

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

FIFTH SECTION

DECISION

Application no. 654/07
Vasiliy Petrovich GAYDAY against Ukraine
and 5 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 26 August 2014 as a Committee composed of:

Ann Power-Forde, *President,*
Ganna Yudkivska,
André Potocki, *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 26 February 2014 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 complained under Article 6 § 1 of the Convention about the length of proceedings, and, except for the applicants in applications nos. 52261/12 and 66438/12, also under Article 13 of the Convention about the lack of an effective remedy in that regard.

The applications were communicated to the Government.

THE LAW

The applicants complained about the length of the proceedings to which they were parties. They relied on Article 6 § 1 of the Convention. The applicants, with the exception of applications nos. 52261/12 and 66438/12, also complained under Article 13 of the Convention about the lack of an effective remedy in that regard.

After the failure of attempts to reach a friendly settlement, by letter of 26 February 2014 the Government informed the Court that they proposed to make a unilateral declaration in each case with a view to resolving the issue(s) raised by 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 national courts and, in applications nos. 654/07, 52549/11, 30962/12 and 34742/12, also the lack of an effective domestic remedy in that regard. 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 and all 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.

By letters dated on various dates listed in the annexed table, the applicants indicated that they were not satisfied with the terms of the unilateral declarations.

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 an 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 amount of compensation proposed – which is 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).

In view of the above, it is appropriate to strike the cases out of the list.

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations under Article 6 § 1 of the Convention, as well as under Article 13 of the Convention in applications nos. 654/07, 52549/11, 30962/12 and 34742/12, and of the modalities for ensuring compliance with the undertakings referred to therein;

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

Stephen Phillips Deputy Registrar	Ann Power-Forde President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Date of the Government's unilateral declaration	Date of the applicant's letter	Sum awarded
1.	654/07	22/12/2006	**Vasiliy Petrovich GAYDAY** 24/11/1962 Kiev Ukrainian	26/02/2014	15/04/2014	3,240 EUR
2.	52549/11	09/08/2011	**Vadim Aleksandrovich POLISHCHUK** 11/10/1975 Kazatyn Ukrainian	26/02/2014	22/04/2014	1,350 EUR
3.	30962/12	12/05/2012	**Oleksandr Sergiyovych SOLDATENKO** 03/04/1982 Mykolayivka Ukrainian Represented by Dmytro Dmytrovych MENKO	26/02/2014	14/04/2014	1,890 EUR
4.	34742/12	28/05/2012	**Nadezhda Petrovna YERASHOVA** 03/10/1955 Odessa Ukrainian Represented by Ivan Aleksandrovich BONDAROVSKIY	26/02/2014	19/04/2014	810 EUR
5.	52261/12	07/08/2012	**Vitaliy Grygoriyovych KOLESNIK** 28/01/1941 Metalist Ukrainian	26/02/2014	18/04/2014	450 EUR
6.	66438/12	28/09/2012	**Svitlana Yevgenivna MOLODOZHENYA** 24/01/1964 Mariyampil Ukrainian	26/02/2014	No reply	450 EUR