



THIRD SECTION

CASE OF MYASIN AND OTHERS v. RUSSIA

*(Applications nos. 11050/06 and 8 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 Myasin 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 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.”

7. 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).

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

9. Having regard to the nature of the judicial awards in the applicants’ favour (see the appended table for further detail), 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.

10. 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.

11. These complaints are therefore admissible and disclose a breach 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

12. 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.”

13. The Court has already noted 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 pilot judgment, which enables those concerned to seek

compensation for damage sustained as a result of excessive delays in the enforcement of court judgments (see *Kamneva and Others v. Russia* (dec.), no. 35555/05 and 6 others, 2 May 2017). Even though the remedy was – or still is – available to the applicants, the Court reiterates that it would be unfair to request the applicants whose cases have already been pending for many years in the domestic system and who have come to seek relief at the Court, to bring again their claims before domestic tribunals (see *Gerasimov and Others*, cited above, § 230).

14. However, in the light of the adoption of the new domestic remedy, having regard to the facts of the case and given all the material in its possession, the Court, as in its previous decisions, declares these complaints admissible but considers that it is not necessary to give a separate ruling on them in the present cases (see, for a similar approach, *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

15. 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.”

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Gerasimov and Others*, cited above, §§ 187-200), 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.

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

18. 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 of the Convention concerning the non-enforcement or delayed enforcement of domestic decisions;
4. *Holds*, in respect of all applications, that it is not necessary to give a separate ruling of the applicants' complaint under Article 13 of the Convention;
5. *Holds* that the respondent State shall ensure, by appropriate means, within three months, the enforcement of the pending domestic decisions 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 Date 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)	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant /household (in euros) ¹
1.	11050/06 15/02/2006	Yuriy Alekseyevich MYASIN 1949		Leninskiy District Court of Voronezh, 15/02/1999	25/02/1999	pending More than 22 year(s) and 4 month(s)	" .. [Voronezh KECH] to provide [the applicant] with housing..."	6,000
2.	21718/06 25/04/2006	Natalya Dmitriyevna KOCHERGA 1954	Knyazkin Sergey Aleksandrovich Moscow	Kemerovo Regional Court, 25/02/2005	08/04/2005	20/06/2007 2 year(s) and 2 month(s) and 13 day(s)	To acknowledge the applicant's housing rights in respect of a room [in the dormitory], to authorise the applicant's moving into the room; to annul the order assigning the room to Mr K. and to evict Mr and Ms K. from the room.	2,000
3.	38722/07 31/07/2007 (5 applicants)	<u>Household</u> Tatyana Andreyevna OSETRINA 1964 Andrey Yuryevich OSETRIN 1988 Ivan Yuryevich OSETRIN 1997 Yuriy Vyacheslavovich OSETRIN 1964 Anastasiya Yuryevna OSETRINA 1999		Petropavlovsk-Kamchatskiy Town Court, 28/09/2001 Petropavlovsk-Kamchatskiy Town Court, 14/03/2007	08/10/2001 26/03/2007	02/02/2009 7 year(s) and 3 month(s) and 26 day(s) 02/02/2009 1 year(s) and 10 month(s) and 8 day(s)	1) "... [the Engineering Service of the Ministry of Defence] to renovate [the applicants'] flat ..."; 2) "... [the Administration of Petropavlovsk-Kamchatskiy] ... to provide [the applicants] with [housing] ..."	6,000

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4.	30194/08 22/05/2008	Nikolay Arkadyevich ISAYEV 1958		Arkhangelsk Garrison Military Court, 25/08/2008	13/10/2008	02/03/2016 7 year(s) and 4 month(s) and 19 day(s)	"... [the Director of the Federal Security Service] to provide [the applicant] with [housing] ... "	6,000
5.	4377/09 24/12/2008	Nadezhda Lavrentyevna TREGUB 1942		Koptevskiy District Court of Moscow, 19/05/2005	30/05/2005	pending More than 15 year(s) and 10 month(s) and 15 day(s)	"... the Prefect of the Northern Administrative District of Moscow to provide [the applicant] with [housing] ..."	6,000
6.	58081/09 12/10/2009	Kristina Vyacheslavovna YATSKEVICH 1981	Smolskiy Aleksandr Arkadyevich Vladivostok	Leninskiy District Court of Vladivostok, 12/05/2006	05/07/2006	pending More than 14 year(s) and 9 month(s) and 9 day(s)	"... the Vladivostok administration to provide [the applicant] with [housing] ... "	6,000
7.	5306/10 21/12/2009	Viktor Sergeyeovich KULAKOV 1952		Oktyabrskiy District Court of Belgorod, 21/08/2007	22/04/2008	pending More than 12 year(s) and 11 month(s) and 23 day(s)	"... [the Ministry of Finance] ... [to award the applicant a housing subsidy] ... "	6,000
8.	60667/10 24/09/2010	Mikhail Yefimovich SIVYY 1960		Military Court of the Moscow Garrison, 19/05/2009	05/06/2009	pending More than 11 year(s) and 10 month(s) and 8 day(s)	"... The commander and the Housing Committee of the military unit 12032 to provide [the applicant and his family] with housing in accordance with the law at his latest duty station, in Moscow, on a priority basis... to discharge [the applicant] from military service...."	6,000
9.	40632/11 03/06/2011 (12 applicants)	Andrey Olegovich NESTEROV 1986 Aleksandr Vasilyevich PLETEN 1975		Baltiysk Town Court of the Kaliningrad Region, 11/05/2010	25/05/2010	24/12/2011 1 year(s) and 7 month(s)	...FGU Baltflot Administration ... to install an elevator [in the applicants' section of apartment building]...	500

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		Vladimir Yuryevich KULAKOV 1971 Irina Mikhaylovana KULAKOVA 1970 Nikolay Grigoryevich BALABAS 1961 Nina Mikhaylovna BALABAS 1970 Vladimir Pavlovich KONONOV 1957 Yuliya Nikolayevna SHUBOCHKINA 1971 Alena Nikolayevna SHPAKOVSKAYA 1971 Grigoriy Fedorovich PLEVA 1964 Tatyana Nikolayevna KAPUSTINA 1961 Sofiya Kozimirovna KULITSKAYA 1964						

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