



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

FIFTH SECTION

DECISION

Application no. 17216/05  
Vasiliy Ivanovich KARPENKO against Ukraine  
and 10 other applications  
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 30 April 2013 as a Committee composed of:

Boštjan M. Zupančič, *President*,

Ann Power-Forde,

Helena Jäderblom, *judges*,

and Stephen Phillips, *Deputy Section Registrar*,

Having regard to the above applications lodged on the various dates stated in the annexed table,

Having regard to the decision to apply the pilot-judgment procedure taken in the case of *Yuriy Nikolayevich Ivanov v. Ukraine* (no. 40450/04, ECHR 2009-... (extracts)),

Having deliberated, decides as follows:

THE FACTS

The applicants are 11 Ukrainian nationals whose names, dates of birth and places of residence are tabulated below. The fifth applicant was represented by his son, Viktor Martynovych Slobodenyuk.

The Ukrainian Government ("the Government") were represented by their Agent, Mr Nazar Kulchytsky, of the Ministry of Justice.

The facts of the case, as submitted by the applicants, may be summarised as follows.

On the dates set out in the annexed table below the national courts held for the applicants and ordered the defendants under these judgments (debtors) to take certain measures or to pay various amounts to the applicants. These judgments became binding but the authorities delayed their enforcement.

The applications were communicated to the Ukrainian Government within the pilot judgment in the case of *Yuriy Nikolayevich Ivanov* cited above. By letters sent on different dates the respondent Government informed the Court that the debtors under the judgments were private persons or private legal entities. The Government referred to the Court's case law that the State's positive obligation to enforce a judgment against a private entity extends no further than the involvement of the State bodies in enforcement proceedings. For some applications the Government additionally referred to other inadmissibility reasons. The Government requested the Court to declare the applications inadmissible.

The applicants disagreed.

## COMPLAINTS

The applicants complained about the lengthy non-enforcement of judgments in their favour.

## THE LAW

The Court first considers that in accordance with Rule 42 § 1 of the Rules of Court, the applications should be joined, given their common legal background.

The Court further notes that at the time the judgments in the applicants' favour were adopted the debtors were private persons or private legal entities. The Court recalls that the State cannot be held responsible for a private company's debts and its responsibility extends no further than the involvement of State bodies in the enforcement proceedings (see, *mutatis mutandis*, *Ponomaryov v. Ukraine*, no. 3236/03, § 51, 3 April 2008).

The Court reiterates that, as it has already held in similar cases, the Ukrainian legislation provides for the possibility to challenge before the courts the lawfulness of acts and omissions of the State Bailiffs' Service in enforcement proceedings and to claim damages from that Service for delays in payment of the amount awarded (see, for instance, *Kukta v. Ukraine* (dec.), no. 19443/03, 22 November 2005). In the present cases, the applicants failed to do so.

In the light of the foregoing, the applicants cannot be regarded as having exhausted the domestic remedies available to them under Ukrainian law (see *Dovgal v. Ukraine* (dec.), no. 50726/06, ECHR 20 October 2009).

Having regard to its conclusion above the Court considers that it is not necessary to examine other arguments of the Government as to the inadmissibility of the applications concerned.

It follows that these complaints must be rejected pursuant to Article 35 §§ 1, 3 and 4 of the Convention.

For these reasons, the Court unanimously

*Decides* to join the applications;

*Declares* the applications inadmissible.

Stephen Phillips  
Deputy Registrar

Boštjan M. Zupančič  
President

**APPENDIX**

No.	Application no. and date of introduction	Applicant name date of birth place of residence	Final domestic decision details
1.	17216/05 22/04/2005	<b>Vasiliy Ivanovich KARPENKO</b> 27/07/1950 Novogrodovka	Novogrodovka Court, 30/10/2001
2.	33927/05 30/08/2005	<b>Yaroslav Ivanovych STARYAT</b> 28/11/1950 Peremozhne	Gorodotskyy District Court of Lviv, 20/06/2001
3.	1570/06 20/12/2005	<b>Illya Ivanovych NIKOLAYENKO</b> 01/06/1952 Genichesk	Genichesk Court, 15/06/2004
4.	17002/06 13/04/2006	<b>Mykhaylo Petrovych KOZARCHUK</b> 09/06/1941 Khmelnyskyy	Khmelnyskyy Court, 06/06/2002
5.	17780/06 17/04/2006	<b>Martyn Oleksandrovych SLOBODENYUK</b> 02/03/1938 Nova Chortoryya	Lyubarskyy District Court of Zhytomyr Region, 09/09/2002
6.	37560/06 01/09/2006	<b>Rayisa Vasylivna FATYEYEVA</b> 14/04/1961 Udarnyk	Beryslavskyy District Court of Kherson Region, 28/12/005
7.	38262/06 06/09/2006	<b>Olga Borisovna GARSKAYA</b> 28/04/1959 Oleksandriya	1) Oleksandriya Court, 29/04/2004 2) Oleksandriya Court, 01/06/2006
8.	49206/06 18/11/2006	<b>Yevdokiya Vasilyevna MELNIKOVA</b> 13/07/1944 Torez	Torez Court, 14/06/2004
9.	15168/07 23/03/2007	<b>Yuriy Volodymyrovych LIPINSKYI</b> 12/08/1966 Malyn	1) Malynskyy District Court of Zhytomyr Region, 17/01/2000 2) Malynskyy District Court of Zhytomyr Region, 19/07/2001
10.	21009/07 18/04/2007	<b>Viktor Yakovlevich VASILYEV</b> 04/01/1948 Torez	Torez Court, 14/06/2004
11.	42368/07 18/09/2007	<b>Volodymyr Mykolayovych RAKHUBA</b> (unspecified) Maryanivka	1) Petrivskyy District Court of Kirovograd Region, 22/06/2006 2) Kirovskyy District Court of Kirovograd, 21/05/2004 3) Kirovskyy District Court of Kirovograd, 25/10/2004 4) Kirovskyy District Court of Kirovograd, 29/12/2004