

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

FIFTH SECTION

# CASE OF DANEVYCH v. UKRAINE

*(Application no. 25171/16)*

JUDGMENT

STRASBOURG

22 May 2025

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



**In the case of Danevych v. Ukraine,**

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

Andreas Zünd*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 25171/16) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 22 April 2016 by a Ukrainian national, Mr Oleksandr Stepanovych Danevych ("the applicant"), who was born in 1957, lives in Kyiv and was represented by Ms A.V. Samoylenko, a lawyer practising in Kyiv;

the decision to give notice of the complaints under Articles 6, 8 and 13 of the Convention to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, and to declare inadmissible the remainder of the application;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

the decision to reject the Government's objection to examination of the application by a Committee;

Having deliberated in private on 30 April 2025,

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

## SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's dismissal and the length of reinstatement proceedings as well as the lack of any domestic remedy in respect of the length of proceedings. The applicant relied on Article 6 § 1 and Article 13 of the Convention.

2. On 16 October 2014 the applicant was dismissed from his position of First Deputy Head of the State Treasury under the Government Cleansing Act ("the GCA"). The political and legal background of the lustration process in Ukraine has been summarised in *Polyakh and Others* (nos. 58812/15 and 4 others, §§ 6-15 and 60-103, 17 October 2019).

3. The applicant challenged his dismissal before the Kyiv Circuit Administrative Court ("the Kyiv Court") on 11 November 2014. The Kyiv Court initiated the proceedings on 18 November 2014 and then suspended them on 17 March 2015 with a view of the parallel proceedings on constitutionality of the GCA. The applicant unsuccessfully challenged the decision on suspension of the proceedings in the higher instances. He

further lodged a new request for resumption of the proceedings with the Kyiv Court that was rejected on 22 March 2016.

4. On 24 September 2019 the Court adopted its judgment in *Polyakh and Others* (cited above), having found, in particular, that the existing legal provisions on lustration provided for no individual assessment were incompatible with requirements of Article 8 of the Convention.

5. On 3 June 2020 the Supreme Court examined a cassation appeal in case no. 817/3431/14, concerning the reinstatement of a lustrated official and decided, with reference to Council of Europe documents and in particular to the Court's findings in *Polyakh and Others* (cited above), that the lack of a procedure or mechanism in the GCA "which would ensure an individualised approach during the application of the prohibitions established by it does not remove the obligation on the court to apply an individualised approach when resolving each specific dispute, in accordance with the criteria of legitimacy and legality (*критерії правомірності та законності*) of the decisions of public authorities".

6. Following the Supreme Court's decision of 3 June 2020, the proceedings in many lustration-related cases were resumed. In some cases, the appellants have been reinstated to their positions and awarded compensation for their dismissal (see, for example, *Plotnik v. Ukraine* [Committee] (dec.), no. 11614/20, 4 February 2021, and *Kuznetsov and Others v. Ukraine* [Committee], nos. 9988/16, 41238/16 and 44703/19, 12 January 2023).

7. The applicant did not request the resumption of his proceedings after June 2020 and they remain suspended in the first instance court.

# THE COURT'S ASSESSMENT

## I. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

8. The applicant complained that the length of the reinstatement proceedings in question had been incompatible with the "reasonable time" requirement and that he had no effective remedy in this connection.

9. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

10. 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).

11. In the leading case of *Karnaushenko v. Ukraine* (no. 23853/02, 30 November 2006), the Court has already found a violation in respect of issues similar to those in the present case.

12. In the present case, the applicant's reinstatement proceedings have lasted for more than ten years before the first instance court.

13. Having examined all the material submitted to it, the Court considers that the applicant's procedural behaviour contributed to some extent to the length of the proceedings due to his inactivity after the domestic judicial practice had changed (see paragraphs 6 and 7 above). He could not, however, be accountable for the overall length of the proceedings at the national level. 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.

14. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of this complaint.

15. There has accordingly been a violation of Article 6 § 1 and Article 13 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLES 8 AND 13 OF THE CONVENTION

16. The applicant further complained that his dismissal had breached his right to respect for his private life and that he did not have at his disposal an effective remedy in that respect.

17. The Court reiterates that in *Polyakh and Others v. Ukraine* (cited above), it held that lustration measures against civil servants could, in principle, be justified. However, the application of serious restrictive measures without sufficient individualisation was found to be incompatible with the requirements of Article 8 (ibid., §§ 284-308). Following the adoption of *Polyakh and Others* judgment and the subsequent change in the domestic courts' case-law (see paragraphs 5 and 6 above), lustrated officials obtained an individualised assessment of their situation. The Court has had an opportunity to examine cases in which the applicants had obtained such an individualised assessment and were ultimately reinstated in their positions and awarded compensation for the whole period of their dismissal (see, for example, *Plotnik v. Ukraine* [Committee], cited above, and *Kuznetsov and Others v. Ukraine* [Committee], cited above).

18. In the light of those procedural developments, although they occurred almost six years after the lustration-related proceedings in the present case had started, the Court cannot conclude that this legal avenue is primarily ineffective or futile or, without speculating on its possible outcome, that it would not allow the applicant to obtain an individual assessment of his particular situation.

19. It follows that this complaint is premature and must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

20. In view of the Court's findings under Article 8 of the Convention, the applicant's related Article 13 complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

## APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. The applicant claimed 26,717.26 euros (EUR) in respect of pecuniary damage and EUR 15,000 in respect of non-pecuniary damage, as well as EUR 1,751.27 in respect of costs and expenses incurred before the domestic courts and before this Court.

22. The Government considered those claims excessive and unsubstantiated.

23. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant 3,000 EUR in respect of non-pecuniary damage, plus any tax that may be chargeable.

24. Having regard to the documents in its possession, the Court considers it reasonable to award 200 EUR covering costs under all heads.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the length of proceedings and the lack of any domestic remedy in domestic law admissible and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a violation of Article 6 § 1 and Article 13 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 200 (two hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Martina Keller<br>Deputy Registrar | Andreas Zünd<br>President |