



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

THIRD SECTION

CASE OF SHOROKHOVA AND OTHERS v. RUSSIA

(Applications nos. 42968/06 and 3 others – see appended list)

JUDGMENT

STRASBOURG

13 June 2017

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

In the case of Shorokhova and Others v. Russia,

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

Luis López Guerra, *President*,

Dmitry Dedov,

Jolien Schukking, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 23 May 2017,

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

PROCEDURE

1. The case originated in four applications (nos. 42968/06, 49272/06, 2319/07 and 51217/07) 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 four Russian nationals (“the applicants”). The applicants’ names and the dates of their applications to the Court appear in the Appendix.

2. The Russian Government (“the Government”) were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3. On various dates (indicated in the Appendix) these complaints were communicated to the respondent Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. All the applicants were party to civil proceedings in which the first-instance and appeal courts found in their favour. These judgments became binding and enforceable but were subsequently quashed by the supervisory review courts on the ground of incorrect application of substantive law or incorrect assessment of evidence by lower courts (for more details see the Appendix).

II. RELEVANT DOMESTIC LAW

5. The relevant domestic law governing the supervisory review procedure in force between 1 February 2003 and 7 January 2008 is summarised in *Kot v. Russia* (no. 20887/03, § 17, 18 January 2007).

THE LAW

I. JOINDER OF THE APPLICATIONS

6. In accordance with Rule 42 § 1 of the Rules of the Court, the Court decides to consider the applications in a single judgment, given their similar factual and legal background (see *Kazakevich and 9 other "Army Pensioners" cases v. Russia*, nos. 14290/03 and 9 others, § 15, 14 January 2010).

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOLE No. 1 TO THE CONVENTION

7. All the applicants complained about a violation of the principle of legal certainty on account of the quashing by way of supervisory review of binding and enforceable judgments in their favour. They invoked Article 6 of the Convention. In the *Shorokhova* and *Sizikov* cases the applicants in addition invoked Article 1 of Protocol No. 1 to the Convention (see the Appendix). The relevant parts of the aforementioned provisions read:

Article 6 § 1

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

A. Admissibility

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

B. Merits

9. The Government argued that the supervisory review proceedings resulting in the quashing of the judgments delivered in the applicants' favour were lawful. The supervisory review courts had quashed lower courts' judgments that had been based on an incorrect application of substantive or procedural law, thus correcting flagrant injustices and eliminating dangerous precedents. In the case of *Shorokhova* the supervisory review was necessary to remedy a fundamental defect in the proceedings before the lower courts, namely the lack of jurisdiction of the Tuapse Town Court to decide on that category of disputes.

10. The Court observes that it has already found numerous violations of the Convention on account of the quashing of binding and enforceable judgments by way of supervisory review under the Code of Civil Procedure, as in force at the material time (see *Kot*, cited above, § 29). Some of those violations were found in similar circumstances and similarly concerned the quashing of final domestic judgments making awards (see, among many other authorities, *Kovalenko and Others*, [Committee], nos. 36299/03 and 6 others, 8 December 2015; *Zelenkevich and Others v. Russia*, [Committee], no. 14805/02, 20 June 2013; and, on account of the lack of jurisdiction of the court, *Miroshnikov and Others v. Russia*, [Committee], nos. 20750/04 and 2 others, § 15, 27 September 2016). The Court does not see any reasons to reach a different conclusion in the present cases.

11. Having examined all the material before it the Court concludes that there has been a violation of Article 6 of the Convention and a violation of the same Article combined with Article 1 of Protocol No. 1 to the Convention, in the cases of *Shorokhova* and *Sizikov*.

III. OTHER ALLEGED VIOLATIONS OF ARTICLE 6 OF THE CONVENTION

12. Relying on Article 6 § 1 of the Convention, cited above, the applicant in the *Kurbanov* case also complained about other violations, such as non-enforcement of other judgment in his favour.

13. Having regard to the facts of these cases, the submissions of the parties and its findings under Article 6 of the Convention and Article 1 of Protocol No 1 to the Convention, the Court considers that it has examined the main legal question, that is the quashing by way of supervisory review of the judgments, raised in the present applications and that there is no need to give a separate ruling neither on the admissibility nor on the merits of these additional complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, with further references, and most recent *Miroshnikov and Others*, cited above, §§ 17-18).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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

15. The applicants submitted claims in respect of pecuniary and/or non-pecuniary damage ranging from 3,000 euros (EUR) to EUR 201,370.

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Gruzda v. Russia*, [Committee], no. 63833/09, 5 April 2016, and *Kovalenko and Others*, cited above), the Court considers it reasonable to award each applicant the sums indicated in the Appendix.

B. Costs and expenses

17. Mr Sukontsev and Mr Kurbanov did not submit claims for costs and expenses. Accordingly, the Court does not award them any sum under that head.

18. Ms Shorokhova and Mr Sizikov claimed the amounts of EUR 2,000 and 378 Russian roubles (EUR 24), respectively, for costs and expenses.

19. Having regard to the materials in its possession, the Court decides to grant Mr Sizikov EUR 8 and reject Ms Shorokhova’s claims as unsubstantiated.

C. Default interest

20. 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* all the applications, except for the complaint lodged in the *Kurbanov* case under Article 6 of the Convention about the non-enforcement of the judgment in the applicant’s favour, admissible;

3. *Holds* that there has been a violation of Article 6 of the Convention in the cases of *Sukontsev* and *Kurbanov* and a violation of the same Article combined with Article 1 of Protocol No. 1 to the Convention in the cases of *Shorokhova* and *Sizikov* on account of the quashing by way of supervisory review of the final judgments in the applicants' favour;
4. *Holds* that it is not necessary to consider separately the admissibility and the merits of the complaint in the *Kurbanov* case relating to the non-enforcement of other judgment in the applicant's favour;
5. *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;
6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 13 June 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Luis López Guerra
President

APPENDIX

| No. | Application no. Date of introduction Date of communication | Applicant name Date of birth Place of residence Nationality | Final domestic judgment a) date of delivery b) date of becoming final | Quashing | Complaints | Just satisfaction, costs and expenses |
|-----|--|--|---|---|------------------------------|--|
| 1. | 42968/06 06/03/2008 08/06/2016 | Tatyana Mikhaylovna SHOROKHOVA 10/09/1969 Tuapse Russian Represented by Ulrich SOMMER | Tuapse Town Court 11/08/2005 23/08/2005 | Presidium of the Krasnodar Regional Court 18/05/2006 | Art. 6 Art. 1 Prot. No. 1 | EUR 2,000 |
| 2. | 49272/06 01/11/2006 04/07/2016 | Sergey Ivanovich SUKONTSEV 19/02/1955 Ryazan Russian | Moscow District Court of Ryazan 11/12/2002 24/12/2002 | Presidium of the Ryazan Regional Court 27/06/2006 | Art. 6 | EUR 1,500 |
| 3. | 2319/07 28/11/2006 04/07/2016 | Eduard Anatolyevich SIZIKOV 30/07/1968 Penza Russian | Pervomayskiy District Court of Penza 14/02/2006 27/02/2006 | Presidium of the Penza Regional Court 27/04/2007 | Art. 6 Art. 1 Prot. No. 1 | EUR 5,000 EUR 8 |
| 4. | 51217/07 24/10/2007 04/07/2016 | Rifat Zamalovich KURBANOV 01/12/1951 Kazan Russian | Sovetskiy District Court of Kazan 19/03/2007 16/04/2007 | Presidium of the Supreme Court of Tatarstan 01/08/2007 | Art. 6 | EUR 1,500 |