

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

FIFTH SECTION

DECISION

Application no. 49449/06
Vitaliy Grygorovych BOGOMAZ
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 6 March 2012 as a Committee composed of:

Boštjan M. Zupančič, *President,*
Ann Power-Forde,
Angelika Nußberger, *judges,*

and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above application lodged on 28 November 2006,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

PROCEDURE

The applicant, Mr Vitaliy Grygorovych Bogomaz, is a Ukrainian national who was born in 1939 and lives in Kharkiv. The Ukrainian Government ("the Government") were represented by their Agent, Ms Valeria Lutkovska, of the Ministry of Justice.

The applicant complained under Article 6 § 1 of the Convention about the unfairness of civil proceedings in his case. In particular, he complained that the court of appeal had considered his case in his absence and that the court of cassation had not properly examined his appeal in cassation.

On 17 November and 14 December 2011 the Court received friendly settlement declarations signed by the parties. Under the declarations the applicant agreed to waive any further claims against Ukraine in respect of

the facts giving rise to this application against the acknowledgement by the Government of the infringement of Article 6 § 1 of the Convention during the consideration of his case before the courts of appeal and cassation and the Government's undertaking to pay him 2,000 euros to cover any pecuniary and non-pecuniary damage as well as costs and expenses. The above sum will be converted into Ukrainian hryvnia at the rate applicable on the date of payment, and will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

THE LAW

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention).

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Stephen Phillips
Deputy Registrar

Boštjan M. Zupančič
President