



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

FIFTH SECTION

**CASE OF GALAT v. UKRAINE**

*(Application no. 716/05)*

JUDGMENT

STRASBOURG

20 May 2010

**FINAL**

*04/10/2010*

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



**In the case of Galat v. Ukraine,**

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

Peer Lorenzen, *President*,

Renate Jaeger,

Karel Jungwiert,

Mark Villiger,

Mirjana Lazarova Trajkovska,

Zdravka Kalaydjieva, *judges*,

Mykhaylo Buromenskiy, *ad hoc judge*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 27 April 2010,

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

**PROCEDURE**

1. The case originated in an application (no. 716/05) 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, Ms Valentina Alekseyevna Galat (“the applicant”), on 22 December 2004.

2. The Ukrainian Government (“the Government”) were represented by their Agent, Mr Y. Zaytsev.

3. On 16 June 2008 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

**THE FACTS****THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1955 and lives in the town of Kremenchug, Ukraine.

5. At the material time the applicant worked as an accountant at the Cherkasytransgas State company.

6. In May 1998 the authorities revealed a shortfall of 70,000<sup>1</sup> Ukrainian hryvnias (UAH) in the Cherkasytransgas accounts. On 30 November 1998

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<sup>1</sup> At the material time around 34,196.40 US Dollars

the local police instituted criminal proceedings against the applicant for embezzlement of State funds. On 20 January 1999 criminal proceedings for forgery and negligence were also instituted.

7. On 26 January 1999 criminal proceedings against M. were instituted in connection with the same episode of embezzlement. On 1 April 1999 criminal proceedings against the applicant and M. were joined.

8. On 21 September 1999 the applicant gave a written undertaking not to abscond.

9. The criminal proceedings against M. were terminated on 22 October 1999.

10. On 1 December 1999 the applicant's case was sent to the court.

11. On 18 April 2000 the Kremenchug Court found the applicant guilty of embezzlement of State funds and sentenced her to ten years' imprisonment. The court also ordered confiscation of any property belonging to the applicant.

12. On the same day the applicant was imprisoned.

13. On 7 June 2000 the Poltava Regional Court (since June 2001 the Poltava Regional Court of Appeal) quashed this judgment and remitted the case for additional investigation.

14. On 15 August 2000 the applicant was released.

15. In the course of the investigation several expert reports on handwriting, accountancy and technical criminal questions were submitted.

16. By 11 January 2001 the additional investigation was completed and the case was transferred to the court.

17. On 3 December 2003 the Kremenchug Court found the applicant guilty of embezzlement and sentenced her to five years' imprisonment. The court also disqualified the applicant from holding positions of financial responsibility for three years and ordered confiscation of any property belonging to her.

18. On 12 March 2004 the Poltava Regional Court of Appeal reduced the applicant's sentence to three years and six months' imprisonment.

19. On 11 November 2004 the Supreme Court of Ukraine lifted the three year disqualification from holding positions of financial responsibility and upheld the remainder of the decisions of 3 December 2003 and 12 March 2004.

20. Subsequently the applicant requested the Supreme Court of Ukraine to review the case under the extraordinary review procedure but to no avail.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

21. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

22. The Government contested that argument.

23. The period to be taken into consideration began on 30 November 1998 when the criminal proceedings against the applicant were instituted and ended on 11 November 2004 when the Supreme Court adopted a final decision in the case. It thus lasted almost six years for three levels of jurisdiction.

#### A. Admissibility

24. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

#### B. Merits

25. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II)

26. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Pélissier and Sassi*, cited above).

27. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

## II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

28. The applicant further complained under Article 5 § 1 of the Convention that her arrest on 18 April 2000 was unlawful. Referring to Article 6 § 1 of the Convention, the applicant complained of the courts' assessment of evidence and interpretation of the law and challenged the outcome of the proceedings.

29. Having carefully examined the applicant's submissions in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention.

30. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to Article 5 §§ 3 and 4 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

### A. Damage

32. The applicant claimed UAH 63,265 (about 5,640 euros, EUR) in respect of pecuniary damage. This amount included, *inter alia*, the applicant's legal expenses. She further claimed UAH 1,000,000 (about EUR 89,115) in respect of non-pecuniary damage.

33. The Government contested these claims.

34. The Court will consider the applicant's claim for legal expenses separately (see paragraph 36).

35. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects the applicant's claim for pecuniary damage. On the other hand, ruling on an equitable basis, it awards the applicant EUR 600 in respect of non-pecuniary damage.

### B. Costs and expenses

36. The applicant, who was not represented before the Court, claimed UAH 20,000 (about EUR 1,785) for her legal expenses incurred before the national courts and the Court. In support she provided a contract on legal

assistance concluded with a detective agency under which the latter took on an obligation to draft the observations in reply to the Government's observations. The contract contains no provision about the amount to be paid for the legal services provided to the applicant. However, the applicant provided a receipt evidencing payment of UAH 5,000 (about EUR 446) to the agency for these services.

37. The Government contested the claim.

38. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings. The Court considers it reasonable to award the sum of EUR 200 for the proceedings before the Court and rejects the remainder of her claims under this head.

### **C. Default interest**

39. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

## **FOR THESE REASONS, THE COURT UNANIMOUSLY**

1. *Declares* the complaint under Article 6 § 1 concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 600 (six hundred euros) in respect of non-pecuniary damage and EUR 200 (two hundred euros) for expenses in the proceedings before the Court, plus any tax that may be chargeable to the applicant, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 20 May 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek  
Registrar

Peer Lorenzen  
President