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

FIFTH SECTION

DECISION

Application no. 26570/13
Anatoliy Mykolayovych KUPENKO against Ukraine
and 37 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 1 December 2016 as a Committee composed of:

Khanlar Hajiyev, *President,*
Faris Vehabović,
Carlo Ranzoni, *judges,*

and Hasan Bakırcı, Deputy Section Registrar,

Having regard to the above applications lodged on the various dates indicated in the appended table,

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

The applicants are Ukrainian nationals; their personal details are set out in the appended table.

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

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

On the dates set out in the appendix 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 applicants claimed that the judgments became binding but the authorities delayed their enforcement. The relevant particular circumstances of the cases are outlined in the appended table.

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).

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.

The applicants disagreed.

COMPLAINTS

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 1, 2, 3, 8, 10, 14 and 17 of the Convention.

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.

A. Complaints related to protracted non-enforcement

1. Application no. 74110/14 and 76098/14

The Court notes that in the application no. 74110/14 the Kharkiv Administrative Court of Appeal on 12 October 2012 quashed the judgment of the Konotop Local Court of Sumy Region dated 29 September 2011 in the applicant's favour. The applicant did not appeal in cassation.

The Court further notes that, after the judgment mentioned above had been quashed, the obligation of the State to enforce it ended.

The Court finally notes that the applicant lodged his complaint before the Court on 14 November 2014 and thus, more than six months from the date of the final judgment of the court of appeal. Therefore the applicant's complaint as to the lengthy non-enforcement of the judgment adopted by the Konotop Local Court of Sumy Region of 29 September 2011 was raised too late.

The Court observes that in the application no. 76098/14 the judgment of the Malynovskyy District Court of Odesa of 17 November 2009 in the applicant's favour was enforced on 27 April 2012. The Court notes, however, that the applicant lodged his complaint before the Court on 25 November 2014 and thus, more than six months from the date of the judgment's enforcement.

Given the above, the Court declares these applications inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

2. *Applications nos. 43486/13, 44885/13, 70439/13, 71492/13, 72119/13, 75876/13, 77702/13, 80659/13, 3431/14, 13326/14, 14390/14, 16109/14, 16170/14, 16288/14, 30806/14, 34658/14, 71983/14*

The Court notes that in the present cases the amounts of the outstanding debt due to the applicants are not higher than EUR 200 and the applicants did not submit any arguments or evidence to suggest that the delay in the payment of such awards had a significant impact on their personal lives.

The Court has previously found a lack of "significant disadvantage" in the cases, where delay concerned the payment of a relatively small award: the amount in question was equal to or less than sums up to EUR 200 (see, for example, *Svystun v. Ukraine* (dec.), no. 58915/16 and two other applications, 3 November 2016).

The Court further notes that in the present cases delay in enforcement concerned the payment of monthly allowances and pension supplements that do not constitute the primary source of revenue for the applicants.

The Court finds therefore that in present cases the applicants did not suffer any significant disadvantage as a result of the non-enforcement of the final judgments.

The Court also notes that "respect for human rights", as defined in the Convention and the Protocols thereto, does not require examination of the present complaints on the merits, as the problem of non-enforcement of final decisions has already been addressed in the Court's pilot judgment against Ukraine adopted in the case of *Yuriy Nikolayevich Ivanov v. Ukraine* cited above and in a number of other cases examined against Ukraine under "the well-established case-law procedure" (see, for instance, *Khvorostyanoy and Others v. Ukraine* [Committee], nos. 54552/09 and foll., 25 July 2013; *Shchukin and Others v. Ukraine* [Committee], nos. 59834/09 and foll., 13 February 2014; *Shtefan and Others v. Ukraine* [Committee], nos. 36762/06 and foll., 31 July 2014, etc.).

Finally, the Court considers that the applicants' cases were duly considered by domestic tribunals within the meaning of Article 35 § 3 (b) with the decisions favourable to the applicants.

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

3. Applications nos. 1261/14 and 52242/14

The Court notes that the applicants complain of non-enforcement of the final and binding judgments awarding social benefits to them. These judgments were not enforced due to changes in domestic legislation, in particular the Resolution of the Cabinet of Ministers no. 745. The Court examined similar complaints in the case *Velikoda v. Ukraine* (no. 43331/12, § 21, decision of 3 June 2014) and 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.

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

4. Applications nos. 26570/13, 31326/13, 43992/13, 71070/13, 72362/13, 77751/13, 78161/13, 2452/14, 6652/14, 7311/14, 12611/14, 15005/14, 57516/14, 63976/14, 65737/14, 78600/14, 70/15

The Court observes that in the present cases the judgments of a monetary award against the State body were enforced within a period which lasted less than one year. It recalls that appropriations for the payment of State debts may cause some delay in the enforcement of judgments from the Government's budget (see *Voytenko v. Ukraine*, no. 18966/02, § 42, 29 June 2004). In cases against Ukraine, it has held that short delays of less than a year were not so excessive as to raise an arguable claim under Article 6 § 1 of the Convention (see, for example, *Kornilov and Others v. Ukraine* (dec.), no. 36575/02, 7 October 2003). The Court finds no reason to come to a different conclusion in the circumstances of the present cases.

These applications must therefore be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention as being manifestly ill-founded.

B. Other complaints raised by the applicants

Several applicants raised also 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 1, 2, 3, 8, 10, 14 and 17 of the Convention.

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 20 December 2016.

Hasan Bakırcı
Deputy Registrar

Khanlar Hajiyev
President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth (if known) Place of residence Nationality	Final domestic decision details
1.	26570/13 06/04/2013	**Anatoliy Mykolayovych KUPENKO** 17/03/1941 Brovary Ukrainian	Brovary Local Court of Kyiv Region, 12/11/2010
2.	31326/13 19/04/2013	**Yuriy Mykolayovych FEDOTENKO** 12/12/1957 Mariupol Ukrainian	Ordzhonikidzevskyy Local Court of Mariupol, 04/02/2011
3.	43486/13 26/06/2013	**Stepan Petrovych KUCHERYAVYY** 16/08/1944 Boyarka Ukrainian	Kyyevo-Svyatoshynskyy Local Court of Kyiv Region, 15/04/2011
4.	43992/13 27/11/2012	**Mykola Ivanovych OMELCHUK** 04/06/1951 Kovel Ukrainian	Kovel Local Court of Volyn Region, 22/08/2011
5.	44885/13 05/07/2013	**Oleksandr Yosypovych SERGEYEV** 23/04/1944 Kyiv Ukrainian	Dniprovskyy Local Court of Kyiv, 14/01/2011, as amended by Kyiv Administrative Court of Appeal, 08/08/2011 and by Higher Administrative Court of Ukraine, 22/03/2013
6.	70439/13 31/10/2013	**Valentyn Andriyovych LITOVCHENKO** 17/04/1944 Kryvyy Rig Ukrainian	Ternivskyy Local Court of Kryvyy Rig, 13/09/2011
7.	71070/13 31/10/2013	**Vyacheslav Alekseyevich LYSENKOV** 05/02/1973 Dnipropetrovsk Ukrainian	Pecherskyy Local Court of Kyiv, 16/07/2002
8.	71492/13 01/11/2013	**Valentyna Oleksiyivna RATUSHNA** 04/07/1937 Kryvyy Rig Ukrainian	Ternivskyy Local Court of Kryvyy Rig, 04/05/2011
9.	72119/13 07/11/2013	**Vasiliy Vasilyevich CHEPURNOY** Cherkasy Ukrainian	Prydniprovskyy Local Court of Cherkasy, 27/01/2012
10.	72362/13 09/11/2013	**Vladimir Vasilyevich TSYGANOK** 07/01/1950 Kryvyy Rig Ukrainian	Ternivskyy Local Court of Kryvyy Rig, 13/08/2010
11.	75876/13 26/11/2013	**Petro Mytrofanovych ALEKSYEYEV** 17/03/1939 Kherson Ukrainian	Komsomolskyy Local Court of Kherson, 09/09/2011
12.	77702/13 04/11/2013	**Nadiya Ivanivna BEDNOVA** 28/12/1938 Kherson Ukrainian	Kherson Regional Administrative Court, 23/11/2009

No.	Application no. Date of introduction	Applicant name Date of birth (if known) Place of residence Nationality	Final domestic decision details
13.	77751/13 11/11/2013	**Dmytro Ivanovych KOTLYAR** 05/11/1948 Berezan Ukrainian	Berezan Local Court of Kyiv Region, 21/06/2010
14.	78161/13 25/11/2013	**Mykola Stepanovych PANKRATOV** Mariupol Ukrainian	Ordzhonikidzevskyy Local Court of Mariupol, Donetsk Region, 14/06/2010
15.	80659/13 05/12/2013	**Valentyna Mykhaylivna ANOKHINA** 09/10/1937 Kherson Ukrainian	1. Suvorovskyy Local Court of Kherson, 01/09/2011 2. Komsomolskyy Local Court of Kherson, 04/02/2011, as amended by Odesa Administrative Court of Appeal, 06/03/2012
16.	1261/14 25/12/2013	**Sergiy Vasylyovych KOSHKIN** 04/07/1953 Novooleksandrivka Ukrainian	Synelnykove Local Court of Dnipropetrovsk Region, 31/12/2010, as amended by Dnipropetrovsk Administrative Court of Appeal, 07/06/2011
17.	2452/14 13/12/2013	**Nila Oleksiyivna SHEVCHENKO** 15/02/1950 Kotsyubynske Ukrainian	Irpin Local Court of Kyiv Region, 17/05/2010
18.	3431/14 19/12/2013	**Nadiya Vasylivna KIMALOVA** 14/08/1938 Kherson Ukrainian	Suvorovskyy Local Court of Kherson, 10/01/2011
19.	6652/14 12/12/2013	**Mykola Grygorovych DERID** 26/11/1938 Mariupol Ukrainian	Prymorskyy Local Court of Mariupol, 04/08/2010
20.	7311/14 12/12/2013	**Oleksiy Stepanovych SHKROMADA** Ruda Ukrainian	Lebedyn Local Court of Sumy Region, 28/02/2011
21.	12611/14 12/03/2014	**Viktor Mykhaylovych PARKHOMENKO** 04/10/1939 Mariupol Ukrainian	Illichivskyy Local Court of Mariupol, 03/04/2009, as amended by Donetsk Administrative Court of Appeal, 14/05/2009
22.	13326/14 17/01/2014	**Anatoliy Oleksandrovych POLYANSKYY** 29/08/1938 Kherson Ukrainian	Kherson Regional Administrative Court, 21/10/2009, as amended by Kherson Regional Court of Appeal, 15/04/2011
23.	14390/14 04/02/2014	**Mykola Ivanovych YURCHENKO** 18/05/1939 Gostomel Ukrainian	Irpin Local Court of Kyiv Region, 17/03/2011
24.	15005/14 07/03/2014	**Nina Yakivna ZYUZINA** 24/03/1935 St. Krym Ukrainian	1. Illichivskyy Local Court of Mariupol, 13/04/2009 2. Illichivskyy Local Court of Mariupol, 24/03/2010 3. Illichivskyy Local Court of Mariupol, 13/08/2010
25.	16109/14 04/04/2014	**Oksana Stepanivna KRASOVSKA** 01/10/1939 Cherepyn Ukrainian	Tetiyiv Local Court of Kyiv Region, 15/11/2010

No.	Application no. Date of introduction	Applicant name Date of birth (if known) Place of residence Nationality	Final domestic decision details
26.	16170/14 18/04/2014	**Mariya Pavlivna KOVALSKA** 01/01/1937 Telizhentsi Ukrainian	Tetiyiv Local Court of Kyiv Region, 12/11/2010
27.	16288/14 02/04/2014	**Mariya Vasylivna BURLAKA** 01/01/1944 Mykhaylivka Ukrainian	Tetiyiv Local Court of Kyiv Region, 11/11/2010
28.	30806/14 11/04/2014	**Tetyana Valentynivna MOSKALENKO** 11/06/1980 Pidgaytsi Ukrainian	Lutsk Local Court of Volyn Region, 19/07/2010
29.	34658/14 23/04/2014	**Galyna Volodymyrivna PEREVERTUN** 31/07/1940 Kherson Ukrainian	Dniprovskyy Local Court of Kherson, 19/11/2010
30.	52242/14 11/07/2014	**Galyna Yevgenivna MARYNYCH** 29/04/1957 Uzyn Ukrainian	Bila Tserkva Local Court of Kyiv Region, 11/03/2011
31.	57516/14 10/08/2014	**Nataliya Veniaminivna MEZHEVCHUK** 05/01/1950 Odesa Ukrainian	Prymorskyy Local Court of Odesa, 04/12/2012
32.	63976/14 11/09/2014	**Nadiya Oleksiyivna VITCHYNKINA** 05/03/1952 Berezan Ukrainian	Berezan Local Court of Kyiv Region, 23/12/2009
33.	65737/14 27/09/2014	**Lyudmyla Ivanivna MAZURENKO** 02/02/1977 Odesa Ukrainian	Malynovskyy Local Court of Odesa, 06/11/2013
34.	71983/14 24/10/2014	**Mariya Karpivna DUBNYTSKA** 04/03/1937 Gostomel Ukrainian	Irpin Local Court of Kyiv Region, 31/12/2010
35.	74110/14 14/11/2014	**Yuriy Ivanovich DAVYDENKO** 25/10/1968 Konotop Ukrainian	Konotop Local Court of Sumy Region, 29/09/2011
36.	76098/14 25/11/2014	**Bernard Zelmanovich FISHMAN** 16/04/1927 Odesa Ukrainian	Malynovskyy Local Court of Odesa, 17/11/2009
37.	78600/14 11/12/2014	**Nikolay Fedorovich ORLOV** 01/01/1949 Odesa Ukrainian	Odesa Administrative Court of Appeal, 24/11/2010
38.	70/15 06/12/2014	**Leonid Vasilyevich TSOKOL** 03/01/1951 Odesa Ukrainian	Prymorskyy Local Court of Odesa, 17/02/2011