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

FIFTH SECTION

DECISION

Application no. 53456/13
Lyudmyla Leonidivna KOTLYAROVA
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 2 June 2022 as a Committee composed of:

Ivana Jelić, *President,*
Ganna Yudkivska,
Arnfinn Bårdsen, *judges,*
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 53456/13) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 14 August 2013 by a Ukrainian national, Ms Lyudmyla Leonidivna Kotlyarova, who was born in 1947 and lives in Odessa ("the applicant");

the decision to give notice of the complaint concerning the breach of the principle of legal certainty to the Ukrainian Government ("the Government"), represented by their then Agent, Mr I. Lishchyna, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicant complained that the opening of appeal proceedings and the quashing of a final judgment in her favour breached the principle of legal certainty under Article 6 § 1 of the Convention.

2. On 27 January 2012 the Kyivskyi District Court of Odessa allowed a claim by the applicant against the defendant Pension Fund ("the defendant") and ordered an increase in her pension.

3. The judgment was served on the defendant on 4 April 2012.

4. On 13 April 2012 the defendant asked the court to rectify a typographic mistake in the judgment (it was mistakenly indicated in the judgment that it was issued in 2011).

5. On 24 April 2012 the defendant received the rectified judgment.

6. On 28 April 2012 the defendant lodged a request for an extension of the time-limit for appeal.

7. On an unspecified date the Court of Appeal accepted the appeal as lodged in due time and opened the appeal proceedings.

8. On 25 April 2013 the Odessa Administrative Court of Appeal quashed the judgment and rejected the applicant's claim, finding that the first-instance court had erred in its interpretation of the relevant pension legislation.

9. On 4 June 2013 the Higher Administrative Court refused to institute cassation review proceedings.

THE COURT'S ASSESSMENT

10. The applicant alleged that the opening of appeal proceedings and the quashing of the judgment in her favour breached the principle of legal certainty under Article 6 § 1 of the Convention.

11. The Government contested that argument

12. The Court notes that the legal systems of many member States provide for the possibility of extending procedural time-limits if there are valid reasons to do so (see *Ponomaryov v. Ukraine*, no. 3236/03, §§ 40-42, 3 April 2008).

13. While normally under domestic law the time-limit for appeal starts running from the moment the final judgment is served on the defendant, in the present case, in practice, the defendant could not have proceeded with the appeal without first asking to rectify a typographic mistake in the judgment, this error having affected the very date of the judgment and therefore determining the time-limit for appeal itself. The defendant lodged the appeal within the ten-days' time-limit after the typographic mistake in the judgment had been rectified.

14. While the applicant failed to submit a copy of the decision by which the Court of Appeal accepted the appeal as lodged in due time, in the specific circumstances of the present case there is accordingly no indication that that decision was arbitrary or manifestly unreasonable.

15. The Court reiterates in this respect that it is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation (see *Saez Maeso v. Spain*, no. 77837/01, § 22, 9 November 2004). That being so, save in the event of evident arbitrariness, it is not the Court's role to question the interpretation of the domestic law by the national courts (see, for example, *Ādamsons v. Latvia*, no. 3669/03, § 118, 24 June 2008).

16. In the absence of any indication of such arbitrariness in the present case, the Court considers that the applicant failed to make an arguable claim that the principle of legal certainty or other requirements of Article 6 § 1 of the Convention have been breached.

17. It follows that the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 15 September 2022.

Martina Keller Deputy Registrar	Ivana Jelić President