

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

FIFTH SECTION

DECISION

Application no. 42053/11
Nina Aleksandrovna GAMURARI against Ukraine
and 3 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 1 July 2014 as a Committee composed of:

Angelika Nußberger, *President,*
André Potocki,
Aleš Pejchal, *judges,*
and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates stated in the annexed table,

Having regard to the declarations submitted by the respondent Government on the various dates stated in the annexed table requesting the Court to strike the applications out of the list of cases and the applicants' replies to those declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

A list of the applicants is set out in the appendix.

The Ukrainian Government ("the Government") were represented by their Agent.

The applicants mainly complained under Article 6 § 1 of the Convention about the length of proceedings.

The applications were communicated to the Government.

THE LAW

1. The applicants complained about the length of the proceedings to which they were parties. They relied on Article 6 § 1 of the Convention. The applicant in application no. 74833/11 also complained under Article 5 § 3 of the Convention about his detention on remand.

After the failure of attempts to reach a friendly settlement, by letters sent on various dates (see the annexed table) the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by this part of the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the excessive duration of consideration of the applicants' cases before the national courts. In application no. 74833/11 they further acknowledged that domestic authorities had violated the applicant's rights guaranteed by Article 5 § 3 of the Convention. They offered to pay the applicants the amounts detailed in the annexed table and invited the Court to strike the applications out of the list of cases, as referred to in Article 37 § 1 (c) of the Convention. The sums were to cover any pecuniary and non-pecuniary damage as well as costs and expenses. They would be converted into the national currency at the rate applicable on the date of payment, and would be free of any taxes that may be applicable. They were to be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay these sums within the said three-month period, the Government undertook to pay simple interest on them, from the 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 cases.

The applicants indicated, by letters dated on various dates listed in the annexed table, that they were not satisfied with the terms of the unilateral declarations, or they did not reply at all.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the applications".

It also recalls that in certain circumstances, it may strike out applications under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03).

The Court has established in a number of cases, including those brought against Ukraine, its practice concerning complaints about the violation of one's right to a hearing within a reasonable time (see, for example, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-V; *Majewski v. Poland*, no. 52690/99, 11 October 2005; and *Pavlyulynets v. Ukraine*, no. 70767/01, §§ 39-52, 6 September 2005).

Having regard to the nature of the admissions contained in the Government's declarations, as well as the amounts of compensation proposed – which are consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the applications (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the applications (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

2. The applicants in applications nos. 57323/11 and 74833/11 also raised complaints under Articles 6 § 3 (d) and 13 of the Convention.

The Court has carefully examined their applications and considers that, in the light of all the material in its possession, and in so far as the matter complained of is within its competence, these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that this part of the applications is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations in so far as they concern the complaint raised under Article 6 § 1 of the Convention, and in application no. 74833/11 also under Article 5 § 3 of

the Convention, and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike part of the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of applications nos. 57323/11 and 74833/11 inadmissible.

Stephen Phillips
Deputy Registrar

Angelika Nußberger
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Date of Government's UD	Date of the applicant's letter	Sum awarded
1.	42053/11	30/06/2011	**Nina Aleksandrovna GAMURARI** 23/04/1932 Kishinev Moldovan	20/11/2013	No reply	450 EUR
2.	57323/11	24/08/2011	**Aleksandr Ilyich GONCHAROV** 03/01/1961 Kramatorsk Ukrainian	19/04/2013	30/10/2013	3,240 EUR
3.	74833/11	17/12/2011	**Gennadiy Mykolayovych SIKORSKYY** 16/09/1979 Makoshyne Ukrainian **Represented by** Dmytro Yevgenovych PUSHKARYOV	17/05/2013	29/10/2013	1,080 EUR
4.	22917/12	29/03/2012	**Natalya Aleksandrovna RUBTSOVA** 20/05/1979 Krivoy Rog Ukrainian	01/11/2013	No reply	1,890 EUR