

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

FIFTH SECTION

CASE OF BOBRENOK v. UKRAINE

(Application no. 41471/10)

JUDGMENT

STRASBOURG

11 January 2018

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



In the case of Bobrenok v. Ukraine,

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

André Potocki, *President,*
Síofra O'Leary,
Mārtiņš Mits, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having deliberated in private on 7 December 2017,

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

PROCEDURE

1. The case originated in an application against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on the date indicated in the appended table.

2. The application was communicated to the Ukrainian Government ("the Government").

THE FACTS

3. The relevant details of the application are set out in the appended table.

4. The applicant complained of the excessive length of civil proceedings and of the lack of any effective remedy in domestic law.

THE LAW

I. THE LOCUS STANDI OF MS GANNA MYKHAYLIVNA BOBRENOK

5. The Court notes that the applicant died on 25 April 2017, while the case was pending before the Court. The applicant's wife, Ms Ganna Mykhaylivna Bobrenok, has requested to pursue the application on her husband's behalf. As the request is in line with its case-law, the Court sees no reason to refuse it (see, among other authorities, *Benyaminson v. Ukraine*, no. 31585/02, § 83, 26 July 2007, and *Horváthová v. Slovakia*, no. 74456/01, §§ 25-27, 17 May 2005). However, reference will still be made to the applicant throughout the present text.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

6. The applicant complained that the length of the civil proceedings in question had been incompatible with the "reasonable time" requirement and that he had no effective remedy in this connection. He relied on Article 6 § 1 and Article 13 of the Convention, which read as follows:

Article 6 § 1

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

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

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

8. In the leading case of *Krasnoshapka v. Ukraine,* (no. 23786/02, 30 November 2006), the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. 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.

10. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of these complaints.

11. These complaints are therefore admissible and disclose a breach of Article 6 § 1 and of Article 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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."

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Krasnoshapka v. Ukraine,* no. 23786/02, §§ 61

and 66, 30 November 2006), the Court considers it reasonable to award the sum indicated in the appended table.

14. 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. *Declares* the application admissible;

2. *Holds* that the application discloses a breach of Article 6 § 1 and Article 13 of the Convention concerning the excessive length of civil proceedings;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State 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 amount 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 11 January 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt	André Potocki
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 and Article 13 of the Convention (excessive length of civil proceedings and lack of any effective remedy in domestic law)

Application no. Date of introduction	Applicant name Date of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
41471/10 30/06/2010	**Petro Mykhaylovych Bobrenok** 08/11/1932 The applicant died on 25/04/2017. His wife, Ms Ganna Mykhaylivna Bobrenok, has the quality of heir.	25/07/2003	18/11/2009	6 years, 3 months and 25 days 3 levels of jurisdiction	500

[1] Plus any tax that may be chargeable to the applicant.