



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

## THIRD SECTION

### **CASE OF SAMIGULLINY AND OTHERS v. RUSSIA**

*(Applications nos. 61463/14 and 6 others –  
see appended list)*

JUDGMENT

STRASBOURG

13 October 2022

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



**In the case of Samigulliny and Others v. Russia,**

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

Darian Pavli, *President*,

Andreas Zünd,

Frédéric Krenc, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 15 September 2022,

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 on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1 thereto, which read 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 Mr Ladoshkin, Mr Nikolayev, Ms Burova and Ms Poklad (applications nos. 47492/15, 31103/16, 35177/17 and 23558/18, respectively) were dismissed by the domestic courts. Accordingly, at no time did the domestic authorities acknowledge a breach of the Convention in respect of these applicants and the latter can still claim to be the victims of the alleged violation.

9. As to the remainder of the applications, 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, the Court cannot accept that the amount awarded to the applicants was sufficient or comparable to what it generally awards in similar Russian cases. Accordingly, the applicants may still claim to be the victims of the alleged violation.

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. 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.

13. The Court further notes that the decisions in the present applications ordered specific action to be taken (see the appended table for details of court orders). It therefore considers that the decisions in question constitute “possessions” within the meaning of Article 1 of Protocol No. 1.

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, expressly or in substance, 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. 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 (see *Ramirez Sanchez v. France* [GC], no. 59450/00, § 159, ECHR 2006-IX). That said, having regard to the facts of the cases 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; see further, in the context of the Russian non-enforcement cases, *Korotyayeva and Others v. Russia* [Committee], nos. 13122/11 and 2 others, §§ 36-40, 27 June 2017; *Kamneva and Others v. Russia* (dec.) [Committee], nos. 35555/05 and 6 others, § 37, 2 May 2017; and, *mutatis mutandis*, *Tkhyegepso and Others v. Russia*, nos. 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 *Gerashimov and Others*, cited above, §§ 187-200, and see *Ilyushkin and Others v. Russia*, nos. 5734/08 and 28 others, § 67, 17 April 2012), the Court considers it reasonable to award the applicants 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 also 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 complaints concerning the non-enforcement or delayed enforcement of domestic decisions and the lack of any effective remedy in domestic law admissible;

3. *Holds* that these complaints 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 and the lack of any effective remedy in domestic law;
4. *Holds* that it is not necessary to examine the merits 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. *Rejects* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 13 October 2022, 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	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) <sup>1</sup>
1.	61463/14 27/08/2014	<b>Household</b>  <b>Rezida Rishatovna SAMIGULLINA</b> 1972  <b>Roza Rishatovna SAMIGULLINA</b> 1966	Irina Vladimirovna Khrunova Kazan	Kirovsky District Court of Kazan, 22/02/2013	24/06/2013	pending More than 9 year(s) and 19 day(s)	"...the local authorities to arrange a road drainage system close to the applicant's plot of land and house"	Supreme Court of the Russian Federation, 16/03/2018, RUB 5,000 (approximately EUR 73) to each applicant	5,850
2.	47492/15 31/08/2015	<b>Dmitriy Aleksandrovich LADOSHKIN</b> 1959		Kaliningrad Garrison Military Court, 15/10/2007	26/10/2007	25/04/2015 7 year(s) and 6 month(s)	"... The commander of the military unit no.93809 ... to provide [the applicant] with housing. under the applicable norms ... and dismiss him from military service". In 2015 modified, the award replaced by a housing subsidy payment (RUB 73,656), accepted by the applicant.	Supreme Court of the Russian Federation, 03/05/2018, 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	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) <sup>1</sup>
3.	31103/16 23/05/2016	<b>Vyacheslav Anatolyevich NIKOLAYEV</b> 1971	Oleg Olegovich Anishchik St. Petersburg	Kaluzhskiy District Court of the Kaluga Region, 30/06/2015	01/10/2015	07/08/2019 3 year(s) and 10 month(s) and 7 day(s)	“the Housing Department of Kaluga to include the applicant’s [premises] at a [specific address] in the list of objects in respect of which a major overhaul was to be performed at the expense of the Kaluga town budget”	Supreme Court of the Russian Federation, 25/12/2017, compensation claim dismissed	3,500
4.	75109/16 23/11/2016	<b>Oksana Borisovna KLINTSOVA</b> 1970	Goncharova Irina Nikolayevna Syktyvkar	Syktyvkar Town Court of the Komi Republic, 22/11/2013	20/02/2014	pending More than 8 year(s) and 4 month(s) and 23 day(s)	155 “...the Administration of the Town of Syktyvkar to provide [the applicant] with housing under a social tenancy agreement for a family of two of no less than 16.4 sq.m., on a priority basis...”	Supreme Court of the Russian Federation, 12 January 2018, RUB 100,000 (approximately EUR 1,606)	11,600
5.	35177/17 26/04/2017	<b>Svetlana Anatolyevna BUROVA</b> 1972	Tikhun Igor Nikolayevich Yaroslavl	Yaroslavl Regional Court, 18/02/2014	18/02/2014	14/02/2017 2 year(s) and 11 month(s) and 28 day(s)	“... the Town Council of Yaroslavl to provide [the applicant] with comfortable housing for a family of four under a social tenancy agreement”	Supreme Court of the Russian Federation, 28/09/2017, compensation claim dismissed	4,000

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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	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) <sup>1</sup>
6.	23558/18 07/05/2018	<b>Viktoriya Fedorovna POKLAD</b> 1985	Alina Alanovna Selikhanova Moscow	Leninskiy District Court of Rostov-on-Don, 24/10/2014	16/02/2015	07/02/2018 2 year(s) and 11 month(s) and 23 day(s)	"... the town administration to provide [the applicant] with appropriate housing under a specialised housing agreement ..."	Supreme Court of the Russian Federation, 11/12/2017, compensation claim dismissed	2,500
7.	44742/18 11/09/2018 (3 applicants)	<b>Household</b>  <b>Tatyana Nikolayevna KUZNETSOVA</b> 1976 <b>Arina Sergeevna KUZNETSOVA</b> 1996  <b>Anatoliy Sergeevich KUZNETSOV</b> 2006	Elvira Ilyasovna Shamsutdinova Ufa	Tuymazinskiy District Court of the Republic of Bashkortostan, 17/04/2014	20/05/2014	07/08/2018 4 year(s) and 2 month(s) and 19 day(s)	"... the Tuymazinskiy District administration ... to provide [the applicants] with suitable housing under a social tenancy agreement within 6 months from the date when that judgement becomes final"	Supreme Court of the Russian Federation, 24/04/2018. The first and the third applicants were awarded RUB 5,000 each. The second applicant was awarded RUB 7,000, on account of his disability (approximately EUR 225 for the three applicants).	3,780

<sup>1</sup> Plus any tax that may be chargeable to the applicants.