

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

FIFTH SECTION

DECISION

Application no. 14714/11
Mykola Andriyovych KYRYSYNA against Ukraine
and 3 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 16 June 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 declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicant company Aviaservis, TOV was represented by its director Mr Viktor Volodymyrovych Shcherbatko, who lives in Kyiv.

The applicants' complaints under Articles 6 § 1 and 13 of the Convention concerning the excessive length of civil proceedings and the lack of any effective remedy in domestic law were communicated to the Ukrainian Government ("the Government").

THE LAW

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

After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the excessive length of civil proceedings and the lack of any effective remedy in domestic law. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the applications out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned 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.

The Court has not received a response from the applicants which accepts the terms of the unilateral declaration.

The Court observes that Article 37 § 1 (c) enables it 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".

Thus, it may strike out 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 (see the principles emerging from the Court's case-law, and in particular the *Tahsin Acar v. Turkey* judgment ([GC], no. 26307/95, §§ 75-77, ECHR 2003-VI)).

The Court has established clear and extensive case-law concerning complaints relating to the excessive length of civil proceedings (see, for example, *Svetlana Naumenko v. Ukraine,* no. 41984/98, 9 November 2004 and *Efimenko v. Ukraine,* no. 55870/00, 18 July 2006).

Noting 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)).

In the light of the above considerations, 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 may 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 and of the arrangements 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.

Done in English and notified in writing on 7 July 2016.

Hasan Bakırcı
Deputy Registrar

Khanlar Hajiyev
President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth / Date of registration	Representative name and location	Date of receipt of Government's declaration	Date of receipt of applicant's comments, if any	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[i]
1.	14714/11 26/02/2011	**Mykola Andriyovych KYRYSYNA** 23/04/1977		05/02/2016	18/03/2016	1,080
2.	23900/11 04/04/2011	**Mykhaylo Vasylyovych TYMKIV** 07/06/1953		24/11/2015	08/03/2016	810
3.	36473/13 20/05/2013	**Sergiy Volodymyrovych TRESHCHALOV** 17/06/1958		24/11/2015	18/03/2016	1,620
4.	38386/13 10/06/2013	**AVIASERVIS, TOV** 19/03/1997	**Shcherbatko Viktor Volodymyrovych** Kyiv	12/02/2016		810

[i] Plus any tax that may be chargeable to the applicants.