



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

THIRD SECTION

CASE OF MEZAK AND OTHERS v. RUSSIA

*(Applications nos. 33681/15 and 13 others –
see appended list)*

JUDGMENT

STRASBOURG

30 September 2021

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

In the case of Mezak and Others v. Russia,

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

Darian Pavli, *President*,

Dmitry Dedov,

Peeter Roosma, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 9 September 2021,

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

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The Russian Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions and of the lack of any effective remedy in domestic law.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

6. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions given in their favour. They relied, expressly or in substance, on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, which read, in so far as relevant, as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... 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.”

A. Admissibility

7. The Court must firstly ascertain whether the applicants maintain their victim status, regard being had to the domestic proceedings instituted by them in connection with the alleged non-enforcement or delayed enforcement of the judgments in their favour. It therefore reiterates that the applicant is deprived of his or her victim status if the national authorities have acknowledged, either expressly or in substance, and then afforded appropriate and sufficient redress for, a breach of the Convention (see, for example, *Scordino v. Italy (no. 1)* [GC], no. 36813/97, §§ 178-93, ECHR 2006-V).

8. The Court notes that the relevant claims brought by Ms Avilova, Ms Smolina, Ms Demidova and Mr Ilyin (applications nos. 5256/17, 29640/19, 53322/19 and 5490/20 respectively) were dismissed by the domestic courts. Accordingly, it finds it established that at no time did the domestic authorities acknowledge a breach of the Convention in respect of the applicants and that the latter can still claim to be the victims of the violation alleged.

9. As to the remainder of the applications, the Court notes that, even though the domestic authorities have expressly acknowledged that the length of the enforcement proceedings have been excessive and awarded the applicants a monetary compensation in that respect, it cannot accept that the amount awarded to the applicants on account of the violation of their rights is sufficient or comparable to what it generally awards in similar Russian cases. Accordingly, the Court concludes that the applicants may still claim to be the victims of the violation alleged.

10. The Court further notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

11. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a “hearing” for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, *Reports of Judgments and Decisions* 1997-II).

12. Having regard to the nature of the judicial awards in the applicants' favour (see the appended table), the Court considers that the applicants had, by virtue of these judgments, a "legitimate expectation" to acquire a pecuniary asset, which was sufficiently established to constitute a "possession" within the meaning of Article 1 of Protocol No. 1.

13. In the leading case of *Gerasimov and Others v. Russia*, nos. 29920/05 and 10 others, 1 July 2014, the Court already found a violation in respect of the issues similar to those in the present case.

14. 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 and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce fully and in due time the decisions in the applicants' favour.

15. These complaints therefore disclose a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

16. The applicants also complained about the lack of an effective domestic remedy in respect of the non-enforcement of the judgments in their favour in contravention of Article 13 of the Convention, which reads as follows:

"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."

17. The Court has already acknowledged the existence of a new domestic remedy against the non-enforcement of domestic judgments imposing obligations of a pecuniary and non-pecuniary nature on the Russian authorities, introduced in the wake of the *Gerasimov and Others* pilot judgment by Federal Law No. 450-FZ amending the Compensation Act of 2010. That statute, which entered into force on 1 January 2017, enables those concerned to seek compensation for damage sustained as a result of excessive delays in the enforcement of court judgments ordering the domestic authorities to fulfil various obligations in kind (see *Kamneva and Others v. Russia* (dec.), nos. 35555/05 and 6 others, 2 May 2017). The Court has found that the amended Compensation Act in principle meets the criteria set out in the *Gerasimov and Others* pilot judgment and provides the applicants with a potentially effective remedy for their non-enforcement complaint (see *Shtolts and Others v. Russia* (dec.), nos. 77056/14 and 2 others, §§ 87-116 and § 123, 30 January 2018).

18. The Court further observes that the applicants made use of the existing domestic remedy. The fact that the outcome was not favourable for them does not mean that the remedy was in principle ineffective. Compliance with Article 13 does not depend on the certainty of a favourable outcome for an applicant (*Ramirez Sanchez v. France* [GC], no. 59450/00, § 159, ECHR 2006-IX). That said, having regard to the facts of the case and

in the light of all the material in its possession, as well as its findings under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention, the Court considers that the complaints are admissible but there is no need to give a separate ruling on them (see, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, with further references; and for similar approach see, *Korotyayeva and Others v. Russia*, nos. 13122/11 and 2 others, §§ 36-40, 27 June 2017; *Kamneva and Others*, cited above, and, *mutatis mutandis*, *Tkhyegepso and Others v. Russia*, no. 44387/04 and 11 others, §§ 21-24, 25 October 2011).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

19. 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.”

20. Regard being had to the documents in its possession and to its case-law (see, in particular, *Gerasimov and Others*, cited above, §§ 187-200, 1 July 2014), the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicants’ claims for just satisfaction.

21. The Court further notes that the respondent State has an outstanding obligation to enforce the judgments which remain enforceable.

22. 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. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention concerning the non-enforcement or delayed enforcement of domestic decisions;
4. *Holds* that it is not necessary to examine the applicants’ complaint under Article 13 of the Convention;
5. *Holds* that the respondent State has an outstanding obligation to secure, by appropriate means, within three months, the enforcement of the pending domestic judgments in the applicants’ favour referred to in the appended table;

6. *Holds*

- (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
- (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;

7. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 30 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Darian Pavli
President

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APPENDIX

List of applications raising complaints under Article 6 § 1 and Article 13 of the Convention and Article 1 of Protocol No. 1
(non-enforcement or delayed enforcement of domestic decisions and lack of any effective remedy in domestic law)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic order (in euros)	Compensation proceedings Name of the court Date of the judgment Award	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	33681/15 25/06/2015	Kristina Ernestovna MEZAK 2005	Laptev Aleksey Nikolayevich Moscow	Supreme Court of the Komi Republic, 04/10/2012	04/10/2012	26/12/2014 2 year(s) and 2 month(s) and 23 day(s)	to register [the applicant] as having a place of residence at ... Kommunisticheskaya Ulitsa, Syktyvkar; respondent party - Department of the Federal Migration Service in the Komi Republic	Supreme Court of the Russian Federation, 13/04/2016, compensation of RUB 10,000	700
2.	5256/17 05/01/2017	Valentina Ivanovna AVILOVA 1946		Shelkovskiy Town Court of the Moscow Region, 25/03/2010	06/09/2010	31/10/2012 2 year(s) and 1 month(s) and 26 day(s)	to register the modifications to the plot of land in the State Cadastral Register	Supreme Court of the Russian Federation, 12/09/2018; dismissed the compensation claim of the applicant	700
3.	52941/18 01/11/2018	Vyacheslav Valeriyevich FROLOV 1971		Commercial Court of the Krasnodar Region, 11/07/2011	22/05/2014	Pending. More than 7 year(s) and 4 day(s)	the Armavir housing unit (attached to the Ministry of Defence) is to sign a lease with the applicant in respect of non-residential premises	Commercial Court of the North-Caucasus Circuit, 15/10/2018; compensation in the amount of RUB 100,000; Commercial Court of the North-Caucasus Circuit, 19/02/2020; compensation in the amount of RUB 50,000	3,950
4.	8038/19 28/01/2019	Aleksandr Sergeyevich KOLOSOV 1991		Kirovskiy District Court of Saratov, 24/10/2012	27/11/2012	04/12/2018 (date of the applicant's conviction) 6 year(s) and 8 day(s)	the Ministry of Construction and Housing Services to provide [the applicant] with a flat ...	Saratov Regional Court, 26/12/2017, compensation in the amount of RUB 150,000	3,820

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No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic order (in euros)	Compensation proceedings Name of the court Date of the judgment Award	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
5.	29640/19 23/05/2019	Yekaterina Ivanovna SMOLINA 1963	Mironenko Aleksy Aleksandrovich Semiluki	Kirovskiy District Court of Irkutsk, 24/12/2009	13/04/2010	01/03/2017 6 year(s) and 10 month(s) and 17 day(s)	Ministry of Social Development, Guardianship and Trusteeship of the Irkutsk Region were to grant a housing subsidy in the form of a certificate	Supreme Court of the Russian Federation, 06/11/2018, compensation claim dismissed	6,000
6.	39818/19 14/07/2019	Aleksandra Ivanovna VDOVINA 1974		Orenburg District Court of the Orenburg Region, 12/09/2007	28/09/2007	Pending. More than 13 year(s) and 7 month(s) and 28 day(s)	to perform major renovation of the residential building located at 9, Ulitsa Pyatiletki, Pervomayskiy, Orenburgskiy District, Orenburg Region	Supreme Court of the Russian Federation, 21/05/2019, RUB 10,000	5,860
7.	53322/19 24/09/2019	Svetlana Yuryevna DEMIDOVA 1967		Kirovskiy District Court of Yaroslavl, 03/04/2015	14/12/2015	27/12/2018 3 year(s) and 14 day(s)	to oblige the Yaroslavl Town Administration to provide [the applicant] ..., with housing ... located in Yaroslavl ...	Supreme Court of the Russian Federation, 25/03/2019, compensation claims dismissed	3,000
8.	5490/20 06/01/2020	Valeriy Vladimirovich ILYIN 1967		Moscow Garrison Military Court, 04/06/2013	19/09/2013	17/03/2020 6 year(s) and 5 month(s) and 28 day(s)	[the head of the federal state enterprise is to pay [the applicant] ... 5,100 roubles; the head of the military unit no. 42829 is to make a requisite severance payment to the applicant upon his dismissal from the army ...	Supreme Court of the Russian Federation, 23/09/2019 compensation claims dismissed without consideration on the merits.	2,000
9.	5916/20 17/01/2020	Svetlana Aleksandrovna GRABLINA 1997		Kirovskiy District Court of Saratov, 01/12/2015	26/01/2016	Pending. More than 5 year(s) and 4 month(s)	The Ministry of Construction and Housing Services of the Saratov Region is to provide [the applicant] with housing ...	Saratov Regional Court, 25/12/2018, RUB 60,000 Supreme Court of the Russian Federation, 27/12/2019, RUB 10,000	5,095

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No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic order (in euros)	Compensation proceedings Name of the court Date of the judgment Award	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
10.	7632/20 24/01/2020	Yelena Aleksandrovna SHAROVA 1994		Kirovskiy District Court of Saratov, 13/06/2017	24/10/2017	Pending. More than 3 year(s) and 9 month(s) and 4 day(s)	the Ministry of Construction and Housing Services of the Saratov Region is to provide [the applicant] with housing ...	Supreme Court of the Russian Federation, 29/11/2019, RUB 10,000	3,360
11.	8627/20 21/01/2020	Alena Igorevna KUCHUMOVA 1997		Kirovskiy District Court of Saratov, 05/05/2016	07/06/2016	Pending. More than 4 year(s) and 11 month(s) and 19 day(s)	the Ministry of Construction and Housing Services of the Saratov Region is to provide [the applicant] with housing ...	Supreme Court of the Russian Federation, 25/11/2019, RUB 30,000	4,575
12.	25093/20 20/05/2020	Roman Vasilyevich SHORIN 1992	Selikhanova Alina Alanovna Moscow	Tsentralnyy District Court of Barnaul, 10/02/2016	16/03/2016	02/06/2020 4 year(s) and 2 month(s) and 18 day(s)	to provide [the applicant] with appropriate housing ... in Barnaul, Altay Region ...	Supreme Court of the Russian Federation, 21/02/2020, RUB 40,000	2,420
13.	25099/20 20/06/1992	Sergey Anatolyevich MEDVEDEV 1992	Selikhanova Alina Alanovna Moscow	Tsentralnyy District Court of Barnaul, 29/07/2016	12/10/2016	Pending. More than 4 year(s) and 7 month(s) and 14 day(s)	to provide [the applicant] with appropriate housing under ... in Barnaul, Altay Region	Supreme Court of the Russian Federation, 26/02/2020, RUB 40,000	4,445
14.	26167/20 20/05/2020	Nikolay Vasilyevich SHORIN 1992	Selikhanova Alina Alanovna Moscow	Tsentralnyy District Court of Barnaul, 10/02/2016	16/03/2016	02/06/2020 4 year(s) and 2 month(s) and 18 day(s)	To provide [the applicant] with appropriate housing ... in Barnaul, Altay Region	Supreme Court of the Russian Federation, 20/02/2020, compensation of RUB 40,000	3,445

¹ Plus any tax that may be chargeable to the applicants.