



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

THIRD SECTION

**CASE OF FATEYENKOV AND OTHERS v. RUSSIA**

*(Applications nos. 44099/04 and 9 others -  
see appended list)*

JUDGMENT

STRASBOURG

18 February 2016

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



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

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

Helena Jäderblom, *President*,

Dmitry Dedov,

Branko Lubarda, *judges*,

and Karen Reid *Section Registrar*,

Having deliberated in private on 28 January 2016,

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

**PROCEDURE**

1. The case originated in ten 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 Appendix.

2. The Russian Government (“the Government”) were represented by Ms V. Milinchuk, former Representative of the Russian Federation at the European Court of Human Rights, Mr A. Savenkov, First Deputy Minister of Justice and Mr G. Matyushkin, Representative of the Russian Federation to the European Court of Human Rights.

3. The applications were communicated to the Government.

**THE FACTS**

4. The list of applicants and the relevant details of the applications are set out in the Appendix.

5. The applicants complained, *inter alia*, of the excessive length of civil proceedings and of the lack of an effective remedy in this respect.

**THE LAW****I. JOINDER OF THE APPLICATIONS**

6. 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 AND ARTICLE 13 OF THE CONVENTION

7. The applicants complained that the length of civil proceedings had been incompatible with the “reasonable time” requirement and, in certain cases, they also complained that they had not had an effective remedy in that respect. They relied on Article 6 § 1 and Article 13 of the Convention, which reads as follows:

### Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

### 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.”

## A. Admissibility

### 1. *Victim status of the applicants in application no. 8825/08*

8. The Government claimed that two applicants, namely L. M. Akhtyamova and A. M. Akhtyamov, could not claim to be victims of the alleged violations on the ground that they were minors when the proceedings complained of had started and joined them as parties only at a later stage.

9. The Court reiterates that there must be a sufficiently direct link between an applicant and the damage which he or she claims to have sustained as a result of the alleged violation for that applicant to be able to claim that he or she is the victim of a violation of one or more of the rights and freedoms recognised by the Convention and its Protocols (see *Smits and Others v. the Netherlands* (dec.), nos. 39032/97 et al., 3 May 2001).

10. In the present case, the proceedings started in January 1998 when one of the applicants’ relatives brought a claim against M. M. Akhtyamov, R. N. Akhtyamova and their minor children (the two applicants in question), challenging their rights to the apartment they were living in and seeking their eviction from it. Thus, even though L. M. Akhtyamova and A. M. Akhtyamov did not have a formal status of parties to the proceedings from the start, the Court finds that their own “civil rights and obligations” were at issue in those proceedings (contrast with *Zaytsev and Others v. Russia*, no. 42046/06, § 36, 25 June 2009).

11. In view of the above, the Court concludes that L. M. Akhtyamova and A. M. Akhtyamov can claim to be victims of the alleged violations of the rights guaranteed by the Convention. The Government’s objection must therefore be dismissed.

## 2. *The alleged failure to exhaust domestic remedies*

12. The Government claimed that the applicants had failed to exhaust the domestic remedies available to them before and after the adoption of the pilot judgement *Burdov v. Russia (no. 2)* (no. 33509/04, ECHR 2009).

13. As regards the domestic remedies existing prior to the adoption of the aforementioned pilot judgment, the Court reiterates its previous finding that at the time when the applicants brought their applications to Strasbourg there was no effective remedy under Russian law capable of affording redress for the unreasonable length of civil proceedings (see *Meshcheryakov v. Russia*, no. 24564/04, § 36, 3 February 2011 with references therein, and *Zaytsev and Others*, cited above, § 48).

14. As regards the domestic remedy introduced in response to the aforementioned pilot judgment, the Court reiterates its position 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, *mutatis mutandis*, *Burdov (no. 2)*, cited above, § 144). In line with this principle, the Court decides to proceed with the examination of the present cases (see, *mutatis mutandis*, *Utyuzhnikova v. Russia*, no. 25957/03, §§ 48-52, 7 October 2010; compare with *Fakhretdinov and Others v. Russia (dec.)*, no. 26716/09, § 32, 23 September 2010) and, accordingly, dismisses the Government's objection as regards the non-exhaustion of domestic remedies by the applicants.

## 3. *Other admissibility grounds*

15. 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**

### 1. *Article 6 § 1 of the Convention*

16. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see *Frydlender v. France [GC]*, no. 30979/96, § 43, ECHR 2000-VII).

17. In the leading case of *Kormacheva v. Russia* (no. 53084/99, 29 January 2004) the Court already found a violation in respect of issues similar to those in the present case.

18. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

19. These complaints therefore disclose a breach of Article 6 § 1 of the Convention.

### 2. Article 13 of the Convention

20. Some applicants further complained that they had had no effective domestic remedies against the excessive length of the judicial proceedings.

21. The Court accepts that as of 4 May 2010 the applicants have had a right to use the new remedy introduced in the wake of the pilot judgement *Burdov (no. 2)* (cited above) (see *Palacheva v. Russia*, no. 39814/04, § 72, 19 June 2014).

22. Having regard to those special circumstances and the Court’s case-law, while considering these complaints admissible, the Court does not find it necessary to continue their separate examination (see, among many authorities, *Palacheva*, cited above, §§ 71-75; *Akhmatova v. Russia*, no. 22596/04, §§ 62-66, 21 October 2010; and *Pobudilina and Others v. Russia* (dec.), nos. 7142/05 et al., 29 March 2011).

## III. OTHER COMPLAINTS

23. The Court has examined the other complaints submitted by the applicants, and, having regard to all the material in its possession and in so far as they fall within the Court’s competence, it finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that these parts of the applications must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

## IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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.”

25. Regard being had to the documents in its possession and to its case-law (see, in particular, *Rubtsova v. Russia*, no. 22554/04, §§ 30 and 52, 13 January 2011; *Vokhmina v. Russia*, no. 26384/02, §§ 26 and 37, 9 June 2005; and *Plemyanova v. Russia*, no. 27865/06, §§ 27 and 39, 15 October

2009), the Court considers it reasonable to award the sums indicated in the Appendix.

26. 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. *Rejects* the Government's preliminary objections;
3. *Declares* the complaints concerning the excessive length of civil proceedings and the lack of an effective domestic remedy admissible and the remainder of the applications inadmissible;
4. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
5. *Holds* that there is no need to examine the complaints under Article 13 of the Convention;
6. *Holds*
  - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the Appendix, 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 18 February 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Karen Reid  
Registrar

Helena Jäderblom  
President

## APPENDIX

List of applications raising complaints under Article 6 § 1 of the  
Convention  
(excessive length of civil proceedings)

No.	Application no. Date of introduction	Applicant name Date of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant / household / (in euros) <sup>1</sup>
1.	44099/04 23/11/2004	<b>Vasiliy Vasilyevich FATEYENKOV</b> 14/03/1965  <u>Represented by:</u> <b>Mikhail Valeryevich OVCHINNIKOV</b>	18/09/1998  18/08/2006	27/05/2004  Still pending on 18/09/2008	5 year(s) and 8 month(s) 3 level(s) of jurisdiction  2 year(s) and 1 month(s) 3 level(s) of jurisdiction	2,600
2.	3444/05 29/11/2004	<b>Vyacheslav Anatolyevich FILIPPOV</b> 07/01/1963	23/01/2001	27/03/2008	7 year(s) and 2 month(s) 2 level(s) of jurisdiction	3,900
3.	6694/05 11/01/2005	<b>Viktor Vasilyevich GAVRILOV</b> 25/07/1938	08/09/1999	23/06/2005	5 year(s) and 9 month(s) 2 level(s) of jurisdiction	3,300
4.	7964/05 01/02/2005	<b>Yuliya Leonidovna GORBUNOVA</b> 20/12/1973	10/04/1998	26/11/2004	6 years, 7 months and 19 days out of which 6 year(s) and 7 month(s) fall under the Court's jurisdiction <i>ratione temporis</i> 2 level(s) of jurisdiction	3,900
5.	31778/05 03/08/2005	<b>Tamara Nikolayevna FILATOVA</b> 03/08/1958  <b>Yuliya Vitalyevna FILATOVA</b> 16/03/1990	18/09/1995	15/02/2005	9 years and 5 months out of which 6 year(s) and 9 month(s) fall under the Court's jurisdiction <i>ratione temporis</i> 3 level(s) of jurisdiction	1,500 (jointly)



No.	Application no. Date of introduction	Applicant name Date of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant / household (in euros) <sup>1</sup>
6.	37766/06 10/05/2006	<b>Aleksandr Aleksandrovich YEFIMOV</b> 13/09/1957	19/10/2000  11/07/2006	11/11/2005  10/01/2007	5 year(s) and 1 month(s) 3 level(s) of jurisdiction  0 year(s) and 6 month(s) 3 level(s) of jurisdiction	800
7.	2172/07 18/10/2006	<b>Yevgeniy Valentinovich BALANDIN</b> 24/10/1950	29/03/2001	18/05/2006	5 year(s) and 2 month(s) 2 level(s) of jurisdiction	2,600
8.	36801/07 23/07/2007	<b>Yuriy Pavlovich FILATKIN</b> 30/11/1961  Represented by: <b>Tatyana Fedorovna KLYKOVA</b>	24/04/1998	27/02/2007	8 years, 10 months, 7 days out of which 8 year(s) and 10 month(s) fall under the Court's jurisdiction <i>ratione temporis</i> 2 level(s) of jurisdiction	4,000
9.	21452/08 17/03/2008	<b>Margarita Ivanovna FILIPPOVA</b> 16/06/1939	14/07/2004	23/09/2008	4 year(s) and 2 month(s) 2 level(s) of jurisdiction	1,300
10.	8825/08 10/12/2007	<b>Rimma Nurislamovna AKHTYAMOVA</b> 15/02/1959  <b>Lianna Makhasimovna AKHTYAMOVA</b> 15/06/1981  <b>Albert Makhasimovich AKHTYAMOV</b> 17/12/1987  <b>Makhasim Mansuryanovich AKHTYAMOV</b> 02/03/1956	05/01/1998   28/02/2003	07/02/2002   18/11/2008	4 years and 1 month out of which 3 year(s) and 9 month(s) fall under the Court's jurisdiction <i>ratione temporis</i> 3 level(s) of jurisdiction  5 year(s) and 9 month(s) 3 level(s) of jurisdiction	4,000 (jointly)

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