

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

FIFTH SECTION

DECISION

Application no. 42914/10
Lidiya Mikhaylovna MASYUTENKO
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 25 September 2012 as a Committee composed of:

Mark Villiger, *President,*
André Potocki,
Paul Lemmens, *judges,*
and Stephen Phillips, *Deputy Section Registrar,*

Having regard to the above application lodged on 16 July 2010,

Having regard to the Government's formal declaration proposing a friendly settlement of the case and the applicant's agreement with the proposal,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Ms Lidiya Mikhaylovna Masyutenko, is a Ukrainian national, who was born in 1957 and lives in Gorlivka.

The Ukrainian Government ("the Government") were represented by their Agents, initially by Ms V. Lutkovska and later by Mr N. Kulchytskyy, of the Ministry of Justice.

Relying on Articles 2, 13 and 17 of the Convention, the applicant complained about the failure of the authorities to conduct an effective investigation into the death of her daughter, Ms G., on 6 April 2008. The criminal investigations, which the authorities started the next day, have not

been completed yet. The authorities suspect the applicant's son-in-law of having seriously injured Ms G. and of having incited her to commit suicide.

On 25 August 2011 the President of the Fifth Section decided to give notice of the application to the Government.

On 17 November 2011 the Court received the following declaration from the Government:

> "I, Valeria Lutkovska, Government Agent before the European Court of Human Rights, declare that the Government of Ukraine offer to pay *ex gratia* 10 000 euros to Mrs Lidiya Mikhaylivna Masyutenko with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> The sum of EUR 10 000, which is to cover any pecuniary and non-pecuniary damage, will be converted into the national currency of the respondent State at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, 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 case."

On 6 June 2012 the Court received a letter from the applicant, in which she expressed her agreement to have the case settled on the terms of the Government's declaration.

THE LAW

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application. In view of the above, it is appropriate to strike the case out of the list.

Although in the declaration the Government referred to Article 37 § 1 of the Convention, the case should be struck out of the list on the basis of Article 39 of the Convention.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases in accordance with Article 39 of the Convention.

Stephen Phillips	Mark Villiger
Deputy Registrar	President