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

# FIFTH SECTION

# DECISION

Application no. 41884/18
Oleksiy Igorovych SAPITASH
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 7 November 2024 as a Committee composed of:

Andreas Zünd*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to the above application lodged on 23 August 2018,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Mr Oleksiy Igorovych Sapitash, is a Ukrainian national who was born in 1989 and lives in Velyka Dymerka.

In November 2017 the police drew up an administrative offence report, charging the applicant with driving while displaying signs of intoxication. On 16 February 2018 the Dniprovskyi District Court of Kyiv delivered a judgment convicting the applicant as charged, imposing a fine and suspending his driving licence for a year.

On 5 March 2018 the applicant lodged an appeal with the Kyiv Court of Appeal ("the appellate court") against the judgment of 16 February 2018, in which he requested an extension of the applicable ten-day time-limit for lodging an appeal. He argued that he had received the full text of the contested judgment on 2 March 2018, but did not substantiate that claim. On 28 March 2018 the appellate court rejected the applicant's extension request and refused to open appellate proceedings, considering that the applicant had attended the hearing of 16 February 2018 and had been informed of the contested judgment on that date.

On 22 June 2018 the appellate court rejected a similar extension request submitted by the applicant on 18 June 2018, on the same grounds as those set out in its decision of 28 March 2018.

On 12 July 2018 the applicant lodged a third appeal with the appellate court, requesting an extension of the time-limit on the same grounds as before. In support of this request he submitted a certificate, allegedly issued by a secretary of the Dniprovskyi District Court of Kyiv on 27 February 2018, attesting that "as of today's date, the applicant has not received the contested judgment, as the judge is on sick leave". On 30 July 2018 the appellate court rejected the applicant's extension request and refused to open appellate proceedings, on the same grounds as those given in its decision of 28 March 2018.

## COMPLAINTS

The applicant complained under Article 6 and Article 2 of Protocol No. 7 about the Kyiv Court of Appeal's refusal to examine his appeals on the merits.

## THE LAW

The Court notes that the applicant was informed of the Dniprovskyi District Court of Kyiv's judgment of 16 February 2018 on the same day that it was delivered. The appeals and extension requests lodged by him on 5 March and 18 June 2018 contained no evidence that he had attempted to obtain the full text of the contested judgment prior to 2 March 2018, or that he had been prevented from doing so. Consequently, the appellate court dismissed his requests as unsubstantiated and his appeals as having been lodged outside the ten-day time-limit. In those circumstances, the appellate court's decision of 30 July 2018 dismissing the applicant's third appeal and extension request (which had been accompanied by a certificate dated 27 February 2018, indicating that he had not by that point received the full text of the judgment of 16 February 2018) does not appear to be arbitrary or unreasonable. The applicant lodged the appeal and extension request in question in July 2018, four months after his initial appeal and extension request had been dismissed, and gave no explanation as to why he had not submitted the relevant certificate in support of his earlier extension requests. The applicant thus failed to display the necessary diligence in pursuing the proceedings and substantiating his submissions (compare *Karakutsya v. Ukraine*, no. 18986/06, §§ 53-60, 16 February 2017). Accordingly, his complaints concerning a lack of access to the appellate court must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 28 November 2024.

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| Martina Keller<br>Deputy Registrar | Andreas Zünd<br>President |