



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

THIRD SECTION

**CASE OF SALAKHBEKOV AND ABUKAYEV v. RUSSIA**

*(Applications nos. 28368/09 and 28636/09)*

JUDGMENT

STRASBOURG

29 May 2018

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



**In the case of Salakhbekov and Abukayev and 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 7 May 2018,

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

## PROCEDURE

1. The case originated in two applications (nos. 28368/09 and 28636/09) 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 two Russian nationals, whose personal details appear in the Appendix.

2. The applicant in application no. 28636/09 was represented by Mr Z.S. Salimov, a lawyer practising in Makhachkala. The Russian Government (“the Government”) were represented by Mr G. Matyushkin, 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 24 April 2017 the complaints concerning the extension of the time limits for lodging appeals and subsequent quashing of the final judgments in the applicants’ favour were communicated to the Government and the remainder of the application no. 28368/09 was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

4. The Government objected to the examination of the application by a Committee. After having considered the Government’s objection, the Court rejects it.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

5. In 2008 the applicants applied for recalculation of the social benefits they were entitled to as persons who took part in the clean-up operation at the Chernobyl nuclear disaster site. Their claims were granted by domestic courts.

6. Further developments in their cases are summarised in the Appendix.

## II. RELEVANT DOMESTIC LAW AND PRACTICE

7. The relevant domestic law and practice governing the restoration of the time-limits for appeal is summed up in the Court's judgment in the case of *Magomedov and Others v. Russia* (nos. 33636/09 and 9 others, §§ 35-43, 28 March 2017).

## THE LAW

### I. JOINDER OF THE APPLICATIONS

8. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment (Rule 42 § 1 of the Rules of Court).

### II. ALLEGED VIOLATIONS OF ARTICLE 6 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

9. The applicants complained that the unlawful extension of the time-limit for appeal granted by the domestic courts following the defendant authority's request had resulted in the judgments in their favour being quashed, which consequently constituted a violation of their right to a court. They relied on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1 which, in so far as relevant, read as follows:

#### **Article 6 § 1**

"1. In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

#### **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."

10. The Government contested their position.

11. The Court notes that the factual setting and the legal issues raised by the applicant are substantively similar to those previously examined in the case *Magomedov and Others* (cited above, in particular §§ 6-13).

12. 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. (*Magomedov and Others*, cited above, §§ 90-97).

13. These complaints are therefore admissible and disclose a violation of Article 6 § 1 of the Convention.

14. Having regard to the above conclusion, the Court considers that there is no need to consider either the admissibility or the merits of the complaint submitted by the applicants under Article 1 of Protocol No. 1 (see *Magomedov and Others*, cited above, § 103, with numerous further references).

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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.”

16. Referring to the judgment delivered in the case *Magomedov and Others* (cited above, § 107) both parties considered that the finding of a violation would constitute sufficient just satisfaction.

17. The Court has no reasons to disagree with the parties and considers that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage which may have been suffered by the applicants.

### FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that there has been a violation of Article 6 of the Convention;
4. *Holds* that it is not necessary to consider separately the admissibility and the merits of the complaints under Article 1 of Protocol No. 1 to the Convention;
5. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants.

Done in English, and notified in writing on 29 May 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips  
Registrar

Branko Lubarda  
President

## APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth Place of residence Nationality	Final domestic judgment a) date of delivery b) date of becoming final	Awards (in Russian roubles)	Appeal lodged by the authorities	Extension of the time-limit for appeal granted: court, date and grounds	Enforcement	Quashing: court, date and grounds
1.	28368/09 05/05/2009	<b>Alkhvat Magomedrasulovich SALAKHBKOV</b> 01/08/1964 Kizilyurt, Republic of Dagestan Russian	Kizilyurt Town Court 07/02/2008 17/02/2008	RUB 5,497,395 (arrears)+ RUB 94,738 (monthly payments)	10/11/2008	Supreme Court of the Republic of Dagestan 14/01/2009  Incorrect application of material law, financial interests of the Russian Federation were infringed	Enforced in part of monthly payments	Supreme Court of the Republic of Dagestan 14/01/2009  Wrong assessment of evidence, lack of supporting documents confirming the applicant's rights
2.	28636/09 05/05/2009	<b>Abuk Zaynalabidovich ABUKAYEV</b> 04/04/1961 Leninaul, Republic of Dagestan Russian	Kizilyurt Town Court 11/02/2008 21/02/2008	RUB 5,629,530.5 (arrears)+ RUB 95,642 (monthly payments)	10/11/2008	Supreme Court of the Republic of Dagestan 24/12/2008  Incorrect application of material law, financial interests of the Russian Federation were infringed	Enforced in part of monthly payments	Supreme Court of the Republic of Dagestan 21/01/2009  The same dispute between the same parties was considered by the first instance court in 2006