



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

FIFTH SECTION

**CASE OF VINNIK AND OTHERS v. UKRAINE**

*(Application no. 13977/05 and 45 other applications)*

JUDGMENT

STRASBOURG

7 November 2013

*This judgment is final. It may be subject to editorial revision.*



**In the case of Vinnik and others v. Ukraine,**

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

Boštjan M. Zupančič, *President*,

Ann Power-Forde,

Helena Jäderblom, *judges*,

and Stephen Phillips, *Deputy Section Registrar*,

Having deliberated in private on 15 October 2013,

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

**PROCEDURE**

1. The case originated in 46 applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Ukrainian nationals, one Lithuanian national (application no. 74608/10) and companies based in Ukraine. Their details are specified in the appended tables (“the applicants”).

2. In applications nos. 20748/09, 25288/10, 25762/10 and 31562/13 the applicants died in course of the proceedings before the Court. Their next-of-kin expressed the wish to pursue the applications.

3. The Government were represented by their Agent, Mr Nazar Kulchytskyy.

4. The applications listed in the Appendix to the present judgment were communicated to the Government on various dates between 2008 and 2011.

5. On various dates the Government submitted to the Court a number of unilateral declarations aimed at resolving the non-enforcement issues raised in seventeen applications. The Government requested the Court to strike the applications concerned out of the list of cases pursuant to Article 37 § 1 (c) of the Convention on the basis of the declarations. The Court examined the declarations and decided to reject the Government’s request.

6. The Lithuanian Government, having been informed of their right to intervene in the proceedings in respect of the applicant in application no. 74608/10 (Article 36 § 1 of the Convention and Rule 44 of the Rules of Court), indicated that they did not wish to exercise that right.

## THE FACTS

### THE CIRCUMSTANCES OF THE CASE

7. On the dates set out in the appended table domestic courts and labour disputes commissions delivered decisions according to which the applicants were entitled to various pecuniary amounts or to have certain actions taken in their favour. The decisions became final and enforceable. However, the applicants were unable to obtain the enforcement of the decisions in due time.

8. Some of the applicants also made submissions concerning factual and legal matters unrelated to the above non-enforcement issues.

## THE LAW

### I. JOINDER OF THE APPLICATIONS

9. In view of the similarity of the applications set out in the Appendix in terms of the principal legal issues raised, the Court finds it appropriate to join them.

### II. ADMISSIBILITY OF APPLICATION No. 36411/06 AS REGARDS THE SECOND, THIRD AND FOURTH APPLICANTS

10. In application no. 36411/06 the applicants, members of the same family, complain about the lengthy non-enforcement of three judgments given exclusively in favour of the first applicant, Mr Petro Stanislavovych Abramov. The other applicants do not have an enforceable and final judgment adopted in their favour and therefore they neither can complain of the lengthy non-enforcement of the judgments, nor can they claim to be victims of the alleged violations of their Convention rights.

11. It follows that insofar as application no. 36411/06 has been lodged by the second, third and fourth applicants it is incompatible *ratione personae* with the provisions of the Convention. This part of the application should therefore be declared inadmissible in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

### III. THE STANDING OF THE APPLICANTS IN APPLICATIONS Nos. 20748/09, 25288/10, 25762/10 AND 31562/13

12. The Court considers that the applicants' heirs or next-of-kin in applications nos. 20748/09, 25288/10, 25762/10 and 31562/13 (see paragraph 2 above) have standing to continue the proceedings in the applicants' stead (see, among other authorities, *Mironov v. Ukraine*, no. 19916/04, § 12, 14 December 2006).

### IV. ALLEGED VIOLATION OF ARTICLES 6 AND 13 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1

13. The applicants complained about the lengthy non-enforcement of the decisions given in their favour, as specified in the Appendix, and about the lack of the effective domestic remedies in respect of those complaints. Expressly or in substance they relied on Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1.

14. The Court notes that the above complaints (see paragraph 13 above) lodged by the applicants listed in the Appendix (by the first applicant only in application no. 36411/06) are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

15. The Court finds that the decisions in the applicants' favour were not enforced in due time, for which the State authorities were responsible.

16. Having regard to its well-established case-law on the subject (see *Yuriy Nikolayevich Ivanov v. Ukraine*, no. 40450/04, §§ 56-58 and 66-70, 15 October 2009) the Court finds that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 on account of the prolonged non-enforcement of the decisions in the applicants' favour. It also considers that there has been a violation of Article 13 of the Convention in that the applicants did not have an effective domestic remedy to redress the damage created by such non-enforcement.

### V. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

17. Some of the applicants raised other complaints under the Convention, which the Court has examined carefully. 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 or its Protocols.

18. It follows that those complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

## VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

### 19. 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.”

20. In the present case, the Court considers it reasonable and equitable (see *Kononova and Others v. Ukraine* [Committee], no. 11770/03 and 89 other applications, § 24, 6 June 2013; *Tsibulko and Others v. Ukraine* [Committee], no. 65656/11 and 249 other applications, § 19, 20 June 2013; *Pysarskyy and Others v. Ukraine* [Committee], no. 20397/07 and 164 other applications, § 24, 20 June 2013) to award 2,000 euros (EUR) to each of the applicants (to the first applicant in application no. 36411/06). This sum is to cover any pecuniary and non-pecuniary damage, as well as costs and expenses.

21. The Court further notes that the respondent State has an outstanding obligation to enforce the decisions which remain enforceable.

22. The Court considers it appropriate that the default interest rate 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. *Decides* to join the applications set out in the Appendix;
2. *Declares* application no. 36411/06 partly inadmissible insofar as it has been lodged by the second, third and fourth applicants;
3. *Declares* the complaints of the applicants listed in the Appendix (the first applicant only in application no. 36411/06) under Article 6 § 1 and Article 13 of the Convention and Article 1 of Protocol No. 1 about the lengthy non-enforcement of the decisions given in their favour and about the lack of effective domestic remedies in respect of those complaints admissible and the remainder of their applications inadmissible;
4. *Holds* that there has been a violation of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1;
5. *Holds* that there has been a violation of Article 13 of the Convention;

6. Holds

(a) that within three months the respondent State is to enforce the domestic decisions in the applicants' favour which remain enforceable, and is to pay EUR 2,000 (two thousand euros) to each applicant (or his or her estate) listed in the Appendix (to the first applicant only in application no. 36411/06) in respect of pecuniary and non-pecuniary damage, and costs and expenses, plus any tax that may be chargeable to the applicants on the above amounts, which are to be converted into the national currency 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.

Done in English, and notified in writing on 7 November 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips  
Deputy Registrar

Boštjan M. Zupančič  
President

## APPENDIX

No.	Application no. and date of introduction	Applicant name date of birth place of residence	Relevant domestic decision
1.	13977/05 15/02/2005	<b>Tatiana Leonidovna VINNIK</b> 03/10/1958 Lysychansk	1) Labour disputes commission of the State enterprise "Lysychanskyy Remontno-Mekhanichnyy Zavod", 15/05/2003 2) Labour disputes commission of the State enterprise "Lysychanskyy Remontno-Mekhanichnyy Zavod", 02/11/2004
2.	36411/06 18/08/2006	<b>Petro Stanislavovych ABRAMOV ("the first applicant")<sup>1</sup></b> 06/01/1968 Poltava	1) Kyivskyy District Court of Poltava, 12/08/2003, as amended by the Kharkiv Regional Court of Appeal, 24/03/2004 2) Kyivskyy District Court of Poltava, 25/05/2005 3) Kharkiv Regional Court of Appeal, 16/06/2005
3.	23939/07 16/05/2007	<b>Kostyantyn Volodymyrovych LOGUTOV</b> 25/06/1976 Kyiv	Vyshgorod Court, 17/03/2005
4.	55215/07 03/12/2007	<b>Iryna Yuriyivna SHAPARENKO</b> 08/12/1957 Tarashcha	Solomyanskyy District Court of Kyiv, 21/10/2008
5.	3001/08 04/01/2008	<b>Inna Valeryivna MANOYLYK</b> 07/11/1976 Chernigiv	Chernigiv Regional Court of Appeal, 09/07/2004
6.	7932/08 28/01/2008	<b>Valentina Ivanovna TARASOVA</b> 13/10/1954 Yenakiyev	Donetsk Regional Commercial Court, 23/07/2003 (no. 33/221?)
7.	9091/08 05/02/2008	<b>Vladimir Ivanovich BONDAR</b> 09/06/1934 Odesa	Malynovskyy District Court of Odesa, 03/06/2003
8.	34957/08 04/07/2008	<b>Kateryna Dmytrivna KOLESNIKOVA</b> 23/09/1950 Poltava	Poltava Regional Court of Appeal, 24/10/2006
9.	42506/08 14/08/2008	<b>Nina Mykolayivna KLINCHUK</b> 28/10/1958 Korosten	Korosten Court, 24/02/2006
10.	48488/08 15/07/2008	<b>Vitaliy Pavlovych ONYSHCHAK</b> 19/04/1952 Khrestynivka	Uman Court, 03/04/2008

1. Second, third and fourth applicants (inadmissible): Mariya Leontiyivna ABRAMOVA, Olga Petrivna ABRAMOVA, Sofiya Petrivna ABRAMOVA



No.	Application no. and date of introduction	Applicant name date of birth place of residence	Relevant domestic decision
11.	17140/09 16/01/2009	<b>Mykola Mykhaylovych YAVOROVENKO</b> 05/01/1949 Vinnytsya	1) Leninskyy District Court of Vinnytsya, 23/11/2006  2) Leninskyy District Court of Vinnytsya, 12/11/2008  3) Zamostyanskyy District Court of Vinnytsya, 22/12/2006  4) Zamostyanskyy District Court of Vinnytsya, 26/06/2007 (case no. 2-1772)  5) Zamostyanskyy District Court of Vinnytsya, 26/06/2007 (case no. 2-a-824-07)  6) Zamostyanskyy District Court of Vinnytsya, 22/07/2008
12.	18168/09 22/03/2009	<b>Sergey Panasovich IVASHCHENKO</b> 20/10/1916 Andreyevo-Ivanovo	Mykolayivskyy District Court of the Odesa Region, 03/10/2007
13.	20748/09 01/04/2009	<b>Nikolay Ivanovich CHAYENKO</b> 30/08/1947 Leninske	Sverdlovsk Court, 17/04/2007
14.	23273/09 17/04/2009	<b>Anatoliy Ivanovych MATSNEV</b> 06/10/1950 Vinnytsya	Zamostyanskyy District Court of Vinnytsya, 30/03/2007
15.	23366/09 04/04/2009	<b>Sergiy Viktorovich KISELYOV</b> 28/09/1965 Vatutine	Vatutine Court, 03/08/2007, quashed by the Kyiv Administrative Court of Appeal on 20/05/2010
16.	23702/09 16/04/2009	<b>Yevgeniy Vladimirovich SKUDIN</b> 07/08/1986 Mariupol	Prymorskyy District Court of Mariupol, 30/05/2008
17.	30370/09 26/05/2009	<b>Viktor Mykolayovych KOVAL</b> 07/05/1954 Oleksandriya	1) Dnipropetrovsk Administrative Court of Appeal, 24/07/2008  2) Oleksandriya Court, 10.04.2008.
18.	32650/09 26/05/2009	<b>Sergey Nikolayevich PELIKHOS</b> 15/06/1971 Makiyivka	Chervonogvardiyskyy District Court of Makiyivka, 12/04/2007
19.	46819/09 19/08/2009	<b>Leonid Ivanovych GRYGORUK</b> 23/04/1956 Kyiv	Darnytskyy District Court of Kyiv, 12/02/2008 (as amended by the Higher Administrative Court on 26/07/2011)
20.	62241/09 03/11/2009	<b>Daniya Galimzhanovna SHAKIRZYANOVA</b> 24/02/1954 Zhuravlivka	Shakhtarsk Court, 27/12/2005
21.	2831/10 16/12/2009	<b>Valentina Georgiyevna OVCHINNIKOVA</b> 23/11/1932 Mykolayiv	Tsentrалnyy District Court of Mykolayiv, 12/07/2007

No.	Application no. and date of introduction	Applicant name date of birth place of residence	Relevant domestic decision
22.	4855/10 06/01/2010	<b>Mikhail Mefodyevich GRIGORYEV</b> 27/05/1951 Lugansk	Artemivskyy District Court of Lugansk, 13/10/2008
23.	4862/10 06/01/2010	<b>Vladimir Fedorovich DUDEKNO</b> 22/04/1951 Lugansk	Artemivskyy District Court of Lugansk, 10/11/2008
24.	25288/10 23/04/2010	<b>Oleksandr Oleksandrovych SHMULYA</b> 12/02/1945 Koroviy Yar	Krasnyy Lyman Court, 17/08/1999
25.	25762/10 23/04/2010	<b>Vasyl Ivanovych TYSHCHENKO</b> 04/05/1950 Koroviy Yar	Krasnyy Lyman Court, 12/12/2003
26.	28839/10 07/05/2010	<b>Iryna Myroslavivna CHAYKOVSKA</b> 22/08/1981 Ternopil	Ternopil Court, 11/05/2009 (date stated in the text of the judgment 11/06/2009)
27.	42011/10 13/07/2010	<b>Nina Panteleymonovna ASTAPENKO</b> 01/01/1939 Tsyurupynsk	Tsyurupinsk Court, 29/03/2000
28.	46017/10 26/07/2010	<b>Mykhaylo Mykolayovych SIRENKO</b> 19/11/1957 Selydove	Sylidove Court, 17/05/2004
29.	48219/10 02/08/2010	<b>Petr Stepanovich TRIFONOV</b> 06/02/1953 Kiliya	1) Kiliya Court, 28/02/2007 2) Kiliya Court, 28/08/2002 3) Kiliya Court, 10/02/2000
30.	51820/10 20/07/2010	<b>Aleksandr Ivanovich PODOPRIGORA</b> 15/12/1957 Kryvyi Rig	Saksaganskyy District Court of Kryvyi Rig, 11/07/2008 as amended by judgment of the Saksaganskyy District Court of Kryvyi Rig, 22/06/2009
31.	64871/10 26/10/2010	<b>Yelena Aleksandrovna BELOCHENKO</b> 24/05/1926 Sevastopol	Kotovsk Court, 27/05/2008, quashed by the Odesa Administrative Court of Appeal, 01/06/2011
32.	68156/10 01/07/2010	<b>Ivan Tymofiyovych BAVINOV</b> 28/10/1934 Kremenchuk	Avtozavodskyy District Court of Kremenchuk, 04/09/2003
33.	68607/10 05/11/2010	<b>Larisa Fedorovna KOLESNIKOVA</b> 03/04/1951 Mariupol	Novoazovsk Court, 07/07/2006
34.	69438/10 09/11/2010	<b>Ruslan Yuriyovych LYAKH</b> 13/08/1966 Kolomyia	Zamostyanskyy District Court of Vinnytsya, 27/11/2006
35.	74338/10 20/11/2010	<b>FPK GROSS OOO</b> Kharkiv	Kyivskyy District Court of Kharkiv, 21/04/2000
36.	74608/10 07/12/2010	<b>Yevgeniy Stepanovich UGLEV</b> 23/07/1952 Cherkasy	Sosnovskyy District Court of Cherkasy, 11/02/2008

No.	Application no. and date of introduction	Applicant name date of birth place of residence	Relevant domestic decision
37.	572/11 12/12/2010	<b>1) Volodymyr Mykolayovych OLKHOVSKYY</b> 28/01/1981 Poltava  <b>2) Olena Oleksandrivna OLKHOVSKA</b> 28/01/1981 Poltava	<b>Applicant 1</b> Kyivsky District Court of Poltava, 15/07/2009  <b>Applicant 2</b> Kyivsky District Court of Poltava, 15/07/2009
38.	656/11 20/12/2010	<b>Viktor Pavlovich ZAKHAROV</b> 06/09/1950 Kripenskiy	1) Lugansk Regional Commercial Court, 01/11/2005;  2) Lugansk Regional Commercial Court, 01/11/2005
39.	768/11 13/12/2010	<b>Magdalena Vasilyevna LADZHUN</b> 20/08/1949 Mukachevo	Zakarpattia Regional Court of Appeal, 14/07/2005
40.	1205/11 22/12/2010	<b>Ivan Prokofyevich SKREBTSOV</b> 02/11/1949 Lugansk	1) Zhovtnevy District Court of Lugansk, 20/11/2007, as amended by the Higher Administrative Court, 22/07/2010  2) Zhovtnevy District Court of Lugansk, 25/11/2008
41.	1503/11 25/12/2010	<b>Nataliya Viktorivna ARKHYPOVA</b> 20/10/1970 Lysychansk	Lysychansk Court, 15/02/2005
42.	1677/11 26/12/2010	<b>Nataliya Nikolayevna BACHKALOVA</b> 14/06/1953 Poltava	1) Poltava Circuit Administrative Court, 08/10/2008  2) Oktyabrskyy District Court of Poltava, 03/08/2007, as amended by the Kharkiv Administrative Court of Appeal, 15/05/2008  3) Oktyabrskyy District Court of Poltava, 02/11/2009
43.	2491/11 29/12/2010	<b>IBRIS, TOV</b> Dnipropetrovsk	Kyiv Commercial Court 27/02/2006 (amended on 19/04/2006 by the Kyiv Commercial Court of Appeal and on 31/01/2007 by the Higher Administrative Court)
44.	4510/11 10/01/2011	<b>Vladimir Alekseyevich POPOV</b> 04/01/1944 Lugansk	Kamyanoobridskyy District Court of Lugansk, 24/06/2009
45.	6638/11 15/01/2011	<b>Oleksandr Onysymovych KUDLAYENKO</b> 18/01/1955 Vinnytsya	1) Zamostyansky District Court of Vinnytsya, 21/12/2006  2) Zamostyansky District Court of Vinnytsya, 27/04/2007
46.	31562/13 24/02/2010	<b>Anatoliy Sydorovych PASTUSHENKO</b> 08/09/1947 Donetsk	Kirovsky District Court of Donetsk, 09/12/2008