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Meeting: 1294th meeting (September 2017) (DH)

Item reference: Action plan (22/08/2017)

Communication from the Russian Federation concerning the case of KLYAKHIN v. Russian Federation
(Application No. 46082/99)

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Réunion : 1294^e réunion (septembre 2017) (DH)

Référence du point : Plan d'action

Communication de la Fédération de Russie concernant l'affaire KLYAKHIN c. Fédération de Russie
(Requête n° 46082/99) (**anglais uniquement**)

DGI

22 AOÛT 2017

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Prepared for 1294 CMCE meeting
(September 2017)

ACTION PLAN
on execution of judgments of the European Court of Human Rights,
establishing violation of Article 5 of the Convention for Protection of
Human Rights and Fundamental Freedoms (group of cases "Klyakhin")

Introduction

The European Court of Human Rights issued number of judgments on applications against Russia establishing violation of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms, due to unlawful detention or excessive length of the measure of restraint in the form of detention on remand, violation of the right to immediate court examination of lawfulness of detention on remand and release if the detention was declared unlawful by court.

The Russian authorities adopted a complex of coordinated measures with a view to eliminate relevant violations. This work was performed with regard to legal positions of the ECHR and recommendations of the Committee of Ministers of the Council of Europe ("the CMCE").

The information on general measures taken and planned was forwarded to the CMCE in 2008 (under old procedures), and then in Action Plans of 5 November 2015 (DH-DD(2015)1171) and of 23 February 2017 (DH-DD(2017)345), and in Action Plans on execution of the "pilot" judgment *Ananyev and others v. Russia* in special sections (documents: DH-DD(2012)1009 of 10 October 2012 - section II, DH-DD (2014) 580 of 30 April 2014 - section II.II, DH-DD(2017)467 of 26 April 2017 – section II.IV).

Moreover, in all the Action Plans and Reports of the Russian authorities on certain cases, included into the group of cases "Klyakhin", there were reflected information both on individual measures and on general measures, concerning the translation into the Russian language and dissemination of all the relevant judgments of the European Court and examination of legal positions stated in them.

Hereby we send the additional Action Plan, concerning measures adopted in the framework of execution of named judgments, taking into account the issues identified in the decision of 1280 CMCE meeting (March 2017).

Individual Measures:

1. Just satisfaction.

**Judgment in applications nos. 3400/06, 1134/12, 27903/12, 15155/13, 1454/14, 43335/14, 43527/14, 60371/14, 68060/14, 36550/15, 39181/15, 41633/15 and 51162/15
«Klepikov and others v. Russia» (final on 24 November 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Klepikov O.A.		1000 euros		The payment was made in full on 20/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 577291)

2	Kolesnikov A.A.		2700 euros		The payment was made in full on 05/04/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 684079)
3	Danilenko S.V.		4100 euros		The payment was made in full on 22/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 585447)
4	Moskvitin S.S.		1800 euros		The payment was made in full on 22/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 585455)
5	Levin A.M.		1000 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573267)
6	Poplavskiy A.A.		2700 euros		The payment was made in full on 30/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 669712)

The compensation was not paid to applicants Zhukov B.N., Zotova E.M., Matsukov L.D., Paladyan E.G., Naydenov I.A., Sayadov A.K., Ananikyan S.A., because applicants, despite the clarifications given by ECHR and Office of the Representative of the Russian Federation at the ECHR, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

**Judgment in applications nos. 58104/14, 12566/15, 13335/15, 15383/15, 18943/15, 21219/15 and 23554/15 «Valter and others v. Russia»
(final on 30 June 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Smorchkov A.V.		3100 euros		The payment was made in full on 12/10/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 266940)
2	Kalistratov V.G.		2200 euros		The payment was made in full on 12/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 407157)
3	Shcherbinin V.S.		2700 euros		The payment was made in full on 22/09/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 219901)
4	Soschnev D.A.		3200 euros		The payment was made in full on 17/11/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 346357)
5	Kuzmin O.N.		4000 euros		The payment was made in full on 28/09/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 231586)

The compensation was not paid to applicants Valter V., Usubyayn R.Z., because applicants, despite the clarifications given by ECHR and Office of the Representative,

failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgments in applications nos. 16120/07 and 24021/07 «Gorbatenko and Sheydyakov v. Russia» (final on 15 November 2016), no. 51311/12 «Makhmud v. Russia» (final on 20 September 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Gorbatenko A.V.		7500 euros		The payment was made in full on 03/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 601906)
2	Sheydyakov G.V.		7500 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573245)

The compensation was not paid to applicant Makhmud S.M. because applicant, despite the clarifications given by ECHR and Office of the Representative, failed to provide his bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicant provides the relevant bank account details, the payment will be performed in due course.

Judgment in applications nos. 46871/07, 55534/07, 7503/09, 62699/10 and 56828/11 «Ushakov and others v. Russia» (final on 22 September 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Ushakov N.A.		5700 euros		The payment was made in full on 22/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 585454)
2	Schachnev S.A.		5700 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573240)
3	Rodikov I.B.		5700 euros		The payment was made in full on 05/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 388195)
4	Sadykov R.A.		1300 euros		The payment was made in full on 12/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 407136)
5	Petrova I.A.		2400 euros		The payment was made in full on 16/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 567903)
6	Golenko A.V.		1700 euros		The payment was made in full on 18/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 795397)

**Judgment in applications nos. 44786/11, 1884/12, 9837/12, 32631/12, 37187/13, 9612/14, 28543/15, 37353/15, 43931/15 «Bekuzarov and others v. Russia»
(final on 6 October 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Naguchev R.S.		1800 euros		The payment was made in full on 28/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 467290)
2	Kim A.O.		2500 euros		The payment was made in full on 17/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 789766)
3	Sukhareva T.V.		1000 euros		The payment was made in full on 28/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 467286)
4	Abramov U.V.		4200 euros		The payment was made in full on 02/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 597822)

The compensation was not paid to applicants Bekuzarov T.I., Fakhrutdinov M.R., Safin A.I., Schadlinskiy Sh.A., Muslimov R.A., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

**Judgment in cases nos.
2199/05 and 7 others «Chernov and others v. Russia»
(final on 16 February 2017)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Chernov M.S.		25000 euros		The payment was made in full on 14/04/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 713422)
2	Ermilov M.B.		6950 euros		The payment was made in full on 17/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 789784)
3	Kamayev I.V.		17600 euros		The payment was made in full on 29/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 666216)
4	Gontarev N.N.		14300 euros		The payment was made in full on 29/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 666215)

**Judgments in cases no. 80015/12 «Devterov v. Russia» (final on 19 July 2016),
no. 51445/09 «Zherebin v. Russia» (final on 12 September 2016), no. 9994/06
«Poddubnyy and Babkov v. Russia» (final on 21 June 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Devterov D.M.		2500 euros		The payment was made in full on 28/09/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 231574)
2	Zherebin P.M.		1000 euros		The payment was made in full on 26/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 454245)
3	Poddubnyy I.E.		1000 euros		The payment was made in full on 07/11/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 322002)
4	Babkov E.A.		1000 euros		The payment was made in full on 28/09/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 231557)

Judgment in applications nos. 30454/08, 11655/10 and 19871/10 «Brazhnikov and others v. Russia» (final on 30 June 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Brazhnikov S.A.		1000 euros		The payment was made in full on 22/09/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 219890)

The compensation was not paid to applicants Zyabkin V.L., Yuzumbayev I.S., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

**Judgments in applications nos. 1985/05, 18579/07, 21748/07, 21954/07 and 20922/08 «Sergey Denisov and others v. Russia» (final on 12 September 2016),
no. 69863/13 «Davlyashova v. Russia» (final on 18 October 2016),
no. 68433/10, 55250/13 and 44979/14 «Solovyev and others v. Russia»
(final on 24 November 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Denisov S.A.		7000 euros	1450 euros	The payment was made in full on 11/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 775313)
2	Suvorov S.A.		1300 euros		The payment was made in full on 16/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 567900)

The compensation was not paid to applicants Davlyashova A.R., Solovyev E.N., Zhdanov V.L., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgment in applications no. 77153/13 and 4 others «Khasanov and others v. Russia» (final on 16 February 2017)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Rastopchin A.A.		8200 euros		The payment was made in full on 14/04/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 713436)
2	Kostyunin I.S.		1400 euros		The payment was made in full on 18/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 795389)
3	Seleznev S.V.		6500 euros		The payment was made in full on 18/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 795390)
4	Maslyukov S.G.		2900 euros		The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.

The compensation was not paid to applicant Khasanov R.R. because applicant, despite the clarifications given by ECHR and Office of the Representative, failed to provide his bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicant provides the relevant bank account details, the payment will be performed in due course.

Judgments in applications no. 5403/07, 12097/09, 52460/13, 54286/13, 60823/13, 6503/14 «Mayevskiy and others v. Russia» (final on 24 November 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Mayevskiy S.U.		5200 euros		The payment was made in full on 22/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 585467)
2	Yakunin S.G.		7500 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573279)
3	Bondar S.N.		4700 euros		The payment was made in full on 31/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 673152)
4	Popova M.A.		3900 euros		The payment was made in full on 18/05/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 795396)

The compensation was not paid to applicants Kolpikov G.E., Tonkikh A.A., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

**Judgment in applications nos. 28484/06, 4613/09, 29899/09, 20064/13, 23850/13, 69323/13 and 76881/13 «Kirilchuk and others v. Russia»
(final on 3 November 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Kirilchuk V.P.		1000 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573216)
2	Syasko V.A.		2300 euros		The payment was made in full on 16/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 422452)
3	Arshinov D.V.		1300 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573236)
4	Anisimov V.A.		3300 euros		The payment was made in full on 22/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 645727)
5	Vanyarkha A.K.		5100 euros		The payment was made in full on 22/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 645718)
6	Nasledkov A.U.		4100 euros		The payment was made in full on 17/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 573239)

The compensation was not paid to applicant Mukhametvaliyev N.N. because applicant, despite the clarifications given by ECHR and Office of the Representative, failed to provide his bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicant provides the relevant bank account details, the payment will be performed in due course.

Judgment in applications nos. 24967/06, 13708/08, 43584/11, 2906/14, 68255/14, 72879/14 and 77966/14 «Devyatov and others v. Russia» (final on 20 December 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Devyatov S.G.		6500 euros		The payment was made in full on 03/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 601898)

2	Zakurdayev A.V.		2000 euros		The payment was made in full on 01/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 595034)
3	Konstantinov D.I.		2700 euros		The payment was made in full on 22/03/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 645711)
4	Kovach O.I.		3000 euros		The payment was made in full on 22/02/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 585459)

The compensation was not paid to applicants Kornev S.V., Selivanov V.V., Drozdov O.V., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgments in applications nos. 72986/10, 5441/11, 21051/11, 32021/14 and 40987/14 «Khamzin and others v .Russia» (final on 6 October 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Выплата
1	Karakozov I.I.		3000 euros		The payment was made in full on 12/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 407149)
2	Nikolayev L.L. (Nikolayeva S.M.)		1300 euros		The payment was made in full on 14/04/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 713425)
3	Abdrakhmanov R.Kh.		5800 euros		The payment was made in full on 16/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 422445)

The compensation was not paid to applicants Khamzin D.I., Vasilyeva A.A., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgment in applications nos. 39399/08, 39554/08, 45510/09, 21744/10 and 23272/16 «Kotov and others v. Russia» (final on 16 February 2017)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Kotov A.M.		7500 euros		The payment was made in full on 09/06/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 857803)

2	Tsarev V.S.		7100 euros		The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.
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The compensation was not paid to applicants Gantimurov A.A., Kakotkin R.V., Kudryavtsev A.G., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgment in applications nos. 50483/07, 21974/09, 53102/10, 66061/13 and 8351/15 «Fedorov and others v. Russia» (final on 16 February 2017 r.)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Fedorov P.V.		3100 euros		The payment was made in full on 20/04/2017 in roubles according to the exchange rate at the date of the payment (payment order no. 727773)
2	Sharafutdinov A.M.		4000 euros		The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.
3	Morozov D.V.		2200 euros		The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.

The compensation was not paid to applicants Figel I.I., Bobkov V.U., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgment in applications nos. 6116/10, 53833/10, 1164/15, 1405/15, 10164/15 and 42708/15 «Nosenko and others v. Russia» (final on 6 April 2017)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Nosenko A.V.				The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.
2	Shubin G.V.				The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.
3	Kashenkov S.V.				The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.

The compensation was not paid to applicants Ivanov A.V., Romanov I.E., Cherepanov A.V., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgment in applications nos. 32357/05, 49012/13, 42110/15, 1827/16, 8773/16, 16417/16 «Vikharev and others v. Russia» (final on 16 February 2017 r.)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Fedonin A.A.				The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.
2	Memetov E.T.				The details of the bank account are represented by the applicant with significant delay. Presently the payment of sum owed to him is organized.

The compensation was not paid to applicants Vikharev V.A., Vovchenko V.V., Chernitenko A.V., Kamenev V.A., because applicants, despite the clarifications given by ECHR and Office of the Representative, failed to provide their bank accounts details. Thus, payment delay occurs for reasons not dependent of authorities.

However, if the applicants provide the relevant bank account details, the payment will be performed in due course.

Judgment in application no. 43611/02 «Belozorov v. Russia and Ukraine» (final on 15 January 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Belozorov A.F.		5000 euros		The payment was made in full on 18/05/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 851420)

Judgment in application no. 41090/05 «Sergeyev v. Russia» (final on 6 January 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Sergeyev M.R.		5500 euros	60 euros	The payment was made in full on 30/05/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 877227)

**Judgment in application no. 12436/11 «Ilkin v. Russia»
(final on 22 December 2015)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Ilkin A.K.		5000 euros	120 euros	The payment was made in full on 11/03/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 700618)

**Judgment in application no. 37894/07 «Kashpruk v. Russia»
(final on 8 December 2015)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Kashpruk V.A.		3000 euros		The payment was made in full on 17/03/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 712272)

**Judgment in application no. 2763/13 «Khayletdinov v. Russia»
(final on 6 June 2016),**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Khayletdinov I.F.		7000 euros	280 euros	The payment was made in full on 29/06/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 42025)

**Judgment in application no. 8026/04 «Egorychev v. Russia»
(final on 17 August 2016),**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Egorychev I.V.		8000 euros	4525 euros	The payment was made in full on 30/09/2016 in roubles according to the exchange rate at the date of the payment

**Judgment in application no. 44815/10 «Shepel v. Russia»
(final on 24 May 2016)**

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Shepel V.G.		2000 euros		The payment was made in full on 16/12/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 422444)

Judgments in applications nos. 24649/10 and 8496/13 «Syusyura and Ovechkin v. Russia» (final on 30 June 2016)

№	Full Name of the Applicant	Pecuniary Damage	Non-pecuniary Damage	Court Costs and Expenses	Payment
1	Syusyura V.L.		2000 euros		The payment was made in full on 28/10/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 304224)
2	Ovechkin M.L.		4500 euros		The payment was made in full on 29/09/2016 in roubles according to the exchange rate at the date of the payment (payment order no. 235469)

Judgments in applications nos. 7243/10 and 15536/10 «Evstratov and Rudakov v. Russia» (final on 19 July 2016), no. 34942/05 «Kolkutin v. Russia» (final on 12 July 2016)

Applicants Evstratov S.A., Rudakov O.N., Kolkutin I.A. were not awarded compensation.

2. Due to the fact that the European Court found the violation of Article 5 §3, on the request of the President of the Supreme Court the Presidium of the Supreme Court resumed proceedings in criminal cases with regard to number of applicants on new circumstances.

According to the results, decisions extending the term of detention declared unlawful and quashed in respect of applicants mentioned below.

- Valter V., Smorchkov A.V., Kalistratov V.G., Shcherbinin V.S., Soschnev D.A., Kuzmin O.N., Usubyan R.Z. (judgment «Valter and others v. Russia»);
- Moskvitin S.S., Levin A.M. (judgment «Klepikov and others v. Russia»);
- Gorbatenko A.V., Sheydyakov G.V. (judgment «Gorbatenko and Sheydyakov v. Russia»);
- Makhmud S.M. (judgment «Makhmud v. Russia»);
- Ushakov N.A., Sadykov R.A., Golenko A.V. (judgment «Ushakov and others v. Russia»);
- Bekuzarov T.I., Kim A.O., Schadlinskiy Sh.A., Sukhareva T.V., Muslimov R.A. (judgment «Bekuzarov and others v. Russia»);
- Chernov M.S., Ermilov M.B., Kamayev I.V. (judgment «Chernov and others v. Russia»);
- Babkov E.A. (judgment «Poddybnyy and Babkov v. Russia»);
- Zyabkin V.L., Yuzumbayev I.S. (judgment «Brazhnikov and others v. Russia»);
- Denisov S.A. (judgment «Sergey Denisov and others v. Russia»);
- Solovyev E.N. (judgment «Solovyev and others v. Russia»);
- Ovechkin M.L. (judgment «Syusyura and Ovechkin v. Russia»);
- Evstratov S.A., Rudakov O.N. (judgment «Evstratov and Rudakov v. Russia»);
- Kolkutin I.A. (judgment «Kolkutin v. Russia»);

- Khasanov R.R., Kostyunin I.S. (judgment «Khasanov and others v. Russia»);
- Arshinov D.V. (judgment «Kirilchuk and others v. Russia »);
- Drozdov O.V. (judgment «Devyatov and others v. Russia»);
- Memetov E.T. (judgment «Vikharev and others v. Russia»);
- Belozorov A.F. (judgment «Belozorov v. Russia and Ukraine»);
- Ilkin A.K. (judgment «Ilkin v. Russia»);
- Khayletdinov I.F. (judgment «Khayletdinov v. Russia»);
- Shepel V.G. (judgment «Shepel v. Russia»).

As regard other applicants under the said judgments (Klepikov O.A., Zhukov B.N., Zotova E.M., Matsukov L.D., Kolesnikov A.A., Danilenko S.V., Paladyan E.G., Naydenov I.A., Sayadov A.K., Poplavskiy A.A., Ananikyan S.A., Schachnev S.A., Rodikov I.B., Petrova I.A., Naguchev R.S., Fakhrutdinov M.R., Safin A.I., Abramov U.V., Gontarev N.N., Devterov D.M., Zherebin P.M., Poddubnyy I.E., Brazhnikov S.A., Davlyashova A.R., Suvorov S.A., Zhdanov V.L., Syusyura V.L., Rastopchin A.A., Maslyukov S.G., Seleznev S.V., Mayevskiy S.U., Yakunin S.G., Bondar S.N., Popova M.A., Kolpikov G.E., Tonkikh A.A., Kirilchuk V.P., Syasko V.A., Arshinov D.V., Anisimov V.A., Vanyarkha A.K., Nasledkov A.U., Mukhametvaliyev N.N., Devyatov S.G., Zakurdayev A.V., Kornev S.V., Selivanov V.V., Konstantinov D.I., Kovach O.I., Khamzin D.I., Karakozov I.I., Nikolayev L.L., Vasilyeva A.A., Abdrakhmanov R.Kh., Kotov A.M., Gantimurov A.A., Kakotkin R.V., Tsarev V.S., Kudryavtsev A.G., Fedorov P.V., Sharafutdinov A.M., Figel I.I., Morozov D.V., Bobkov V.U., Nosenko A.V., Ivanov A.V., Romanov I.E., Cherepanov A.V., Shubin G.V., Kashenkov S.V., Vikharev V.A., Vovchenko V.V., Chernitenko A.V., Fedonin A.A., Kamenev V.A.), as well as applicants on other judgments («Bocharov v. Russia», «Grabovoy v. Russia», «Chernoyvan v. Russia», «Burmaga v. Russia», «Gontmakher v. Russia», «Lyubimov v. Russia», «Mandrykin v. Russia», «Burykin v. Russia», «Urmanov v. Russia», «Zakharov v. Russia», «Tumanov v. Russia», «Semenov and Bachurina v. Russia») the issue is pending before the Supreme Court.

CMCE will be informed on the results additionally.

3. In the judgment on case no. 8026/04 «Egorychev v. Russia» (final on 17 August 2016) ECHR found the violation of Article 5 §3 - due to unreasonably long Egorychev's detention on remand and Article 6 §1 – in connection with consideration of his criminal case by court with unlawful composition.

Supreme Court, taking into account the conclusions set forth in the ECHR's judgment, declared unlawful and quashed decisions extending the term of applicant detention, as well as the sentence in his case with referral for a new trial.

4. In view of the recommendations given in §§ 2–3 of the decision of the Committee of Ministers of the Council of Europe of 10 March 2017 the authorities of the Russian Federation submit additional information and comments related to execution of ECHR judgment in case *Khodorkovskiy and Lebedev v. Russia*.

4.1. As previously reported in detail, proceedings in the criminal case against the applicant were resumed by the Supreme Court due to new circumstances in view of ECHR findings.

On the basis of the results of comprehensive examination of the case file within the framework of resumed proceedings and taking into account the ECHR findings, on 23 January 2014 a decision was made by the Presidium of the Supreme Court of the Russian Federation in accordance to which:

- both applicants were released from the sentence for the episodes with expired statutes of limitations for criminal prosecution and their sentences were mitigated;
- the detention orders relating to unreasonable prolongation of P.L. Lebedev's detention were quashed;
- court judgments executed in the applicants' case were checked taking into account findings of the Court related to violations committed in the course of proceedings.

4.2. Following its inquiry of court judgments executed in the applicants' case, the Supreme Court concluded that the violations found by the ECHR did not reach the extent that could call into question the fairness of the proceedings in the criminal case as a whole, as well as the legality, validity and fairness of the sentence.

It was taken into account by the Supreme Court that the Court effectively came to the same conclusions¹ by pointing out that despite the flaws in the domestic proceedings the proceedings could not be characterised as a "flagrant denial of justice", and the court's findings on the merits of the case had not been "arbitrary or manifestly unreasonable".

4.3. As regards the examination of the civil claim, the ECHR findings that neither the Russian legislation nor the case-law in force at the time of passing of the sentence had allowed for the imposition of civil liability on state officials for taxes that were not paid by legal entities in favour of the State, and, therefore, the award of taxes that were not paid by legal entities in favour of the State had been arbitrary and could be regarded as an interference with the right to peaceful enjoyment of possessions were taken into account by the Supreme Court.

However, upon the results of detailed examination of the case file and taking into account ECHR findings the Supreme Court found that civil liability of applicants as applicable to circumstances of the criminal case had essential features. These features are based primarily to the fact that the property damage was caused to the State by direct criminal actions of M.B. Khodorkovskiy and P.L. Lebedev. As noted, these people had committed tax evasion by unlawfully including information about having tax privileges into tax returns while acting on behalf of four illegal sham companies, which is an integral part of the objective side of the crime for which the applicants were convicted. In view of the foregoing, the Court concluded there were no grounds to quash the sentence in part of satisfaction of the civil claim; this fact was reasoned and specified in the above mentioned decision of 23 January 2014.

¹ § 804 of the Court's judgment.

The attention is drawn to the fact that consideration of the issue related to review of the enforced sentence does not mean use of the text of the Court judgment alone by the national court. Findings of the national court are based on detailed examination of the case file of the specific criminal case in view of the Court findings. Thus, findings of the Supreme Court are based on study of circumstances of the applicants' case and sentences imposed against them, including the objective elements of the crime for which they were convicted, in view of ECHR findings.

4.4. Sentence in case of M.B. Khodorkovskiy and P.L. Lebedev in part of satisfaction of the civil claim and decision of the Presidium of the Supreme Court of the Russian Federation of 23 January 2014 in accordance to which the sentence in this part was upheld came into force; they are legally binding within the territory of the Russian Federation and in accordance with the legislation of the Russian Federation.

Accordingly, the Federal Bailiffs' Service informed about the absence of reasons for termination of enforcement proceedings related to execution of the sentence or quashing of actions and decisions made in the course of its execution.

It should also be taken into account that respective decisions and actions were not challenged by the applicant or his representative in accordance with the established procedure, particularly in Russian courts, in the course of enforcement proceedings.

In these circumstances, levying of execution upon the amount payable to M.B. Khodorkovskiy under the judgment of the European Court was carried out on the basis of Russian legislation and is compatible with ECHR case-law (see, for example, judgments in applications nos. 2614/65 *Ringeisen v. Austria*, 15175/89 *Allenet de Ribemont v. France* and 25803/94 *Selmouni v. France*).

4.5. However, if M.B. Khodorkovskiy and P.L. Lebedev or their representatives believe that in the course of enforcement proceedings the rights of applicants were violated, they are entitled to challenge decisions and actions (omission) of bailiffs in court in accordance with the regulations given in Chapter 18 Federal Law no. 229-FZ On Enforcement Proceedings of 2 October 2007 and Chapter 22 of the Code of Administrative Procedure. Detailed explanation to courts concerning issues related to examination of respective cases is given in Resolution no. 50 of the Plenum of the Supreme Court of the Russian Federation of 17 November 2015 On Application of Legislation by Courts When Considering Issues Arising in the Course of Enforcement Proceedings.

5. In view of the recommendations given in §§ 4–5 of the decision of the Committee of Ministers of the Council of Europe of 10 March 2017 the Government of the Russian Federation submit additional information and comments related to execution of ECHR judgment in the case *Pichugin v. Russia*.

5.1. It is reiterated that by decision of the Presidium of the Supreme Court of the Russian Federation of 23 October 2013 in view of the ECHR judgment in the case *Pichugin v. Russia* proceedings in the criminal case against A.V. Pichugin were resumed by the Supreme Court due to new circumstances.

Upon the results of resumed proceedings:

- all court rulings regarding the extension of the term of detention of A.V. Pichugin were quashed;

- based on the findings of the ECHR that the domestic court had held a closed hearing without proper justification of the relevant decision, the Supreme Court made a respective assessment of the circumstances of the case in the resumed proceedings in the applicant's case.

It was found that the nature, contents and scope of information constituting state secrets included in the case file of this certain criminal case allow to make a conclusion that in case of partial (not complete) closing of court proceedings possibility of disclosure of information constituting state secrets would not be fully eliminated.

As the Supreme Court noted, this conclusion is highly important in view of regulations of the Russian legislation according to which order of examination of evidence shall be determined by the party that submitted respective evidence to the court. Restriction of the right of a party to a trial to study any piece of evidence at the hearing which is considered necessary to be submitted to the court by a party at the time and to the extent in which it was deemed necessary by the respective party to proceedings would be, as noted by the Supreme Court, a substantial violation of the adversarial principle.

Along with this, the Supreme Court took into account that in the course of the proceedings neither the defence nor the prosecution referred to the fact that the examination of the criminal case in a closed court session had in any way restricted or limited their procedural rights.

In view of the above, the Supreme Court came to the conclusion that there was no reason to believe that the examination of the criminal case against A.V. Pichugin in a closed court session interfered with the fair balance between the interests of the applicant and the need to ensure the proper administration of justice.

- In respect of the violation found by the European Court and expressed in the fact that A.V. Pichugin had no proper and effective opportunity to challenge statements of witness K. the Supreme Court took into account that K. had been questioned as a witness and had been of criminal responsibility for giving knowingly false testimony, but the witness had not been warned of the responsibility for refusal to give testimony. However, as noted, this fact alone may not be of vital importance for assessing the testimony of the witness in terms of its relevance, admissibility and reliability.

It was also taken into account that during the investigation and court proceedings K. gave consistent statements on the merits of the case and never withdrew them. Moreover, as seen from the minutes of the hearing, the presiding judge did not prevent the parties from questioning the witness about the merits of the circumstances known to him which were relevant to the resolution of the criminal case. Thus, the so called "cross-examination" of this witness concerning circumstances related to the merits of the case was carried out.

With regard to the questions of the defence that witness K. refused to answer to, these questions, as the Supreme Court found:

- either had no relation to the facts to be proved in the criminal case,
- or had been invalid because of the nature of the criminal case examined with the participation of jurors,

- or the refusal to failure to respond to the questions of the defence had occurred during the trial the results of which were cancelled due to the dissolution of the jury.

In such circumstances, the Supreme Court concluded that the established violations of Article 6 of the Convention that were committed in the course of the criminal proceedings against A.V. Pichugin did not affect the outcome of this case and did not lead to the unlawfulness, invalidity or unfairness of the sentence in this case. Otherwise, in this certain case, as noted, it would mean unjustified deviation from generally recognised principle of legal certainty that suggests stability of final court decisions and impossibility of their review in absence of such violations of legislation that would affect the outcome of the criminal case and correctness of its resolution on merits.

5.2. Sentence in the case of A.V. Pichugin and the decision of the Presidium of the Supreme Court of the Russian Federation of 23 October 2013 in accordance to which the sentence was upheld came into force, they are legally binding and in accordance with the Russian legislation they are mandatory for all state bodies.

5.3. It is also reiterated that the amount payable to A.V. Pichugin under the judgment of the European Court was transferred to the applicant in full (including default interest) in accordance with given bank details.

5.4. With regard to the opportunity of pardon for A.V. Pichugin, this issue was not the subject of examination and assessment by the Court. Besides, the Convention does not impose any obligations on the authorities in respect of application of pardon act. Pardon is a voluntary expression of humanity to the person taking into account respective circumstances; it shall not be deemed as responsibility of the state. Moreover, making respective pardon decision is the exclusive competence of the President of the Russian Federation.

General Measures:

6. In the reporting period (after March 2017) all final judgments on considered matter were forwarded to the Constitutional Court of the Russian Federation and the competent state authorities (the Supreme Court of the Russian Federation, the Prosecutor General's Office of the Russian Federation, Federal Penitentiary Service of Russia, Ministry of Internal Affairs of Russia, the Investigative Committee of the Russian Federation) for taking into account in practice and adopting measures to prevent similar violations in the future in accordance with the jurisdiction.

The named competent state authorities communicated the copy of the European Court's judgment to their structural subdivisions and territorial agencies with necessary instructions to take into account the European Court's legal positions in their practice.

In all Russian courts, the judgments of the ECHR and the legal positions set forth therein where the subject of discussion on meetings of judges and on training sessions.

7. Text of judgments of the European Court is published on the website of the Ministry of Justice of Russia, website of Prosecutor General's Office, on internal website of Supreme Court (available for all courts of general jurisdiction), in "Consultant Plus" and "Garant" legal reference systems.

8. Adoption of general measures to solve the problem of unlawful detention or excessive length of detention in remand prison, violation of right to immediate court examination of lawfulness of detention on remand and release if the detention was declared unlawful by court and to prevent further relevant violations continues in the framework of execution of the judgments in the *Klyakhin* and *Kalashnikov* groups of cases and pilot judgment *Ananyev and others v. Russia*.

Relevant Action Plans and Action Reports are listed in Introduction of this document.