

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

FIFTH SECTION

CASE OF BLINOVA v. UKRAINE

(Application no. 2248/06)

JUDGMENT

STRASBOURG

26 April 2012

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



In the case of Blinova v. Ukraine,

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

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

and Stephen Phillips, *Deputy Section Registrar,*

Having deliberated in private on 3 April 2012,

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

PROCEDURE

1. The case originated in an application (no. 2248/06) 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 Lyubov Nikolayevna Blinova ("the applicant"), on 17 December 2005.

2. The Ukrainian Government ("the Government") were represented by their Agent, Ms V. Lutkovska, of the Ministry of Justice.

3. On 7 June 2010 the application was communicated to the Government.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1949 and lives in Izyum.

5. In May 1994 the applicant initiated a land dispute with her neighbours.

6. On 29 August 2005 the proceedings, which had taken place before the courts of three levels of jurisdiction, were completed by a final ruling of the Supreme Court allowing the applicant's claim in part.

7. In the course of the proceedings, there was one remittal of the case from the appellate court to the first-instance court for fresh consideration. The courts also ordered seven forensic technical expert examinations.

8. There were several adjournments in the proceedings due to the parties' failure to appear for hearings.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION IN RESPECT OF THE LENGTH OF PROCEEDINGS

9. The applicant complained under Article 6 § 1 of the Convention about the length of the domestic proceedings in her case. She additionally relied on Article 13 in this regard. The Court considers that the complaint must be examined solely under Article 6 of the Convention, which reads, in so far as relevant, as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

10. The Government contested that argument stating, in particular, that the case had been complicated by the number of the expert examinations and that the applicant had herself been responsible for certain adjournments in the proceedings.

11. The period to be taken into consideration began on 11 September 1997, when the recognition by Ukraine of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time. The period in question ended on 29 August 2005. The proceedings thus lasted almost eight years before three judicial instances.

A. Admissibility

12. The Government argued that the application was incompatible *ratione temporis* insofar as it concerned events prior to the entry into force of the Convention in respect of Ukraine on 11 September 1997.

13. The Court notes that it has already determined 11 September 1997 as the *dies a quo* in the present case (see paragraph 11 above).

14. The Court further notes that this part of the application is neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. It should therefore be declared admissible.

B. Merits

15. 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).

16. Turning to the facts of the present case, the Court notes that the proceedings concerned a land dispute in which no particular complexity is discernable. Even though the case examination might have been complicated by several expert examinations, the Court recalls that it is within the competence of a court to decide whether or not to seek outside advice (see *Dulskiy v. Ukraine*, no. 61679/00, § 71, 1 June 2006). As to the applicant's conduct, the Court considers that it alone cannot justify the overall length of the proceedings.

17. In the light of the foregoing, the Court concludes that the State authorities bear the primary responsibility for the excessive length of the proceedings in the present case.

18. 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).

19. 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

20. Relying on Articles 6 and 13 of the Convention, the applicant complained about the outcome and alleged unfairness of the proceedings, in particular, as regards the assessment of facts and admission of evidence. She also complained that her rights under Article 8 of the Convention and Article 1 of Protocol No. 1 had been infringed.

21. In the light of the materials in its possession, the Court finds that the applicant's complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols under this head.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. 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."

24. The applicant did not submit a claim for just satisfaction according to 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 26 April 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips	Boštjan M. Zupančič
Deputy Registrar	President