

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

FIFTH SECTION

CASE OF KHARKOVSKIY v. UKRAINE

(Application no. 41602/19)

JUDGMENT

STRASBOURG

25 February 2021

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Kharkovskiy v. Ukraine,

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

Ivana Jelić, *President,*
Ganna Yudkivska,
Arnfinn Bårdsen, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having deliberated in private on 4 February 2021,

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 26 July 2019.

2. The Ukrainian Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to 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. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

5. 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."

6. 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 *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

7. 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.

8. 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.

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

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. 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."

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Krasnoshapka* cited above, §§ 61 and 66), the Court considers it reasonable to award the sum indicated in the appended table.

13. 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 it 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 25 February 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt	Ivana Jelić
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's name Year 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]
41602/19 26/07/2019	**Andrey Nikolayevich KHARKOVSKIY** 1966	16/08/2012	25/04/2019	6 years and 8 months and 10 days 3 levels of jurisdiction	900

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