

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

FIFTH SECTION

DECISION

Application no. 30040/06
Anatoliy Vladimirovich KOVLYAKH against Ukraine
and 7 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 28 May 2013 as a Committee composed of:

Boštjan M. Zupančič, *President,*
Ann Power-Forde,
Helena Jäderblom, *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 decision to apply the pilot-judgment procedure taken in the case of *Yuriy Nikolayevich Ivanov v. Ukraine* (no. 40450/04, ECHR 2009-... (extracts)),

Having deliberated, decides as follows:

THE FACTS

The applicants are Ukrainian nationals whose names and dates of birth are tabulated below.

In application no. 41690/06 (listed in the annexed table under number 2), one of two applicants, Ms Alla Stafanovna Moroz, died on 27 August 2012.

The applicant listed in the annexed table under number 7 was represented by Mr Gennadiy Mykhailovych Avramenko, attorney practicing in Chernigiv, Ukraine.

The Ukrainian Government ("the Government") were represented by their Agent, Mr Nazar Kulchytskyy, of the Ministry of Justice.

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

On the dates set out in the annexed table below the national courts held for the applicants and ordered the defendants under these judgments (debtors) to take certain measures or to pay various amounts to the applicants. The judgments became binding but the authorities delayed their enforcement.

The applications were communicated to the Ukrainian Government within the pilot judgment in the case of *Yuriy Nikolayevich Ivanov* cited above. By letters sent on different dates the respondent Government informed the Court that the applications did not comply with the six-months rule under Article 35 of the Convention. For some applications the Government additionally referred to other inadmissibility reasons. The Government requested the Court to declare the applications inadmissible.

The applicants disagreed.

COMPLAINTS

The applicants complained about the lengthy non-enforcement of judgment in their favour.

THE LAW

The Court first considers that in accordance with Rule 42 § 1 of the Rules of Court, the applications should be joined, given their common legal background.

The Court notes that in the application no. 41690/06 (listed in the annexed table under number 2), the second applicant, Ms Alla Stafanovna Moroz, died on 27 August 2012. By letter dated 21 November 2011 the second applicant informed the Court that the first applicant's son, Mr Roman Viktorovich Moroz, wished to pursue the application in her stead. No documents from Mr Moroz were provided in support of that request. The Court notes the absence of documents proving that Mr Moroz wishes to pursue the application on behalf of his late mother. However, it is not necessary to examine this issue in the present case, as the application is in any event inadmissible for the reasons set out below.

The Court recalls that Article 35 of the Convention provides that the Court "may only deal with the matter...within a period of six months from, the date on which the final decision was taken".

The Court reiterates that the purpose of this provision is to assure the compliance with the principle of legal certainty (compare and contrast, *Nuzhdyak v. Ukraine*, no. 16982/05, § 15, 28 May 2009.

The Court notes that in all the present cases the decisions of the domestic courts in the applicants' favour remained unenforced throughout the lengthy periods of time, for which the State authorities were responsible.

The Court also notes that the present applications 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. In particular, in the present applications the six-month period started running from the following events: replacement of the State-controlled debtor by a private company in the enforcement proceedings (application no. 30040/06), full enforcement of the judgments (applications nos. 41690/06 and 19036/10), sale of the State shareholding in the debtor's share capital (applications nos. 39208/07 and 1060/10), end of the period, established by a domestic court, when the enforcement proceedings in respect of a private debtor were conducted by the bailiffs unlawfully (application no. 55817/07), liquidation of the debtor (application no. 23675/10) and annulment of the judgment in question (application no. 51829/10).

It follows that all these complaints must be rejected pursuant to Article 35 § 1 of the Convention as lodged too late.

Having regard to its conclusion above the Court considers that it is not necessary to examine other arguments of the Government as to the inadmissibility of the applications concerned.

For these reasons, the Court unanimously

Decides to join the applications;

Declares the applications inadmissible.

Stephen Phillips Deputy Registrar	Boštjan M. Zupančič President

APPENDIX

No.	Application no. and date of introduction	Applicant name date of birth	Final domestic decision details
1.	30040/06 13/07/2006	Anatoliy Vladimirovich KOVLYAKH 29/03/1969	Komsomolskyy District Court of Kherson, 06/06/2002
2.	41690/06 22/09/2006	Raisa Prokofyevna KOVALYOVA 28/09/1941 Alla Stefanovna MOROZ 16/02/1946	1) Khortytskyy District Court of Zaporizhzhya, 03/09/1997 2) Khortytskyy District Court of Zaporizhzhya, 11/06/1998
3.	39208/07 27/08/2007	Yelena Nikolaeyevna BURKUN 25/10/1994	Budennovskyy District Court of Donetsk, 11/01/2001
4.	55817/07 03/12/2007	Viktor Kuzmich ROSSINSKIY 01/12/1938	Nova Kakhovka Court, 01/06/2001
5.	1060/10 29/12/2009	Vitaliy Mykolayovych VASYLENKO 27/05/1972	Nova Kakhovka Court, 01/02/2001
6.	19036/10 19/03/2010	Anna Isakovna NESINA 18/03/1947	Teplodar Court, 10/12/2001
7.	23675/10 14/04/2010	Lyubov Yakivna OGIRNYAK 03/06/1958	Kryzhopil Court, 28/05/2008
8.	51829/10 17/08/2010	Vasiliy Mikhaylovich GABOV 25/09/1961	Krasnoarmiysk Court, 31/10/2008