



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

FIFTH SECTION

CASE OF KRAVETS v. UKRAINE

(Application no. 14518/07)

JUDGMENT

STRASBOURG

10 January 2013

This judgment is final but it may be subject to editorial revision.

In the case of Kravets v. Ukraine,

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

Angelika Nußberger, *President*,

André Potocki,

Aleš Pejchal, *judges*,

and Stephen Phillips, *Deputy Section Registrar*,

Having deliberated in private on 11 December 2012,

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

PROCEDURE

1. The case originated in an application (no. 14518/07) 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 Irina Yefimovna Kravets (“the applicant”), on 23 March 2007.

2. The Ukrainian Government (“the Government”) were represented most recently by their Agent, Mr N. Kulchytskyy, of the Ministry of Justice.

3. On 24 November 2009 the application was communicated to the Government.

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1960 and lives in Donetsk.

5. On 21 December 1998 the applicant instituted proceedings in the Kyivskyy District Court of Donetsk (“the Kyivskyy District Court”) against four private persons seeking annulment of a flat sales contract.

6. On 16 November 2006 the proceedings were completed by a final ruling of the Supreme Court upholding the decisions of the lower courts of two levels of jurisdiction. In the course of the examination of the case, it had been remitted from the appellate to the first-instance court on one occasion.

7. According to the information provided by the Government, in the course of the proceedings the national courts held forty-two hearings, thirty-two of which had been adjourned. In particular, twenty-six hearings were adjourned due to the parties’ petitions or failures to appear, protracting the proceedings for one year and eight months and two hearings were adjourned due to the absence of the presiding judge because of health reasons and

vacation, delaying the proceedings for around two and a half months. Finally, the proceedings were adjourned for one and a half years owing to related criminal proceedings pending against one of the respondents.

THE LAW

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

8. 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 his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

9. The Government contested that argument stating that there had been no major delays attributable to the State. They submitted that the proceedings had been somewhat complex and their length could be explained by the conduct of the applicant and the respondents, as well as by the duration of the relevant criminal investigation pending against one of the latter who could not be located.

10. The proceedings, which began on 29 December 1998 and ended on 16 November 2006, lasted about seven years and eleven months for three levels of jurisdiction.

A. Admissibility

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

B. Merits

12. 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 and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

13. Turning to the facts of the present case, the Court notes that the proceedings concerned a property dispute which was not of any particular complexity.

14. The Court acknowledges that the parties and in particular the applicant somewhat contributed to the length of the proceedings. It however considers that the parties' behaviour alone cannot justify the overall length of the proceedings of around eight years (see paragraph 10 above).

15. 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 *Frydlender*, cited above).

16. 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 COMPLAINTS

17. Relying on Article 6 of the Convention, as well as Article 1 of Protocol No. 1, the applicant further complained about the alleged unfairness of the proceedings. She also made a reference to Article 13 of the Convention without stating to what her complaint relates.

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

19. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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."

21. The applicant did not submit a claim for just satisfaction in accordance with the Court's procedure. Accordingly, the Court considers that there is no call to award her any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the applicant's complaint under Article 6 § 1 of the Convention 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.

Done in English, and notified in writing on 10 January 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Deputy Registrar

Angelika Nußberger
President