



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

THIRD SECTION

CASE OF ANANKIN AND OTHERS v. RUSSIA

(Application no. 79757/12)

JUDGMENT

STRASBOURG

22 January 2019

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

In the case of Anankin and Others v. Russia,

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

Branko Lubarda, *President*,

Pere Pastor Vilanova,

Georgios A. Serghides, *judges*,

and Stephen Phillips, *Section Registrar*,

Having deliberated in private on 18 December 2018,

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

PROCEDURE

1. The case originated in an application (no. 79757/12) 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 fifty Russian nationals on 12 December 2012.

2. On 15 March 2015 the applicant Mr Konstantin Vasilyevich Bazhenov died. His widow, Ms Leyla Khalilyevna Bazhenova, expressed an intention to pursue the application in her late husband’s stead.

3. The applicants and Ms L.Kh. Bazhnova were represented by Mr K. Markin, a lawyer practising in Velikiy Novgorod. 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.

4. In the wake of the pilot judgment in the case of *Gerasimov and Others v. Russia*, on 30 March 2015 the complaints concerning the non-enforcement of a judgment in the applicant’s favour and the lack of an effective remedy against the non-enforcement were communicated to the Government for settlement or resolution (see *Gerasimov and Others v. Russia*, nos. 29920/05 and 10 others, §§ 230-31 and point 13 of the operative part, 1 July 2014). The Court adjourned for two years, that is until 1 October 2016, the proceedings in all cases concerning non-enforcement or delayed enforcement of domestic judgments imposing obligations in kind on the State authorities (*ibid.*, § 232 and point 14 of the operative part).

5. The Government submitted unilateral declarations in respect of the applicants listed in Appendixes II and III, provided observations in respect of some of the applicant’s complaints and on 29 September 2016 advised the Court that they were unable to settle the present application in the part concerning Ms Zakharova and Mr Kiyukov within the above time-limit, as the domestic judgments in their favour had remained unenforced at the material time.

6. Having regard to the expiry of the above-mentioned adjournment period, the Court has decided to resume the examination of the application. The Court informed the parties at the communication stage that the case, subject to settled case-law, would be allocated to the Committee.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicants are fifty Russian nationals. Their dates of birth and places of residence are listed in Appendixes I, II, III and IV.

A. Facts common to all applicants

8. The applicants are former military servicemen. They all obtained final court decisions in their favour ordering military units to provide them with housing before their dismissal from military service. The respective court orders' details, such as dates of the judgments and their entry into force and the respective court's names, are summarised in the Appendixes.

9. In some cases the defendants were subsequently replaced by the Housing Provision Department of the Ministry of Defense.

10. The judgment in case of Mr Nazarov has remained unenforced to date. The judgments in favour of other applicants were enforced on the dates listed in the Appendixes below.

B. Specific circumstances of some cases

1. *Mr Medinskiy and Vedernikov*

11. Pursuant to the judgment in favour of Mr Medinskiy (Appendix III) the authorities decided to allocate a flat to the applicant on 6 November 2015. According to the transfer and acceptance act, the applicant accepted the flat on 20 November 2015. On 21 January 2016 he registered his title to the flat.

12. Pursuant to the judgment in favour of Mr Vedernikov (Appendix III) the authorities decided to allocate a flat to the applicant on 27 October 2015. According to the transfer and acceptance act, the applicant accepted the flat on 13 November 2015. On 11 January 2016 he registered his title to the flat.

2. *Mr Nazarov*

13. Since 1999 Mr Nazarov owned a ¼ share in a flat (15 sq.m.) in Pushkino, the Moscow Region. In 2007 the housing commission of the

military unit considered his housing situation, noted his title to a share in the flat and decided to put the applicant on the list of persons in need of housing.

14. On 13 January 2009 the Military Court of the Moscow Garrison ordered the housing commission of the military unit to provide him with housing in Moscow, as indicated in the appended table. On 27 January 2011 the same court replaced the defendant by the Housing Provision Department of the Ministry of Defense.

15. Between 18 August 2009 and 24 June 2011 the applicant had a ½ share in tenancy of a flat in the Smolensk Region.

16. On 25 April 2013 the Housing Department of the Ministry of Defense found that overall size of the applicant's living premises (see paragraphs 13 and 15 above) exceeded the housing norms for the respective region. Accordingly, the debtor authority decided to strike his name off the list of persons in need of housing.

17. On 24 February 2014 the Military Court of the Moscow Garrison and on 26 June 2014 the appeal court upheld lawfulness of the above decision.

18. In the meantime, the defendant twice applied to the domestic courts with a request for termination of the enforcement proceedings, as the applicant's name had been removed from the list of persons in need of housing, and there had "no longer been a possibility to enforce the judgment".

19. On 29 November 2013 the Presnenskiy District Court allowed the request. On 14 April 2014 the Moscow City Court quashed the lower court's decision on appeal and issued a new ruling dismissing the request in full. The court found that the first-instance court had incorrectly interpreted the applicable law. There was no evidence that the judgment in the applicant's favour could no longer be enforced. It was not quashed or amended. A "loss of a possibility to enforce" should have been "of an objective nature" and could not be conditional on the circumstances depending on the debtor itself. The defendant's arguments were rather indicative of its disagreement with the court's findings in the judgment of 13 January 2009, but did not constitute a ground for termination of the enforcement proceedings.

20. On 23 December 2014 the first-instance court and on 4 September 2015 the Moscow City Court acting as an appeal instance rejected the defendant's new request to terminate the enforcement, based this time, *inter alia*, on the judgment of 24 February 2014 (see paragraph 17 above). The courts gave the same reasons for the refusal as in the previous round of the similar proceedings.

21. In 2016 the defendant again requested the court to terminate the enforcement proceedings, the application being lodged this time with a military court. The registry of the military court sent to the applicant

notifications of the hearing by registered mail and by telegram to his known address. The notifications had not been delivered as the flat was closed. On 20 December 2016 the registry of the court informed the applicant of the date and place of the hearing by phone, as confirmed by a “telephonogram” (a telephone conversation record). The applicant stated in the telephone conversation that he had no longer lived at the address he had provided to the court and had refused to give his new address.

22. On 21 December 2016 the Military Court of the Moscow Garrison granted the request. With reference to the judgment of 24 February 2014 (see paragraph 17 above) it found established that as of 25 April 2013 the applicant had no longer been in need of the housing, which meant that the defendant had no longer had a possibility to enforce the judgment of 2 February 2009.

23. The applicant was not present at the hearing. The decision specified that he had been duly notified of the date and time of the examination of the case.

24. On 23 December 2016 he collected the telegram (see paragraph 21 above) from the post office.

25. The applicant appealed, referring, *inter alia*, to the two earlier decisions on the same matter rejecting the defendant’s similar requests, and argued that he had not been duly notified of the hearing in his case.

26. On 16 February 2017 the Civil Division of the Military Court of the Moscow Command upheld the decision on appeal. It found, *inter alia*, that the defendant’s prolonged failure to take actions to enforce the judgment in the applicant’s favour did not have any bearing on the lawfulness of the decision to discontinue the enforcement, as since 2013 the applicant had no longer been entitled to State housing. The proceedings were held in written form.

27. As regards the absence from the first-instance hearing, the appeal court noted that the notifications of the hearing had been sent to the applicant by registered mail and by telegram to his known address, but had not been delivered as the flat had been closed and the applicant had failed to collect the telegram pursuant to a notification thereof. Further, on 20 December 2016 he was informed of the date and the place of the hearing by phone. The court also noted his reply in the telephone conversation that he had no longer lived at the address he had provided to the court, as well as his refusal to provide his new address, and rejected the complaint.

28. On 3 May 2017 a judge of the Military Court of the Moscow Command rejected the applicant’s first leave for cassation appeal. The judge found, in particular, that the decisions of the Presnenskiy District court referred to in paragraphs 19 and 20 had not had a *res judicata* effect on the proceedings as the domestic law did not prohibit the debtor from lodging a repeated request for termination of the enforcement proceedings.

29. On 20 July 2017 a judge of the Supreme Court of the Russian Federation refused to grant leave for the second cassation appeal against the decision of 21 December 2016.

3. *Mr Bazhenov's death and legal succession*

30. On 15 March 2015 the applicant Mr Bazhenov (Appendix II) died. On 23 May 2015 his widow, Ms Leyla Khalilyevna Bazhenova, born on 13 July 1973, expressed a wish to maintain the application in his stead, and submitted a copy of the certificate confirming that she was her late husband's legal heir.

4. *Withdrawal of complaints by two applicants*

31. Two applicants, Mr Balyas and Mr Golovachev, withdrew their complaints on the dates specified in Appendix IV.

II. RELEVANT DOMESTIC LAW

32. According to Article 359 of the Code of Administrative Procedure, enforcement proceedings are discontinued either by a court which had issued the writ of execution or a court of the bailiff's location.

33. Section 43(2) of the 2007 Enforcement Act stipulates that a court terminates the enforcement proceedings if it is no longer possible to enforce a writ of execution obliging a debtor to perform or abstain from performing certain actions. A writ of execution in respect of which the enforcement proceedings have been discontinued is kept in the case file and cannot be re-submitted for execution (section 44(5) of the Act).

34. Relevant provisions of the Federal Law No. 450-FZ amending the Compensation Act of 2010, in force as of 1 January 2017 and extending the scope of the Compensation Act to cases of excessive delays in the enforcement of court judgments ordering the domestic authorities to fulfil various obligations in kind are summarised in *Shtolts and Others v. Russia* (dec.), nos. 77056/14 and 2 others, §§ 31-41, 30 January 2018.

THE LAW

I. COMPLAINTS BY MR BALYAS AND MR GOLOVACHEV

35. The Court takes note of the submissions by the applicants' representative that Mr Balyas and Mr Golovachev wished to withdraw their applications and discontinue the proceedings before the Court (see Appendix IV).

36. In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention or its Protocols, the Court, in accordance with Article 37 § 1 (a) of the Convention, considers that it is no longer justified to continue the examination of the application.

37. Accordingly, the case should be struck out of the list in so far as it concerns the complaints lodged by Mr Balyas and Mr Golovachev.

II. LOCUS STANDI OF MS BAZHENOVA

38. The Court notes that Mr K.V. Bazhenov (Appendix II) died after the communication, and that his widow, Ms L.K. Bazhenova, expressed a wish to maintain the case in her late husband's stead (see paragraph 30 above).

39. The Court reiterates that where an applicant dies during the examination of a case his heirs of next kin may in principle pursue the application on his behalf (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 97, ECHR 2014, with further references). Furthermore, in several Russian cases concerning non-enforcement of court judgments in the applicant's favour, the Court recognised the right of the relatives of the deceased applicant to pursue the application (see, among many others, *Shiryayeva v. Russia*, no. 21417/04, § 8, 13 July 2006). The Court notes that the rights at stake in the present case are very similar to those at the heart of the case referred to above. Nothing suggests that the rights the applicants sought to protect through the Convention mechanism were eminently personal and non-transferable (see, as regards Article 6 of the Convention, *Malhous v. the Czech Republic* (dec.) [GC], no. 33071/06, 13 December 2000). Ms Bazhenova has submitted a succession certificate to prove that she was the late applicant's legal heir, and Government stated in unilateral declaration that the payment would be made to the legal successor of the deceased applicant.

40. Accordingly, the Court considers that Ms Bazhenova has a legitimate interest in pursuing the application in her late husband's stead.

III. NON-ENFORCEMENT COMPLAINTS BY THE APPLICANTS LISTED IN APPENDIX II

41. The Court notes that the applicants listed in Appendix II expressly agreed to the terms of the declarations made by the Government. The Court finds that such agreement shall be considered as a friendly settlement between the parties (see *Cēsnieks v. Latvia* (dec.), no. 9278/06, § 34, 6 March 2012, and *Bakal and Others v. Turkey* (dec.), no. 8243/08, 5 June 2012).

42. The Court therefore takes formal note of the friendly settlement reached between the parties. The Court further considers that the settlement

is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

43. In any event the Committee of Ministers remains competent to supervise the execution of the terms of the friendly settlement as set out in the present decision (Article 39 § 4 of the Convention and Rule 43 § 3 of the Rules of Court). Further, in any event the Court's present ruling is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the present application to its list of cases.

44. In view of the above, it is appropriate to strike the case out of the list in accordance with Article 39 of the Convention in so far as it concerns the applicants listed in Appendix II.

IV. NON-ENFORCEMENT COMPLAINTS BY THE APPLICANTS LISTED IN APPENDIX III

45. The Court notes that the applicants listed in Appendix II disagreed to the terms of the declarations made by the Government. All of them argued that the amounts proposed by the Government were insufficient. Two applicants, Mr Medinskiy and Mr Vedernikov, argued in addition that the delay of non-enforcement was incorrectly calculated in the Government's declarations: the Government considered that the enforcement ended on the dates when the decision to allocate specific flats to the applicants was issued by the debtors. The applicants maintained that the enforcement had ended on the dates of the formal registration of their titles to the respective flats.

46. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article.

47. It also reiterates that in certain circumstances, it may strike out an applications under Article 37 § 1 (c) of the Convention on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued.

48. Article 37 § 1 (c) of the Convention enables the Court in particular to strike a case out of its list if:

“... for any other reason established by the Court, it is no longer justified to continue the examination of the applications.”

Article 37 § 1 *in fine* states:

“However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires.”

49. To this end, the Court will examine carefully the declarations in the light of the principles emerging from its case-law.

50. The Court is satisfied that the excessive length of the execution of the judgment in the applicants' favour has been acknowledged by the Government. The Court also notes that the compensation amounts offered are comparable with Court awards in similar cases, taking account, *inter alia*, of the specific enforcement delay in the applicant's particular cases. As regards the two applicants' calculation of the execution delay, the Court is rather inclined to consider the dates of the applicants' actual acceptance of the flats as the dates of enforcement which, in each case, happened about two weeks later than the dates referred to by the Government in their declarations (see paragraphs 11 and 12 above). However, the Court is not prepared to reject the declarations on that ground only, provided that the respective delays of enforcement exceeding five years and three months, in case of Mr Medinskiy, and five years and ten months, in case of Mr Vedernikov, were clearly and unequivocally acknowledged by the Government, and the remedial offers made by the Government to the two applicants are in any event adequate and comparable with the Court's awards in similar cases (see, *mutatis mutandis*, *Chervyakov and Others v. Russia* (dec.), nos. 43443/04 and 17 others, § 22, 15 March 2015).

51. As to whether the respect for human rights as defined in the Convention and the Protocols thereto requires the Court to continue the examination of the application, it notes that in a number of analogous cases the Court found that it was not required to continue the examination of the applications in accordance with Article 37 § 1 *in fine* (see, for instance, *Kamneva and Others v. Russia* (dec.), nos. 35555/05 and 6 others, § 30, 2 May 2017). The Court does not see any reason to depart from that approach in the present case.

52. In view of the above, it is appropriate to strike this part of the application out of the list in accordance with Article 37 § 1 (c) of the Convention in so far as the non-enforcement complaint of the applicants listed in Appendix III is concerned.

V. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL No. 1 IN RESPECT OF THE APPLICANTS LISTED IN APPENDIX I

53. The applicants listed in Appendix I complained of the non-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, 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. Non-enforcement complaint

54. The Government disagreed. In particular, in case of Mr Nazarov, they argued that the judgment in his favour could not have been enforced, as he was no longer in need of housing.

55. The applicants maintained their complaints. In particular, Mr Nazarov stated, as regards the housing owned by him since 1999, the authorities and the first-instance court issuing the initial judgment in his favour had been aware of that circumstance and took it into account. As regards the share in a flat in August 2009-2011, that circumstance arose after the judgment and was largely due to the authorities’ failure to enforce the judgment of 13 January 2009 within the two-month time-limit set in the domestic law. In any event, the judgment in his favour had not been cancelled or amended and was to be enforced, as confirmed by the domestic courts’ findings in 2014 and 2015. The courts on two occasions examined the arguments raised by the Government and rejected them as irrelevant. The 2016-2017 proceedings, brought by the defendant in military courts, were unfair, the decision to discontinue the enforcement proceedings had been taken in disregard of the earlier courts’ findings on the same matter, and the final judgment in his favour still had to be executed.

1. Admissibility

56. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

57. 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).

58. The Court further considers that the applicants had, by virtue of the judgments awarding them with housing, 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.

59. In the leading case of *Gerasimov and Others*, cited above, the Court already found a violation in respect of issues similar to those in the present case.

60. 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.

61. The judgments in favour of the four applicants either were enforced with delays exceeding respectively six, nine and twelve years, or, as in the case of Mr Nazarov, remain unenforced for more than nine years to date. Such delays are manifestly incompatible with the Convention requirements.

62. The Court further notes the Government’s argument to the effect that the judgment in favour of Mr Nazarov had no longer been enforceable as the applicant had been struck off the list of persons in need of housing. The Court notes, however, that the judgment of 13 January 2009 has not been annulled or modified. The Court further observes that in 2014-2015 the argument referred to by the Government was twice raised in the domestic proceedings and rejected by the domestic courts which found that the defendant’s disagreement with the initial court’s ruling was not a reason to discontinue the enforcement and that, accordingly, the possibility to execute it had not been lost (see paragraphs 19 and 20 above). However, in 2016 different courts examined the same set of facts and reached a different conclusion (see paragraph 22 and 26 above). Without delving into the issue of an alleged discrepancy between the courts’ conclusions in the three sets of proceedings, the Court finds it sufficient to note that at least by 21 December 2016, when the authority’s request to discontinue the enforcement was granted by the first instance court, the judgment of 13 January 2009 in the applicant’s favour had already remained without execution for more than seven years (see, *mutatis mutandis*, *Kotsar v. Russia*, no. 25971/03, § 28, 29 January 2009). Given that the enforceability of the judgment was twice confirmed by the domestic courts in 2014 and 2015 (see paragraphs 19 and 20 above), that period was attributable to the authorities and is clearly in breach of the Convention requirements.

63. Having regard to its case-law on the subject, the Court considers, in respect of the four applicants listed in Appendix I, that the authorities did not deploy all necessary efforts to enforce fully and in due time the judicial decisions in the applicants’ favour.

64. These complaints therefore disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in respect of those four applicants.

B. Complaint about the breach of principle of legal certainty

65. Mr Nazarov (Appendix I) complained that his right to a fair hearing was violated in the third set of proceedings concerning the debtor's request to terminate the enforcement, when the military court granted the debtor's claim despite the existence of a final decision of the district court in the proceedings between the same parties and concerning the same subject-matter.

66. Bearing in mind its conclusions above concerning the non-enforcement issue (see paragraphs 62– 64 above), the Court considers that it is not necessary to examine separately the admissibility and merits of this complaint.

VI. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

67. The applicants listed in Appendixes I, II and III may be understood to complain about the lack of an effective domestic remedy in respect of the non-enforcement. Relevant Convention provision reads as follows:

Article 13

“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.”

68. 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 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*, cited above). 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*, cited above, §§ 87-116 and § 123).

69. 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).

70. On the other hand, in the light of the adoption of the new domestic remedy, the Court, as in its previous decisions, considers that it is not necessary to examine separately the admissibility and merits of the

applicants' complaint under Article 13 in the present case (see, *mutatis mutandis*, *Korotyayeva and Others*, nos. 13122/11 and 2 others, § 40, 18 July 2017, and *Tkhyegepso and Others v. Russia*, nos. 44387/04 and 11 others, §§ 21-24, 25 October 2011).

VII. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

71. By letter of 20 January 2017 Mr Nazarov further complained about the authorities' failure to properly notify him of the hearing 21 December 2016. Having regard to all the material in its possession and in so far as the complaint falls within the Court's competence, it finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

72. It follows that this part of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

VIII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

73. 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

74. The applicants listed in Appendix I claimed the amounts specified in the appendix in respect of non-pecuniary damage.

75. The Government contested their claims as excessive and unreasonable.

76. 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 applicants the amounts specified in Appendix I, plus any tax that may be chargeable, in respect of non-pecuniary damage, and to reject the remainder of their claims for just satisfaction.

B. Costs and expenses

77. The applicants did not make a claim for costs and expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

78. 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 strike the application out of its list of cases in accordance with Article 37 § 1 (a) of the Convention in so far as it concerns the complaints lodged by Mr Balyas and Mr Golovachev;
2. *Decides* that Ms Leyla Khalilyevna Bazhenova has standing to continue the proceedings in her late husband's stead;
3. *Takes note* of the terms of the respondent Government's declarations in respect of the non-enforcement complaints brought by the applicants listed in Appendix III and of the modalities for ensuring compliance with the undertakings referred to therein;
4. *Decides* to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in so far as it concerns the non-enforcement complaints brought by the applicants listed in Appendix III;
5. *Decides*, in respect of the applicants listed in Appendix II, having regard to the terms of the Government's declarations, and the arrangements for ensuring compliance with the undertakings referred to therein, and the applicants' acceptance of the terms of the declarations, to strike the applications out of its list of cases in accordance with Article 39 of the Convention in respect of the complaints about the delayed enforcement of the domestic judgments;
6. *Declares* the non-enforcement complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 lodged by the applicants listed in Appendix I admissible;
7. *Holds* that there has been a violation of Article 6 of the Convention and Article 1 of Protocol No. 1 on account of the non-enforcement in favour of the judgments issued in favour of the applicants listed in Appendix I;
8. *Decides* that it is not necessary to examine the admissibility and merits of the complaint by Mr Nazarov about the alleged violation of the legal

certainty principle in the third set of proceedings concerning the termination of the execution of the judgment in his favour;

9. *Decides*, in respect of the complaint under Article 13 of the Convention brought by the applicants listed in Appendixes I, II and III concerning the alleged lack of an effective remedy against the non-enforcement that there is no need to examine the admissibility and merits of this complaint;

10. *Declares* the remainder of the application inadmissible;

11. *Holds*

(a) that the respondent State is to pay each applicant specified in Appendix I, within three months, the amounts specified in the relevant part of Appendix I, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable, in respect of non-pecuniary damage;

(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;

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

Done in English, and notified in writing on 22 January 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Registrar

Branko Lubarda
President

APPENDIX I**List of applicants in respect of whose cases no unilateral declaration was submitted**

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on | Domestic court | Enforcement status | Just satisfaction claims , in euros (EUR) | The Court's award in respect of non-pecuniary damage (EUR) ¹ |
|-----|--------------------------------------|----------------------------------|---------------------------|---|--|---|--|
| 1. | Aleksandr Timofeyevich ANANKIN | 1957 Moscow | 19/04/2005 01/05/2005 | Military Court of the Moscow Garrison | 21/09/2017 decision to allocate the flat, 03/10/2017 title registered <u>Enforcement delay:</u> More than 12 years | 500,000 | 6,000 |
| 2. | Sergey Anatolyevich KIYKOV | 1960 Moscow | 13/04/2011 28/04/2011 | Military Court of the Moscow Garrison | 06/09/2017-decision to allocate the flat <u>Enforcement delay:</u> 6 years 5 months | 20,670 | 6,000 |
| 3. | Sergey Vladimirovich NAZAROV | 1970 Pushkino | 13/01/2009 28/01/2009 | Military Court of the Moscow Garrison | Unenforced | 200,000 | 6,000 |
| 4. | Olga Dmitriyevna ZAKHAROVA | 1963 Moscow | 06/11/2009 23/11/2009 | Military Court of the Moscow Garrison | 05/12/2017 - decision to allocate the flat, 01/02/2018 - title to the flat registered <u>Enforcement delay:</u> More than 8 years | 25,920 | 6,000 |

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

APPENDIX II

List of applicants who agreed to the terms of the unilateral declarations

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on ² | Domestic court | Date of enforcement Delay of enforcement (years/months/days) ³ | Date of the unilateral declaration | Amount proposed in the unilateral declaration | Date of the applicant's reply ⁴ |
|-----|--|---|--|---------------------------------------|---|--|--|---|
| 5. | Igor Nikolayevich ANIKONOV | 1967 Moscow | 03/02/2009 18/02/2009 | Military Court of the Moscow Garrison | 02/08/2013 4 y., 6 m., 12 d. | 23/03/2016 | 4,360 | 17/05/2016 |
| 6. | Ivan Aleksandrovich BAGRYANTSEV | 1960 Moscow | 20/11/2009 07/12/2009 | Military Court of the Moscow Garrison | 28/08/2013 3 y., 9 m., 22 d. | 23/03/2016 | 3,650 | 17/05/2016 |
| 7. | Igor Vasilyevich BARSUKOV | 1965 Moscow | 15/10/2009 27/10/2009 | Military Court of the Moscow Garrison | 20/03/2013 3 y., 4 m., 23 d. | 16/05/2016 | 3,330 | 19/07/2016 |
| 8. | Konstantin Vasilyevich BAZHENOV <u>Legal heir:</u> Leyla Khalilyevna BAZHENOVA | 1972, died in 2015 Moscow 1973 Moscow | 17/03/2011 01/04/2011 | Military Court of the Moscow Garrison | 10/04/2013 2 y., 9 d. | 19/12/2016 | 1,980 The amount to be paid to the applicant's legal successor | 19/05/2016 |
| 9. | Mikhail Aleksandrovich BEREZNYAK | 1972 Moscow | 27/11/2009 15/12/2009 | Military Court of the Moscow Garrison | 19/04/2013 3 y., 4 m., 4 d. | 16/05/2016 | 3,280 | 29/07/2016 |
| 10. | Aleksandr Sergeevich CHIRKOV | 1963 Moscow | 27/02/2010 16/03/2010 | Military Court of the Moscow Garrison | 25/02/2016 5 y., 11 m., 9 d. | 16/05/2016 | 5,830 | 20/07/2016 |
| 11. | Dmitriy Gennadyevich DEYEV | 1974 Moscow | 11/11/2009 26/11/2009 | Military Court of the Moscow Garrison | 03/04/2013 3 y., 4 m., 7 d. | 23/03/2016 | 3,280 | 19/05/2016 |

2. Date of the judgment's entry into force, as provided by the Government in their Unilateral Declarations and not disputed by the applicants

3. As calculated by the Government in their Unilateral Declarations

4. As in the Unilateral Declaration Acceptance Form

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on ² | Domestic court | Date of enforcement Delay of enforcement (years/months/days) ³ | Date of the unilateral declaration | Amount proposed in the unilateral declaration | Date of the applicant's reply ⁴ |
|-----|---|-------------------------------------|--|--|---|--|--|---|
| 12. | Oleg Nikolayevich DUDAKOV | 1969 Moscow | 23/09/2009 24/12/2009 | Military Court of the Moscow Garrison , as upheld by the Civil Division of the Military Court of the Moscow Command | 29/03/2013 3 y., 3 m., 5 d. | 23/03/2016 | 3,200 | 16/05/2016 |
| 13. | Mars Mukhamedzyanovich FATKHIYEV | 1963 Moscow | 02/11/2009 20/11/2009 | Military Court of the Moscow Garrison | 02/08/2013 3 y., 8 m., 13 d. | 07/12/2015 | 3,630 | 18/01/2016 |
| 14. | Aleksandr Vladimirovich FILIMONOV | 1969 Moscow | 1) 28/03/2007 10/04/2007 2) 19/05/2008 03/06/2008 | 1) Military Court of the Moscow Garrison 2) Military Court of the Moscow Garrison | 1) 27/03/2013 5 y., 11 m., 17 d. (the longest delay) 2) 27/03/2013 | 07/12/2015 | 5,850 | 17/01/2016 |
| 15. | Sergey Vasilyevich GALKIN | 1958 Moscow | 12/05/2009 27/05/2009 | Military Court of the Moscow Garrison | 06/03/2013 3 y., 10 m., 10 d. | 08/07/2016 | 3,700 | 05/01/2017 |
| 16. | Oleg Ivanovich GORDIYENKO | 1965 Moscow | 26/11/2009 11/12/2009 | Military Court of the Moscow Garrison | 06/03/2013 3 y., 2 m., 26 d. | 08/07/2016 | 3,170 | 12/01/2017 |
| 17. | Oleg Nikolayevich KORSUN | 1960 Moscow | 17/11/2009 08/12/2009 | Military Court of the Moscow Garrison | 29/03/2013 3 y., 3 m., 21 d. | 05/05/2016 | 3,240 | 22/07/2016 |
| 18. | Igor Grigoryevich KOSTYAN | 1963 Moscow | 18/09/2008 11/12/2008 | Military Court of the Moscow Garrison | 06/03/2013 4 y., 2 m., 23 d. | 05/05/2016 | 4,150 | 21/07/2016 |
| 19. | Valeriy Ivanovich KOZLOV | 1959 Moscow | 20/08/2009 01/09/2009 | Military Court of the Moscow Garrison | 29/03/2013 3 y., 6 m., 29 d. | 05/05/2016 | 3,500 | 10/08/16 (date of the representative's letter to the Court) |
| 20. | Vladimir Aleksandrovich KURCHENKO | 1970 Moscow | 07/06/2011 25/06/2011 | Military Court of the Moscow Garrison | 24/07/2013 2 y., 29 d. | 05/05/2016 | 2,040 | 26/07/2016 |
| 21. | Oleg Ivanovich MAKSIMENKO | 1954 Moscow | 19/03/2010 06/04/2010 | Military Court of the Moscow Garrison | 27/03/2013 2 y., 11 m., 21 d. | 08/07/2016 | 2,910 | 12/01/2017 |

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on ² | Domestic court | Date of enforcement Delay of enforcement (years/months/days) ³ | Date of the unilateral declaration | Amount proposed in the unilateral declaration | Date of the applicant's reply ⁴ |
|-----|--------------------------------------|-------------------------------------|--|---|---|--|--|---|
| 22. | Sergey Anatolyevich MIKHAYLENKO | 1965 Moscow | 09/09/2009 22/09/2009 | Military Court of the Moscow Garrison | 05/04/2013 3 y., 6 m., 14 d. | 28/10/2015 | 3,469 | 25/11/2015 |
| 23. | Dmitriy Valeryevich MOISEYEV | 1971 Bryansk | 23/12/2009 12/01/2010 | Military Court of the Bryansk Garrison | 14/01/2015 5 y., 2 d. | 09/03/2016 | 4,910 | 11/04/2016 |
| 24. | Aleksandr Yuryevich NOVIKOV | 1963 Moscow | 14/05/2009 29/05/2009 | Military Court of the Moscow Garrison | 26/07/2013 4 y., 2 m., 12 d. | 28/10/2015 | 4,121 | 21/11/2015 |
| 25. | Ivan Anatolyevich PEREPONOV | 1960 Moscow | 30/07/2009 21/08/2009 | Military Court of the Moscow Garrison | 20/03/2013 3y., 6m., 30 d. | 28/10/2015 | 3,512 | 22/11/2015 |
| 26. | Aleksandr Ivanovich PEREYASLIVETS | 1966 Mosrentgen | 20/01/2010 09/02/2010 | Military Court of the Moscow Garrison | 10/04/2013 3y., 2 m. 1 day | 28/10/2015 | 3,106 | 24/11/2015 |
| 27. | Sergey Vladimirovich POPOV | 1961 Moscow | 09/11/2009 01/12/2009 | Military Court of the Moscow Garrison | 19/04/2013 3 y., 4 m., 18 d. | 19/01/2016 | 3,310 | 01/03/2016 |
| 28. | Sergey Anatolyevich REZNICHENKO | 1968 Moscow | 18/05/2010 04/06/2010 | Military Court of the Moscow Garrison | 05/03/2013 2 y., 9 m., 1 d. | 19/01/2016 | 2,700 | 01/03/2016 |
| 29. | Sergey Mikhaylovich RUDENKOV | 1961 Moscow | 30/11/2009 15/12/2010 | Military Court of the Moscow Garrison | 27/10/2015 5 y., 10 m., 11 d. | 16/05/2016 | 5,750 | 20/07/2016 |
| 30. | Oleg Valeryevich SAKHATSKIY | 1973 Moscow | 04/07/2008 27/08/2008 | 94th Garrison Military Court of Moscow, as upheld by the Military Court of the 3rd Command | 06/03/2013 4 y., 6 m., 7 d. | 19/01/2016 | 4,430 | 29/02/2016 |
| 31. | Yevgeniy Valentinovich SELEZNEV | 1959 Moscow | 01/12/2009 18/12/2009 | Military Court of the Moscow Garrison | 24/04/2013 3 y., 4 m., 6 d. | 19/01/2016 | 3,280 | 28/02/2016 |
| 32. | Pavel Dmitriyevich SERGIN | 1963 Moscow | 21/09/2009 06/10/2009 | Military Court of the Moscow Garrison | 13/03/2013 3 y., 5 m., 7 d. | 19/01/2016 | 3,360 | 29/02/2016 |
| 33. | Leonid Vasilyevich SHEVCHUK | 1962 Moscow | 15/11/2007 04/12/2007 | Military Court of the Moscow Garrison | 05/07/2013 5 y., 7 m., 1 d. | 07/12/2015 | 5,470 | 17/01/2016 |
| 34. | Sergey Aleksandrovich SHIRSHIN | 1964 Moscow | 29/04/2010 17/05/2010 | Military Court of the Moscow Garrison | 19/04/2013 2 y., 11 m., 2 d. | 07/12/2015 | 2,870 | 17/01/2016 |

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on ² | Domestic court | Date of enforcement Delay of enforcement (years/months/days) ³ | Date of the unilateral declaration | Amount proposed in the unilateral declaration | Date of the applicant's reply ⁴ |
|-----|---------------------------------------|----------------------------------|--|--|---|--|--|---|
| 35. | Aleksandr Yevgenyevich SOLOVYEV | 1957 Moscow | 24/04/2009 12/05/2009 | Military Court of the Moscow Garrison | 5/04/2013 3 y., 10 m., 24 d. | 08/02/2016 | 3,820 | 24/03/16 |
| 36. | Aleksandr Petrovich STETSYUK | 1957 Moscow | 09/06/2008 01/07/2008 | Military Court of the Moscow Garrison | 03/04/2013 4 y., 9 m., 2 d. | 19/01/2016 | 4,660 | 01/03/2016 |
| 37. | Valeriy Petrovich SUKHAREV | 1971 Moscow | 10/09/2009 26/09/2009 | Military Court of the Moscow Garrison | 30/10/2016 6 y., 1 m., 4 d. | 16/05/2016 | 5,960 | 25/07/2016 |
| 38. | Aleksandr Vladimirovich SYSOYEV | 1963 Moscow | 30/11/2009 15/12/2009 | Military Court of the Moscow Garrison | 24/05/2013 3 y., 5 m., 9 d. | 18/12/2015 | 3,370 | 18/01/2016 |
| 39. | Igor Vladimirovich TSVETKOV | 1969 Moscow | 22/05/2009 19/06/2009 | Military Court of the Moscow Garrison | 03/04/2013 3 y., 9 m., 15 d. | 07/12/2015 | 3,710 | 17/01/2016 |
| 40. | Vladimir Viktorovich VAGULIN | 1958 Moscow | 26/06/2008 28/08/2008 | Military Court of the Moscow Garrison , as upheld by the Civil Division of the Military Court of the Moscow Command | 19/04/2013 4 y., 7 m., 21 d. | 16/05/2016 | 4,550 | 19/07/2016 |

APPENDIX III**List of applicants who disagreed with the terms of the unilateral declarations**

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on ⁵ | Domestic court | Date of enforcement Delay of enforcement (years/months/days) ⁶ | Date of the Government's declaration | Amount proposed in the declaration (EUR) | Date of the applicant's reply ⁷ |
|-----|-------------------------------------|----------------------------------|--|---|---|--|---|---|
| 41. | Mikhail Petrovich FEDIN | 1956 Moscow | 01/04/2005 12/04/2005 | Military Court of the Moscow Garrison | 29/05/2013 8 y., 1 m., 16 d. | 07/12/2015 | 6,500 | 18/01/2016 |
| 42. | Vladimir Viktorovich KUCHERENKO | 1960 Moscow | 07/12/2005 22/12/2005 | Military Court of the 94th Garrison | 17/05/2013 7 y., 4 m., 25 d. | 08/07/2016 | 6,500 | 14/01/2017 |
| 43. | Sergey Alekseyevich LITVINENKO | 1970 Moscow | 20/12/2000 17/04/2001 | Military Court of the Moscow Garrison, As upheld by the Civil Division of the Military Court of the Moscow Command | 31/07/2013 12 y., 3 m., 14 d. | 05/05/2016 | 6,500 | 20/07/2016 |
| 44. | Andrey Vyacheslavovich MEDINSKIY | 1970 Moscow | 01/07/2010 20/07/2010 | Military Court of the Moscow Garrison | 06/11/2015 (decision to allocate the flat taken by the authorities) 5 y., 3 m., 17 d. | 08/07/2016 | 5,190 | 13/01/2017 |
| 45. | Yevgeniy Leonidovich OLESHKEVICH | 1971 Moscow | 15/02/2011 05/03/2011 | Military Court of the Moscow Garrison | 11/09/2013 2 y., 6 m., 6 d. | 28/10/2015 | 2,475 | 20/12/2015 |

5. Date of the judgment's entry into force, as provided by the Government in their Unilateral Declarations and not disputed by the applicants

6. As calculated by the Government in their Unilateral Declarations

7. As in the Unilateral Declaration Acceptance Form

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on ⁵ | Domestic court | Date of enforcement Delay of enforcement (years/months/days) ⁶ | Date of the Government's declaration | Amount proposed in the declaration (EUR) | Date of the applicant's reply ⁷ |
|-----|--|----------------------------------|--|--|---|--|---|---|
| 46. | Aleksey Petrovich ROZHENTSEV | 1963 Moscow | 16/03/2006 28/03/2006 | Military Court of the Moscow Garrison | 19/04/2013 7 y., 22 d. | 19/01/2016 | 6,500 | 01/03/2016 |
| 47. | Aleksandr Aleksandrovich VEDERNIKOV | 1958 Moscow | 09/12/2009 24/12/2009 | Military Court of the Moscow Garrison | 27/10/2015 (decision to allocate the flat taken by the authorities) 5 y., 10 m., 3 d. | 08/07/2016 | 5,720 | 12/01/2017 |
| 48. | Sergey Aleksandrovich YERMOLENKO | 1963 Moscow | 03/11/2004 16/11/2004 | Military Court of the Krasnoznamensk Garrison | 01/03/2013 8 y., 3 m., 15 d. | 23/03/2016 | 6,500 | 19/05/2016 |

APPENDIX IV**List of applicants who expressed an intention to withdraw their applications**

| No. | The applicant's name | Birth year Place of residence | Judgment date Final on | Domestic court | Date of enforcement | Date of the letter informing the Court of the intention to withdraw the application |
|-----|----------------------------------|----------------------------------|---------------------------|--|---------------------|---|
| 49. | Nikolay Nikolayevich BALYAS | 1959 Moscow | 09/02/2010 24/02/2010 | Military Court of the Moscow Garrison | 13/03/2013 | 02/02/2015 |
| 50. | Yuriy Nikolayevich GOLOVACHEV | 1955 Moscow | 25/06/2009 10/06/2009 | Military Court of the Moscow Garrison | 29/03/2013 | 08/07/2016, letter from the applicant's representative The representative submitted that Mr Golovachev had failed to reply to the lawyer's proposal to comment on the Government's declaration and informed the lawyer that he no longer wished to maintain the case. The lawyer advised the applicant to inform the Court of his position in writing. No such correspondence was received by the Court. |