



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

SECOND SECTION

CASE OF FALKOVYCH v. UKRAINE

(Application no. 64200/00)

JUDGMENT
(Striking out)

STRASBOURG

4 October 2005

FINAL

04/01/2006

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Falkovych v. Ukraine,

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

Mr J.-P. COSTA, *President*,

Mr I. CABRAL BARRETO,

Mr V. BUTKEVYCH,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM,

Ms D. JOČIENĖ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 13 September 2005,

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

PROCEDURE

1. The case originated in an application (no. 64200/00) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Ukrainian national, Mr Valeriy Mykhaylovych Falkovych (“the applicant”), on 13 October 2000.

2. The applicant was represented by Mr Yaroslav Zeykan, a lawyer practising in Kyiv. The Ukrainian Government (“the Government”) were represented by their Agent, Ms Zoryana Bortnovska, succeeded by Ms Valeria Lutkovska.

3. The applicant alleged, in particular, under Article 5 §§ 3 and 4 of the Convention that he was arrested and detained unlawfully in the absence of any prompt judicial supervision and that his appeal against the resolution authorising his detention was unfairly rejected without being considered. He also alleged that there was an infringement of Article 13 of the Convention in respect of lack of effective remedies for his complaints under the aforementioned provisions.

4. The application was allocated to the Second Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. By a decision of 29 June 2004 the Court declared the application partly admissible.

6. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section (Rule 52 § 1).

7. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE AND THE RELEVANT DOMESTIC LAW AND PRACTICE

8. The circumstances of the case and the relevant domestic law and practice are set out in the final admissibility decision of the Court given in the instant case (see *Falkovych v. Ukraine* (dec.), no. 64200/00, 29 June 2004).

THE LAW

9. The application was declared partly admissible on 29 June 2004 (see paragraph 5 above). On 5 July 2004 the Court informed the applicant of this decision and requested the applicant's lawyer to submit the applicant's claims for just satisfaction and any additional evidence or observations as to the merits by 1 September 2004. This letter was received by the applicant's lawyer in person. Neither the applicant nor his lawyer replied. It seems that the applicant's whereabouts were unknown, as he had disappeared in the wake of a nationwide search for him.

10. On 24 May 2005 the Registry sent a registered letter to the applicant's lawyer, informing him of the need to provide the aforementioned information. The lawyer was warned of the possibility that the case might be struck off if he did not reply. The time-limit for the lawyer's response was set at 10 June 2005, but again he did not reply. However, on 31 July 2005 the lawyer sent a power of attorney, which had been signed by the applicant on 21 November 2000, but not the requested information.

11. In these circumstances, taking into account the lack of diligence of the applicant's lawyer and the absence of a serious indication that the applicant himself wishes to pursue the application in an effective manner, the Court concludes that it is no longer justified to continue the examination of the application within the meaning of Article 37 § 1 (c) of the Convention. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

12. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list of cases pending before the Court.

Done in English, and notified in writing on 4 October 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President