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**УПОЛНОМОЧЕННЫЙ РОССИЙСКОЙ ФЕДЕРАЦИИ
ПРИ ЕВРОПЕЙСКОМ СУДЕ ПО ПРАВАМ ЧЕЛОВЕКА**

**Representative
of the Russian Federation
at the European Court of Human Rights**

**Représentant
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№ 14 - 3744 - 10

Mr Søren NIELSEN
First Section Registrar,
European Court
of Human Rights

COUNCIL OF EUROPE
STRASBOURG – FRANCE

Dear Sir,

Since the European Court of Human Rights (hereinafter – “the European Court”) delivered the “pilot” judgment *Burdov v. Russia (№2)* the authorities of the Russian Federation has taken measures to enforce it.

Based on the findings put forward in the “pilot” judgment the Russian Federation has set up an effective domestic remedy against violations related to excessively long enforcement (non-enforcement) of judicial acts.

On 30 April 2010 the draft of the Federal law introduced by the President of the Russian Federation “*On Compensation for Violating the Right to Court Proceeding within the Reasonable Time and Execution of Judicial Act within the Reasonable Time*” was adopted, as well as a legislative package amending some legislative acts of the Russian Federation in connection with adoption of the mentioned Federal law. The mentioned Federal law came into force on 4 May 2010.

Within the framework of the “pilot” judgment, even prior to the adoption of the abovementioned Federal laws the Supreme Court and the Supreme Commercial Court of the Russian Federation modified the procedure of examination of the cases

related to excessive non-enforcement of judicial acts. Even prior to establishment of a new remedy available under the current legislation, the Russian courts awarded to the victims not only amounts of indexation, but also amounts for compensation of non-pecuniary damage. Moreover, the courts of supervisory instances dismissed complaints of the Russian state authorities against such judgments, directly referring to the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms. We have submitted copies of the relevant judgments to the Secretariat of the Committee of Ministers of the Council of Europe in the reports on the measures taken for enforcement of the "pilot" judgment for the December (2009) and March (2010) meetings of the Committee of Ministers.

At the same time certain measures have been taken to restore rights (including redress for damages) of the victims, consideration of whose applications was suspended by the European Court due to adoption of the "pilot" judgment.

At the present moment the authorities of the Russian Federation have forwarded to the European Court proposals regarding 818 applicants including: proposals for friendly settlement or for readiness to pay compensation for damages to the victims – in respect of 553 applicants; for consideration by the Court the question about procedural legal succession of deceased persons - in respect of 18 applicants.

In cases, regarding 105 applicants, the European Court, having assessed the materials submitted by the Russian authorities and the declarations on readiness to pay compensations for damages to the applicants, agreed with the proposals of the Russian authorities and struck the above applications out of the list of the cases. Pursuant to the relevant decisions and obligations assumed by the Russian authorities, certain compensations have been paid to the applicants in full. The European Court has not yet decided on the rest of the submitted declarations and friendly settlements.

The European Court has been invited to strike out applications of 265 applicants including: applications of 72 applicants due to quashing by the way of supervisory review of the judgments, on which non-execution applicants appealed against; applications of 175 applicants due to obvious groundlessness and inadmissibility of their complaints for consideration by the European Court.

Consideration of 355 applications has appeared to be impossible to complete within the framework of the time limit established by the European Court for the following reasons.

According to the "pilot" judgment the authorities of the Russian Federation are obliged to provide restoration of the rights of the applicants regarding 700 applications which have been lodged to the European Court prior to the delivery of the above judgment and which were communicated to the authorities of the Russian Federation.

Since the time limit for sending communications was not stated in the judgment, the European Court upon delivering the "pilot" judgment forwarded to the Russian authorities 304 applications of those persons who lived in various regions of the Russian Federation, including 22 applications - 6 months after the judgment became final.

The list of the cases which fell within the scope of the "pilot" judgment was drawn up and submitted to the authorities of the Russian Federation after the entry of the judgment into force as well; afterwards it was rectified several times. According to the latest verified data there are not 700 individual cases to be examined within the framework of the "pilot" judgment as it was stated in the "pilot" judgment but 1,773 applications arranged into 165 cases.

The efforts of the authorities of the Russian Federation aimed at restoration of the applicants' rights has been complicated by the fact that the applications, which fall within the scope of the "pilot" judgment are connected with the events which occurred 5-7 years before and the circumstances of almost all of them have considerably changed by the present moment.

Within the stated period of time most of the applicants received the compensations for pecuniary damages as well as for non-pecuniary damage by means of appealing to the national courts or applying the procedure of concluding friendly settlement with the local authorities but failed to notify the Court about it. In certain cases judgments, which enforcement period was challenged by the applicants, were quashed by the way of supervisory review with subsequent delivering of the decisions, by which the claims of the applicants were dismissed. Many applicants have died by the present time and the consideration of their cases is not possible without the prior settlement of the issues connected with the procedural legal succession by the European Court, etc.

Besides that, significant part of 355 applications in respect of which the working process is not completed by the authorities of the Russian Federation appear to be the most complicated since due to the time limitation of the occurred events, there have been certain difficulties concerning provisions of the enforcement of the judicial decisions (destruction of the documents due to expiration of their retention cycle, complete liquidation of the respondent organizations without legal succession, dismissal of officials which were obliged to make payments according to the judgments of the courts, etc.). Such circumstances require not only requests of the additional documents but also implementation of the efforts connected with settlement of the occurred problems with participation of the state and local authorities.

For these reasons, I ask to examine the question regarding the prolongation of the time limits established for enforcement of the "pilot" judgment in application *Burdov v. Russia (№ 2)* in part concerning taking measures in respect of the individual cases falling within its scope until 15 September 2010.

Best regards,



G.O. Matyushkin