

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

FIFTH SECTION

DECISION

Application no 4136/13
Vasyl Grygorovych KOVAL against Ukraine
and 44 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 5 October 2017 as a committee composed of:

Nona Tsotsoria, *President,*
Gabriele Kucsko-Stadlmayer,
Lətif Hüseynov, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appendices below,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicants are Ukrainian nationals, their personal details are set out in the appendices below.

2. After the institution of the Convention proceedings, the applicant Mr Viktor Vasylyovych Palchyk (application no. 19310/14) died. His widow Mrs Valentina Grygorivna Palchyk informed the Court that she wished to pursue the application of her late husband.

3. The Ukrainian Government ("the Government") were represented by their Agent, most recently, Mr I. Lishchyna, from the Ministry of Justice.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. On the dates set out in the appendices the national courts found for the applicants and ordered the defendants (the debtors) under these judgments to take certain measures or to pay various amounts to the applicants. The

applicants claimed that the judgments became binding but the debtors delayed their enforcement. The relevant particular circumstances of the cases are outlined in the appendices below.

6. On 20 January 2015 the applications were communicated to the Ukrainian Government within the pilot judgment procedure taken in the case of *Yuriy Nikolayevich Ivanov v. Ukraine* (no. 40450/04, judgment of 15 October 2009).

7. The respondent Government argued that the applications did not comply with the admissibility criteria of the Convention and invited the Court to declare them inadmissible.

8. The applicants disagreed.

COMPLAINTS

9. The applicants, referring mostly to Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1, complained about the delayed enforcement of judgments in their favour. Additionally, several applicants raised other complaints, mainly challenging the alleged unfairness, outcome and duration of the proceedings before the domestic courts. Some of the applicants also raised other complaints relying on Articles 14 and 17 of the Convention.

THE LAW

A. Joinder of the applications

10. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Standing of the applicant in application no. 19310/14

11. The Court considers that the applicant's widow in application no. 19310/14 (see paragraph 2 above) has standing to continue the proceedings in the applicant's stead (see, among other authorities, *Mironov v. Ukraine*, no.19916/04, § 12, 14 December 2006). However, reference will still be made to the applicant throughout the ensuing text.

C. Complaints related to protracted non-enforcement

Applications set out in Appendix 1

12. The Court notes that the respective complaints of the applications listed in Appendix 1 were lodged more than six months after the end of the situations in which the State could be held responsible for the non-enforcement of the judgments.

13. It follows that these complaints must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention for having been lodged too late.

Applications set out in Appendix 2

14. The Court notes that the cases listed in Appendix 2 are similar to *Svystun v. Ukraine* ((dec.), no. 58915/16 and 2 other applications, 3 November 2016) in which the judgment debt was less than EUR 200 and the amount did not constitute the primary source of revenue for the applicant.

15. In view of the foregoing, the Court concludes that the complaints should be rejected in accordance with Article 35 §§ 3 (b) and 4 of the Convention since the applicants have not suffered a significant disadvantage.

Applications set out in Appendix 3

16. The Court notes that the judgments in the cases listed in Appendix 3 were enforced within a reasonable time (see *Soloshenko v. Ukraine* (dec.), no. 3952/04, 15 November 2005).

17. In view of the above, the Court finds that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

Applications set out in Appendix 4

18. In their observations the Government informed the Court (providing copies of the pertinent documents) that the relevant judgments of the first instance courts had not become enforceable and binding since the courts of appeal had quashed them and rendered new judgments partially favourable to the applicants. The applicants did not raise any complaints as regards non-enforcement of the judgments given by the courts of appeal.

19. The Court notes that under such circumstances the applicants can neither complain of lengthy non-enforcement of judgments, nor can they claim to be a victim of the alleged violations of Conventional rights (see *Khvorostyanoy and Others v. Ukraine* [Committee], nos. 54552/09 and foll., 25 July 2013).

20. It follows that these applications are incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

Applications set out in Appendix 5

21. In their observations the Government, providing documents in support, informed the Court that the applicants had died before lodging the applications set out in Appendix 5 with the Court.

22. The Court notes that an application cannot be brought in the name of a deceased person, since a deceased person is unable, even through a representative, to lodge an application with the Court (see *Yaşa v. Turkey*, no. 22495/93, Commission's report of 8 April 1997, § 88, Reports of Judgments and Decisions 1998 VI, and *Sterjov and Others v. The Former Yugoslav Republic of Macedonia*, no. 40160/04, § 14, 16 October 2014).

23. The Court observes that in the present cases the applicants died several months before their applications were lodged. It follows that the cases have not been brought by persons who can be regarded as applicants for the purposes of Article 34 of the Convention. Therefore, these applications are incompatible *ratione personae* with the Convention within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4.

24. Next-of-kin of Mr Shemetov and Mr Bondar expressed their wish to pursue applications nos. 16671/14 and 19212/14, respectively, instead of their deceased relatives. The Court notes that the next-of-kin of Mr Shemetov and Mr Bondar may not pursue the applications in their own name as they were not a party to the domestic proceedings and they failed to substantiate their claims that there was an outstanding debt under the respective judgments to which they could be entitled as heirs of the deceased.

Applications set out in Appendix 6

25. In applications nos. 65220/13 and 4923/14 the applicants complained about non-enforcement of two judgments each. As regards the judgments listed under no. 1 in both applications, the amounts of debt awarded under the judgments were less than EUR 200 and the amounts did not constitute the primary source of revenue for the applicants (see *Svystun v. Ukraine* (dec.), cited above). The judgments listed under no. 2 in both applications were enforced within a reasonable time (see *Soloshenko v. Ukraine* (dec.), cited above).

26. In view of the foregoing, the Court concludes that the complaints should be rejected as inadmissible in accordance with Article 35 §§ 3 and 4 of the Convention.

D. Other complaints raised by the applicants

27. In the applications set out in Appendix 1 (except for applications nos. 35535/13, 59413/13, 77198/13, 11525/14, 12909/14, 16432/14, 16668/14 and 60958/14), in the applications set out in Appendix 3 (except for applications nos. 58462/13 and 73068/13) and in application no. 4923/14 (Appendix 6) the applicants complained about the failure of the domestic authorities to continue payments of social benefits after 22 July 2011 in the amount fixed by the judgments given in their favour.

28. The Court has examined similar complaints in the case of *Velikoda v. Ukraine* ((dec.) no. 43331/12, § 21, 3 June 2014) where it concluded that "the Government's obligation to ensure enforcement of the judgments ended when the amended legislation was applied to the applicant's social payments". It finds no reason for reaching a different conclusion in the present cases.

29. These complaints must therefore be declared inadmissible, as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

30. Several applicants also raised other complaints. In particular, referring to Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1, they challenged the outcome, alleged unfairness and duration of the proceedings before the domestic courts. They also raised other complaints under Articles 14 and 17 of the Convention.

31. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols and should be declared inadmissible in accordance with Article 35 §§ 1, 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 26 October 2017.

Liv Tigerstedt
Acting Deputy Registrar

Nona Tsotsoria
President

APPENDICES

List of applications raising complaints under Article 6 § 1 and Article 13 of the Convention and Article 1 of the Protocol No. 1
(non-enforcement or delayed enforcement of domestic decisions and lack of any effective remedy in domestic law)

APPENDIX 1

No.	Application no. and date of introduction	Applicant's name, date of birth (if known), place of residence, nationality	Relevant domestic decision
1.	4136/13 14/12/2012	**Vasyl Grygorovych KOVAL** 28/03/1960 Zaporizhzhya Ukrainian	Zavodskyy Local Court of Zaporizhzhya, 17/05/2011
2.	16838/13 01/02/2013	**Sergiy Mykolayovych IVASHCHENKO** 18/12/1961 Zaporizhzhya Ukrainian	Dnipropetrovsk Administrative Court of Appeal, 19/05/2011
3.	25185/13 29/03/2013	**Oleg Semenovych DIYUN** Bucha Ukrainian	Irpin Local Court of Kyiv Region, 15/10/2010
4.	35535/13 22/05/2013	**Zhanna Volodymyrivna KURTSEVA** 12/07/1980 Zhytomyr Ukrainian	Bogunskyy Local Court of Zhytomyr, 23/10/2008
5.	38267/13 31/05/2013	**Stanislav Vasylyovych KOSHCHEY** 01/01/1960 Zmiyiv Ukrainian	Zmiyiv Local Court of Kharkiv Region, 30/10/2009
6.	38843/13 04/06/2013	**Volodymyr Mykolayovych GUSYEV** 02/06/1967 Kamyanets-Podilskyy Ukrainian	Kamyanets-Podilskyy Local Court of Khmelnytskyy Region, 10/11/2010
7.	38880/13 05/06/2013	**Anton Stanislavovych YANOVSKYY** 08/10/1960 Kamyanets-Podilskyy Ukrainian	Kamyanets-Podilskyy Local Court of Khmelnytskyy Region, 10/11/2010
8.	41436/13 14/06/2013	**Gennadiy Oleksandrovych SKISOV** 06/04/1940 Svitlovodsk Ukrainian	Svitlovodsk Local Court of Kirovograd Region, 09/03/2010
9.	59413/13 04/09/2013	**Vasyl Yosypovych BUKHAY** 02/01/1958 Kharkiv Ukrainian	Moskovskyy Local Court of Kharkiv, 20/07/2009
10.	67601/13 15/10/2013	**Ivan Grygorovych DOVGAL** 07/06/1950 Gadyach Ukrainian	Gadyach Local Court of Poltava Region, 04/10/2011

No.	Application no. and date of introduction	Applicant's name, date of birth (if known), place of residence, nationality	Relevant domestic decision
11.	70429/13 25/10/2013	**Mykola Volodymyrovych DEMIDOV** 28/04/1952 Zakharivka Ukrainian	Vovchansk Local Court of Kharkiv Region, 01/06/2011
12.	71916/13 08/11/2013	**Oleksandr Mykolayovych SHKUROPATSKYY** 25/07/1956 Khmelnytskyy Ukrainian	Khmelnytsk Local Court of Khmelnytsk Region, 20/09/2011
13.	72406/13 11/11/2013	**Valeriy Mykytovych GOLUB** 19/08/1946 Zaporizhzhya Ukrainian	Ordzhonikidzevskyy Local Court of Kharkiv, 23/12/2010, as amended by Dnipropetrovsk Administrative Court of Appeal, 06/04/2011
14.	77198/13 13/09/2013	**Grygoriy Karlovych DYADECHKO** 01/06/1953 Lubny Ukrainian	Poltava Regional Court of Appeal, 28/09/2011
15.	7810/14 23/12/2013	**Viktor Ivanovich PONOMAREV** 18/12/1952 Zaporizhzhya Ukrainian	Dnipropetrovsk Administrative Court of Appeal, 11/07/2011
16.	11525/14 22/01/2014	**Yuriy Valentynovych SHEVCHENKO** 01/03/1952 Oleksandriya Ukrainian	Oleksandriya Local Court of Kirovograd Region, 15/06/2010
17.	12909/14 03/02/2014	**Oleksandr Mykolayovych KARDACH** 09/09/1962 Tulchyn Ukrainian	Vinnytsya Administrative Court of Appeal, 18/03/2011, as amended by Vinnytsya Administrative Court of Appeal, 05/10/2011
18.	14320/14 30/12/2013	**Olga Mykolayivna SHESTOUKHOVA** 29/07/1956 Zaporizhzhya Ukrainian	Leninskyy Local Court of Zaporizhzhya, 27/05/2011
19.	16432/14 14/02/2014	**Lyudmyla Yevtykhivna IVAKH** 07/11/1940 Bogodukhiv Ukrainian	Kharkiv Regional Administrative Court, 31/03/2009
20.	16668/14 26/12/2013	**Galyna Oleksiyivna KISTAYEVA** 17/02/1938 Zaporizhzhya Ukrainian	Zhovtnevyy Local Court of Zaporizhzhya, 04/03/2011
21.	16672/14 26/12/2013	**Gennadiy Petrovych KOSTYLYEV** 18/08/1962 Zaporizhzhya Ukrainian	Zavodskyy District Court of Zaporizhzhya, 17/05/2011
22.	17822/14 26/12/2013	**Sergiy Ivanovych LAGODA** 03/07/1957 Zaporizhzhya Ukrainian	Zhovtnevyy Local Court of Zaporizhzhya, 18/05/2011, as amended by Dnipropetrovsk Administrative Court of Appeal, 13/04/2012

No.	Application no. and date of introduction	Applicant's name, date of birth (if known), place of residence, nationality	Relevant domestic decision
23.	17825/14 26/12/2013	**Larysa Volodymyrivna PANCHENKO** 27/11/1959 Zaporizhzhya Ukrainian	Zhovtnevyy Local Court of Zaporizhzhya, 24/06/2011
24.	19310/14 26/12/2013	**Viktor Vasylyovych PALCHYK** 27/11/1949 Zaporizhzhya Ukrainian	Leninskyy Local Court of Zaporizhzhya, 07/07/2011
25.	36682/14 09/07/2014	**Petro Vasylyovych GLADYSHCHUK** 12/07/1950 Kirovograd Ukrainian	Kirovskyy Local Court of Kirovograd, 14/07/2010
26.	48344/14 26/06/2014	**Iryna Ivanivna KUNYCHYK** 07/02/1976 Lystvyn Ukrainian	Ovruch Local Court of Zhytomyr Region, 22/07/2009
27.	60958/14 20/08/2014	**Valentyna Ivanivna LEVKIVSKA** 22/06/1978 Levkovychi Ukrainian	Ovruch Local Court of Zhytomyr Region, 12/07/2010
28.	78516/14 05/12/2014	**Oleksiy Yukhymovych KALUTSSKYY** 28/04/1948 Shelyugy Ukrainian	Yakymivka Local Court of Zaporizhzhya Region, 27/04/2011

APPENDIX 2

No.	Application no. and date of introduction	Applicant's name date of birth (if known) place of residence nationality	Relevant domestic decision
29.	33584/13 07/05/2013	**Olga Igorivna DYKOPAVLENKO** 04/02/1981 Burshtyn Ukrainian	Lviv Administrative Court of Appeal, 05/05/2010
30.	2090/14 04/12/2013	**Olga Feodosiyivna KHLUPYANETS** 10/01/1938 Kyrdany Ukrainian	Ovruch Local Court of Zhytomyr Region, 05/03/2010, as amended by Ovruch Local Court of Zhytomyr Region, 04/04/2013

APPENDIX 3

No.	Application no. and date of introduction	Applicant's name date of birth (if known) place of residence nationality	Relevant domestic decision details
31.	58462/13 04/09/2013	**Vasyl Oleksandrovych SLYUSAR** Znamyanka Ukrainian	Kirovograd Regional Court of Appeal, 11/12/2012
32.	71896/13 08/11/2013	**Larysa Anatoliyivna GUYDA** 24/02/1965 Ternopil Ukrainian	Ternopil Local Court of Ternopil Region, 07/10/2011
33.	69478/13 17/10/2013	**Dmytro Viktorovych SHEVTSOV** 27/10/1967 Zaporizhzhya Ukrainian	Komunarskyy Local Court of Zaporizhzhya, 30/12/2010, as amended by Dnipropetrovsk Administrative Court of Appeal, 19/04/2012
34.	73068/13 08/11/2013	**Viktor Mykhaylovych STELMAKH** 24/01/1958 Zhovti Vody Ukrainian	Zhovti Vody Local Court of Dnipropetrovsk Region, 23/08/2011, as amended by Dnipropetrovsk Administrative Court of Appeal, 13/02/2013
35.	19198/14 27/12/2013	**Borys Kuzmych LEZHYBOKOV** 27/04/1948 Zaporizhzhya Ukrainian	Zhovtnevyy Local Court of Zaporizhzhya, 14/06/2011
36.	19215/14 27/12/2013	**Sergiy Mykolayovych PAVSHENKO** 08/04/1956 Zaporizhzhya Ukrainian	Komunarskyy Local Court of Zaporizhzhya, 14/11/2011
37.	78610/14 05/12/2014	**Mykhaylo Vasylyovych DYOMIN** 24/02/1949 Zaporizhzhya Ukrainian	Dnipropetrovsk Administrative Court of Appeal, 06/04/2013

APPENDIX 4

No.	Application no. and date of introduction	Applicant's name date of birth (if known) place of residence nationality	Relevant domestic decision
38.	19307/14 26/12/2013	**Oleksandr Ivanovych MURATOV** 29/01/1954 Zaporizhzhya Ukrainian	Leninskyy Local Court of Zaporizhzhya, 28/04/2011
39.	36120/13 23/05/2013	**Yuliya Ivanivna TYMCHUK** 13/11/1937 Chorni Oslavy Ukrainian	Nadvirna Local Court of Ivano-Frankivsk Region, 21/07/2009

APPENDIX 5

No.	Application no. and date of introduction	Applicant's name date of birth (if known) place of residence nationality	Date of death of the applicant	Relevant domestic decision
40.	15975/14 30/12/2013	**Mariya Grygorivna ARTAMONOVA** 24/08/1932 Zaporizhzhya Ukrainian	18/03/2013	Shevchenkivskyy Local Court of Zaporizhzhya, 20/05/2011
41.	16173/14 30/12/2013	**Lyubov Dmytrivna ARTYUKHOVA** 09/02/1936 Zaporizhzhya Ukrainian	17/07/2013	Shevchenkivskyy Local Court of Zaporizhzhya, 18/05/2011
42.	16671/14 26/12/2013	**Volodymyr Yegorovych SHEMETOV** 05/08/1935 Zaporizhzhya Ukrainian	31/03/2013	Zhovtnevyy Local Court of Zaporizhzhya, 17/05/2011
43.	19212/14 27/12/2013	**Ivan Illich BONDAR** 20/03/1944 Zaporizhzhya Ukrainian	19/05/2012	Komunarskyy Local Court of Zaporizhzhya, 17/05/2011

APPENDIX 6

No.	Application no. and date of introduction	Applicant's name date of birth (if known) place of residence nationality	Relevant domestic decision
44.	65220/13 02/10/2013	**Rayisa Oleksandrivna KOBZEVA** 27/09/1939 Kharkiv Ukrainian	1) Dzerzhynskyy Local Court of Kharkiv, 22/02/2011, as amended by Kharkiv Administrative Court of Appeal, 14/05/2012 2) Dzerzhynskyy Local Court of Kharkiv, 02/08/2010
45.	4923/14 14/12/2013	**Lidiya Petrivna GORBAN** 11/04/1951 Balakliya Ukrainian	1) Balakliya Local Court of Kharkiv Region, 06/10/2011 2) Balakliya Local Court of Kharkiv Region, 04/04/2011