



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

THIRD SECTION

CASE OF KADALA AND OTHERS v. RUSSIA

*(Applications nos. 62276/16 and 11 others –
see appended list)*

JUDGMENT

STRASBOURG

14 October 2021

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

In the case of Kadala and Others v. Russia,

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

Peeter Roosma, *President*,

Dmitry Dedov,

Andreas Zünd, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 23 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

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 on 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 compensation proceedings instituted by them in connection with the alleged non-enforcement or delayed enforcement of the judgments in their favour. It therefore reiterates that an applicant is deprived of his or her victim status if 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 Mr Martynyuk, Ms Tikhova and Mr Bokarev (applications nos. 44633/19, 51396/19, and 45169/20 respectively) were dismissed by the domestic courts. Accordingly, the Court 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 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 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 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

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 that 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, *Korot'yayeva 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 v. Russia*, nos. 29920/05 and 10 others, §§ 187-200, 1 July 2014), the Court considers it reasonable to award the sums indicated in the appended table.

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' complaints 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.

Done in English, and notified in writing on 14 October 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Peeter Roosma
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 /household (in euros) ¹
1.	62276/16 13/10/2016	Mikhail Eduardovich KADALA 1986	Selikhanova Alina Alanovna Moscow	Pervomayskiy District Court of Krasnodar, 03/06/2015	24/09/2015	29/12/2018 3 year(s) and 3 month(s) and 6 day(s)	the Ministry of Social Development and Family Policy of the Krasnodar Region is to allocate monetary funds necessary to provide [the applicant] with housing ... the administration of Krasnodar is to provide [the applicant] with housing under a social tenancy agreement...	Supreme Court of the Russian Federation, 22/06/2018, RUB 50,000 (approximately EUR 700)	2,300
2.	46584/18 17/08/2017	Vyacheslav Anatolyevich NIKOLAYEV 1971		Kaluzhskiy District Court of the Kaluga Region, 30/06/2015	01/10/2015	pending More than 5 year(s) and 7 month(s) and 27 day(s)	[municipal authorities] are to provide the applicant with a flat.	Supreme Court of the Russian Federation, 01/08/2019 RUB 40,000 (approximately EUR 550)	5,450
3.	44633/19 15/08/2019	Aleksandr Mikhaylovich MARTYNYUK 1968		Military Court of the Moscow Garrison, 22/06/2006	04/07/2006	27/08/2019 13 year(s) and 1 month(s) and 24 day(s)	obligation of military unit to provide the applicant with housing	Supreme Court of the Russian Federation, 27/03/2019, compensation claim dismissed	6,000

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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 /household (in euros) ¹
4.	46456/19 02/08/2019	Ruslan Alekseyevich ILATOVSKIY 1976		Oktyabrskiy District Court of Arkhangelsk, 06/10/2016	19/01/2017	09/02/2021 4 year(s) and 22 day(s)	Arkhangelsk Town administration is to provide the applicant with housing in Arkhangelsk, ... under a social tenancy agreement.	Supreme Court of the Russian Federation, 05/04/2019, RUB 50,000 (approximately EUR 700)	3,300
5.	51396/19 24/09/2019	Yekaterina Andreyevna TIKHOVA 1985	Dmitriyeva Tatyana Aleksandrovna Yaroslavl	Kirovskiy District Court of Yaroslavl, 03/04/2015	26/10/2015	27/12/2018 3 year(s) and 2 month(s) and 2 day(s)	Yaroslavl municipal authorities are to provide the applicant's family of 3 persons ... with housing under a social tenancy agreement in Yaroslavl...	Supreme Court of the Russian Federation, 25/03/2019, compensation claim dismissed	3,000
6.	51992/19 24/09/2019	Nikolay Nikolayevich LOBACHEV 1990		Elista Town Court of the Kalmykiya Republic, 06/12/2012	10/01/2013	20/12/2019 6 year(s) and 11 month(s) and 11 day(s)	The Ministry of Construction, Transport and Road Services of the Kalmykiya Republic are to provide the applicant with a subsidy to construct or buy housing.	Supreme Court of the Russian Federation 26/08/2019, RUB 50,000 (approximately EUR 700)	5,300
7.	24938/20 20/05/2020	Bella Oganessovna YAVORSKAYA 1994	Selikhanova Alina Alanovna Moscow	Zheleznodorozhnyy District Court of Barnaul, Altay Region, 15/11/2016	16/12/2016	pending More than 4 year(s) and 5 month(s) and 12 day(s)	The Regional Housing Department is to provide the applicant with housing ... under a social tenancy agreement...	Supreme Court of the Russian Federation, 16/03/2020, RUB 50,000 (approximately EUR 600)	3,400
8.	24955/20 20/05/2020	Lyubov Vladimirovna BABIKOVA 1995	Selikhanova Alina Alanovna Moscow	Tsentralniy District Court of Barnaul, Altay Region, 11/11/2015	02/12/2015	29/05/2020 4 year(s) and 5 month(s) and 28 day(s)	The Main Department of Construction, Transport and Housing of the Altay Region is to provide the applicant with housing ... under a social tenancy agreement...	Supreme Court of the Russian Federation, 12/03/2020, RUB 60,000 (approximately EUR 700)	3,300

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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 /household (in euros) ¹
9.	25070/20 20/05/2020	Alena Igorevna VETOSHKINA 1990	Selikhanova Alina Alanovna Moscow	Tsentralnyy District Court of Barnaul Altay Region, 11/12/2015	19/01/2016	07/02/2020 4 year(s) and 20 day(s)	The Main Department of Construction, Transport and Housing of the Altay Region is to provide the applicant with housing ... under a tenant tenancy agreement...	Supreme Court of the Russian Federation, 28/02/2020, RUB 40,000 (approximately EUR 550)	3,450
10.	25578/20 18/05/2020	Maria Aleksandrovna MOLODYKH 1993	Selikhanova Alina Alanovna Moscow	Tsentralnyy District Court of Barnaul, Altay Region, 10/02/2016	16/03/2016	29/05/2020 4 year(s) and 2 month(s) and 14 day(s)	The Main Department of Construction, Transport and Housing and Roads of the Altay Region is to provide the applicant with housing ... under a social tenancy agreement...	Supreme Court of the Russian Federation, 31/01/2020, RUB 40,000 (approximately EUR 550)	3,450
11.	32517/20 16/07/2020	<u>Household</u> Irina Aleksandrovna KLYUCHNIKOVA 1982 Tatyana Georgiyevna KOROLEVA 1962	Senochkin Yuriy Viktorovich Saratov	Volzhskiy District Court of the Saratov Region, 18/02/2015	08/07/2015	17/01/2019 3 year(s) and 6 month(s) and 10 day(s)	the municipal authorities are to provide the applicants with housing ... under a social tenancy agreement.	Supreme Court of the Russian Federation, 24/03/2020, RUB 15,000 to each applicant (approximately EUR 350 jointly)	3,150
12.	45169/20 22/09/2020	Sergey Aleksandrovich BOKAREV 1977		Leninskiy District Court of Smolensk, 05/11/2013	23/01/2014	pending More than 7 year(s) and 4 month(s) and 5 day(s)	the local administration is to ensure the refurbishment of the applicant's house.	Supreme Court of the Russian Federation, 17/07/2020, compensation claim dismissed	6,000

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