



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

FIFTH SECTION

CASE OF ATIMA LIMITED v. UKRAINE

(Application no. 56714/11)

JUDGMENT

(Just satisfaction – striking out)

Art 41 • Just satisfaction • Art 37 § 1 • Striking out applications • Absence of intention to pursue application

STRASBOURG

6 April 2023

FINAL

06/07/2023

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Atima Limited v. Ukraine,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Georges Ravarani, *President*,

Carlo Ranzoni,

Mārtiņš Mits,

María Elósegui,

Mattias Guyomar,

Kateřina Šimáčková,

Mykola Gnatovskyy, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having deliberated in private on 14 March 2023,

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

PROCEDURE

1. The case concerns the applicant company's complaint under Article 1 of Protocol No. 1 to the Convention about interference with its property title to some shares in company K.

2. In a judgment delivered on 20 May 2021 ("the principal judgment"), the Court held that the domestic court decisions affecting the applicant company's property title contained no legal grounds for interference with that title and thus rendered such interference unlawful within the meaning of Article 1 of Protocol No. 1 (see *Atima Limited v. Ukraine*, no. 56714/11, §§ 34 to 45, 20 May 2021).

3. Since the question of the application of Article 41 of the Convention was not ready for decision as regards pecuniary damage, the Court reserved it and invited the Government and the applicant company to submit, within three months from the date on which the judgment became final, their written observations on that issue, and, in particular, to notify the Court of any agreement they might reach (*ibid.*, §§ 50 to 53, and point 4 of the operative provisions). The Court's judgment was notified to the applicant company by post and was published in the Court's HUDOC database on 20 May 2021, the date of its delivery.

4. The judgment became final on 20 August 2021 and a letter confirming that fact and reminding about the three-month time limit for the submission of observations on just satisfaction was sent to the applicant company. The three-month time limit expired on 20 November 2021 but the applicant company did not submit any observations.

5. By a letter dated 13 December 2021, sent by registered post and also at the email address provided to the Court, the applicant company was notified that the period allowed for submission of its observations had expired on 20 November 2021 and that no extension of time had been requested. The applicant company's attention was drawn to Article 37 § 1 (a) of the

Convention, which provides that the Court may strike an application out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. According to the post tracking system the letter sent by registered post was scanned on 23 January 2022, but was then returned to the Registry as it was not possible to reach the applicant company's lawyer. In the absence of any reply and owing to exceptional circumstances related to the war in Ukraine, by a letter of 27 September 2022 the applicant company's representative was asked to send the applicant company's observations through the Court's Electronic Communications Service (eComms). No reply to the Registry's letter was received, although both the letter and its annexes on the eComms system were downloaded by the applicant company's lawyer in October 2022.

THE LAW

6. In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention and the Protocols thereto, the Court, in accordance with Article 37 § 1 (a) of the Convention, considers that it is no longer justified to continue the examination of the application.

7. Accordingly, the remainder of the application should be struck out of the list.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

Decides to strike the remainder of the application out of its list of cases.

Done in English, and notified in writing on 6 April 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik
Registrar

Georges Ravarani
President