 47, 30 July 2009).

69. Although the Court is not in a position to analyse the juridical quality of the domestic courts' decisions, it considers that the multiple repetition of re-examination orders within the same set of proceedings may disclose a deficiency in the judicial system (see *Falimonov v. Russia*, no. 11549/02, § 58, 25 March 2008). The fact that the domestic courts heard the case several times did not absolve them from complying with the reasonable-time requirement of Article 6 § 1 (see *Litoselitis v. Greece*, no. 62771/00, § 32, 5 February 2004, and *Svetlana Orlova*, cited above, § 49).

70. Having regard to the above, the Court considers that the domestic authorities' failure promptly to refer the applicant to a competent court in respect of her different claims and the repeated referrals of the case back to the first instance most significantly contributed to the length of the proceedings in her case. In particular, the shifting of the case between

several courts and levels of jurisdiction several times stripped of its substance the applicant's right to have her claims examined within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention on account of the length of the proceedings.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

71. The applicant further complained that she had had no effective domestic remedies against the excessive length of the judicial proceedings.

72. The Government contested that argument. They referred to a new remedy introduced by Federal Laws Nos. 68-03 and 69-03 in the wake of the pilot judgment adopted in the case of *Burdov (no. 2)*, cited above. Those statutes, which entered into force on 4 May 2010, set up a new remedy enabling those concerned to seek compensation for damage sustained as a result of excessive delays in judicial proceedings and/or enforcement of court judgments against the State. In accordance with their transitional provisions, all individuals who have complained to the European Court of Human Rights that their right to a trial within a reasonable time has been violated may claim compensation in the domestic courts under the legislation within six months of its entry into force, provided that the European Court has not ruled on the admissibility of the complaint (see paragraphs 47-48 above). The applicant did not, however, avail herself of that possibility.

73. The Court accepts that as of 4 May 2010 the applicant has had a right to use the new remedy (see paragraphs 47-48 above). However, it recalls that in the pilot judgment cited above it decided to follow a different course of action in respect of applications lodged before the delivery of the judgment. The Court considered that it would be unfair if the applicants in such cases, who had allegedly been suffering for years from continuing violations of their right to a court and had sought relief in this Court, were compelled yet again to resubmit their grievances to the domestic authorities, be it on the grounds of a new remedy or otherwise (see *Burdov (no. 2)*, cited above, § 144). In line with this principle, the Court decided to examine the applicant's complaint of excessive length of civil proceedings on its merits and found a violation of Article 6 § 1 of the Convention.

74. Finally, 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 v. Russia* (dec.), no. 26716/09, § 32, 23 September 2010). 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).

75. Having regard to those special circumstances, although the applicant's complaint under Article 13 is admissible, the Court does not find it necessary to consider it separately (see *Krasnov v. Russia*, no. 18892/04, § 35, 22 November 2011).

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

76. The applicant further complained, under Article 4 of the Convention, that she had been subjected to compulsory labour.

77. Having regard to all the materials in its possession, and in so far as this complaint falls within its competence, the Court finds that there is no appearance of a violation of the rights and freedoms set out in this provision in that respect. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 1, 3 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

78. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

79. The applicant claimed 4,000,000 Russian roubles (RUB) in respect of non-pecuniary damage caused by the excessively lengthy proceedings. She also claimed RUB 2,419,588 in respect of pecuniary damage.

80. The Government considered the amounts excessive and unsubstantiated. As regards the applicant's claim for non-pecuniary damage, the Government referred to the fact that the applicant had contributed to the length of the proceedings, notably by constantly amending her claims (fourteen times in total).

81. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, the Court accepts that the applicant suffered some distress and frustration caused by the unreasonable length of the proceedings. Deciding on an equitable basis, the Court awards the applicant 2,200 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

82. The applicant also claimed RUB 66,692 (approximately EUR 1,588) for legal fees and copying, translation, and postal expenses.

83. The Government disputed the amount as unsubstantiated. However, they conceded that two of the copies of receipts submitted were directly relevant to the examination of the applicant's case by the Court, both of them for RUB 1,255.

84. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, as well as to the fact that no violation was found in respect of one part of the application, the Court considers it reasonable to award the sum of EUR 200 to cover costs under all heads, plus any tax that may be chargeable to the applicant, and to reject the remainder of the claims under this head.

C. Default interest

85. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the excessive length of the civil proceedings and the lack of an effective remedy in this respect admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no need for separate examination of the complaint under Article 13 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts:
      (i) EUR 2,200 (two thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 200 (two hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 19 June 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President