

Centre de la protection internationale

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Communication on behalf of the applicant in the case of Kudeshkina v Russia

(Application no. 29492/05)

Re: Kudeshkina v Russia

The following is submitted for the purposes of review of the execution of the judgment of the referred case made final on 14 September 2009.

The Committee of Ministers of the Council of Europe (hereinafter the Committee) would recall that the judgment on the case of Kudeshkina v Russia was delivered by the European Court of Human Rights (hereinafter the Court) on 26 February 2009.

The Court in the case of Kudeshkina v Russia found that the applicant's dismissal from the judiciary in 2004 was in violation of Article 10 of the Convention as the penalty imposed on the applicant (early termination of her office of a judge at the Moscow City Court, as well as abrogation of her 1st qualifying rank) by the authorities of the Russian Federation was disproportionately severe and was capable of having a "chilling effect" on judges who wish to participate in the public debate on the effectiveness of judicial institutions.

For **almost nine years** the Russian authorities have refused to adopt individual measures necessary to erase the consequences of the violation for the applicant. Such consequences are grave: the applicant who had been a judge for 18 years was deprived of the right to exercise her profession and was also deprived of the wages and pension which she would now be receiving as a retired judge, in addition to other benefits. The applicant is now critically ill and, considering the deplorable state of the Russian State-sponsored healthcare system, is in serious need of the money to be able to afford treatment for her illness.

For all these years the applicant put much effort to make the execution of this judgment possible:

- She filed requests on the execution of this judgment with national courts that refused to execute the referred judgment. The applicant emphasizes that by final decision of 23 March 2010 the Supreme Court refused to reopen the proceedings for her dismissal, thus rendering impossible her reinstatement to her post as a judge by means of judicial review.
- She lodged a complaint with the Court on account of the refusal of the respondent State to reopen the applicant's case. In 2015 the Court confirmed the legitimate nature of the applicant's grievances and ruled that the RF authorities are obliged to take appropriate individual measures to restore as far as possible the situation existing before the breach of the applicant's rights under Article 10 of the Convention. The Court agreed that the payment of just satisfaction (10,000 euros awarded for non-pecuniary damage) was not sufficient to fulfill the obligation to abide by the original judgment and further that the

Supreme Court had been wrong to deny the reopening of the proceedings for the applicant's dismissal (§74 of the decision and further). The Court also emphasized that even if the applicant's case could not have been reopened, the Government had other options to provide the applicant with a redress through other mechanisms. The applicant brings to the attention of the Committee that the applicant was open to discuss other mechanisms that could have been used by the authorities for the execution of this judgment and put the authorities on notice about it.

- The applicant requested repeatedly the assistance of the Committee of Ministers in the execution of this judgment. The applicant send numerous submissions to the Department for the Execution of Judgments of the European Court of Human Rights (Execution Department) requesting the examination of the case at the upcoming DH meetings as well as transfer of her case from standard supervision to that of enhanced as the case under consideration requests urgent individual measures, while the respondent State failed both to take any effective measures to restore the applicant's rights and to provide the Committee of Ministers with an Action plan/report. It is of utmost importance to take urgent individual measures as the applicant has critically poor state of health and the non-execution has grave consequences for the applicant¹. The applicant's representatives have also a meeting with the representatives of the Execution Department on the failure of the Russian authorities to execute the judgment, where they raised their concerns on the non-execution and the emphasized the necessity of taking urgent measures to assist the proper execution of the case due to serious illness of the applicant.


The applicant emphasizes once more that the respondent State failed to provide the Committee with any Action plan/report on the execution of the referred case for **about nine years**. According to the information posted on the official website of the Committee, the authorities of the Russian Federation has only submitted preliminary information about the taken *general* measures, namely that the judgment was translated into Russian and sent to the Supreme Court of the Russian Federation as well as to the Moscow City Court. It is noted also that "[a] comprehensive action plan / report is still awaited"².

In the light of the above-made remarks and provided information the applicant calls upon the Committee to take into account the continuous violations of the applicant's rights and non-execution of the judgment and adopt an interim resolution on non-execution of the referred judgment.

Sincerely,



Karina Moskalenko



Anna Maralyan

¹ The applicant's communications could be found at: <https://wcd.coe.int/ViewDoc.jsp?p=&Ref=DH-DD%282011%29583&Language=lanEnglish&Site=CM&direct=true>; <https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=DH-DD%282015%29659&Language=lanEnglish&Site=CM>; <https://wcd.coe.int/ViewDoc.jsp?p=&Ref=DH-DD%282015%29756&Language=lanEnglish&Site=CM&direct=true>; https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807074d7

² Information is available at: [http://hudoc.exec.coe.int/eng#{\"fulltext\":\[\"kudeshkina\"\],\"EXECIdentifier\":\[\"004-13926\"\]}](http://hudoc.exec.coe.int/eng#{\)