

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

FIFTH SECTION

DECISION

Application no. 50687/06 by Leonid Mikhaylovich SHRAM
and 41 other applications against Ukraine
(see annex for other applications)

The European Court of Human Rights (Fifth Section), sitting on 31 May 2011 as a Committee composed of:

Mark Villiger, *President,*
Karel Jungwiert,
Isabelle Berro-Lefèvre, *judges,*

and Stephen Phillips *Deputy Section Registrar,*

Having regard to the above applications lodged on various dates,

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 regard to the unilateral declaration submitted by the respondent Government requesting the Court to strike the applications out of the list of cases,

Having deliberated, decides as follows:

THE FACTS

The applicants are 42 Ukrainian nationals whose names and dates of birth are tabulated below. The Ukrainian Government ("the Government") were represented by Mrs V. Lutkovska, of 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 annexed table below the national courts, holding in favour of the applicants, ordered the authorities or State-owned companies to pay various amounts to the applicants.

These judgments became binding but the authorities delayed their enforcement.

COMPLAINTS

The applicants complained about the delayed enforcement of the judgments in their favour and, in certain cases, of assorted faults that allegedly accompanied the judicial or enforcement proceedings. Some of the applicants also raised other complaints.

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 concerning lengthy non-enforcement of the judgments in the applicants' favour

Following the *Yuriy Nikolayevich Ivanov* pilot judgment cited above, the Government submitted to the Court the unilateral declaration aimed at resolving the issue raised by the applications. They requested the Court to strike out the applications in accordance with Article 37 of the Convention. The declaration reads as follows:

"The Government of Ukraine acknowledge the excessive duration of the enforcement of the applicants' judgments.

The Government are ready to pay to the applicants the outstanding debts according to the judgements of the national authorities, as well as to pay the applicants *ex gratia* the sums in accordance with annex no. 1 to this declaration.

The Government therefore invite the Court to strike the applications out of the list of cases. They suggest that the present declaration might be accepted by the Court as "any other reason" justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 § 1 (c) of the Convention.

The sums *ex gratia* are to cover any pecuniary and non-pecuniary damage as well as costs and expenses and will be free of any taxes that may be applicable, to be converted into the national currency of the respondent State at the rate applicable on the date of settlement. They 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 these sums within the said three-month period, the Government undertake to pay simple interest on them from 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.

This payment will constitute the final resolution of the cases."

The applicants disagreed on various grounds, considering most often that the compensation amounts offered by the Government were insufficient.

The Court reiterates that under Article 37 of the Convention it may at any stage of the proceedings strike an application out of its list of cases where the circumstances lead to the conclusions specified under (a), (b), or (c) of that Article.

Article 37 § 1 (c) enables the Court in particular 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 application."

Article 37 § 1 *in fine* states:

> "However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the protocols thereto so requires."

The Court also reiterates that in certain circumstances it may strike out an application under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued (see *Tahsin Acar v. Turkey* (preliminary objection) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court reiterates that in its pilot judgment (*Yuriy Nikolayevich Ivanov v. Ukraine*, cited above) it recently ordered Ukraine to

> "grant such redress, within one year from the date on which the judgment becomes final, to all applicants whose applications pending before the Court were communicated to the Government under Rule 54 § 2 (b) of the Rules of Court before the delivery of the present judgment or will be communicated further to this judgment and concern arguable complaints relating solely to the prolonged non-enforcement of domestic decisions for which the State was responsible, including where complaints alleging a lack of effective remedies in respect of such non-enforcement are also raised;."

In the same judgment the Court also held that

> "pending the adoption of the above measures, the Court will adjourn, for one year from the date on which the judgment becomes final, the proceedings in all cases in which the applicants raise arguable complaints relating solely to the prolonged non-enforcement of domestic decisions for which the State is responsible, including cases in which complaints alleging a lack of effective remedies in respect of such non-enforcement are also raised, without prejudice to the Court's power at any moment to declare any such case inadmissible or to strike it out of its list following a friendly settlement between the parties or the resolution of the matter by other means in accordance with Articles 37 or 39 of the Convention."

Having examined the terms of the Government's declaration, the Court understands it as intending to give the applicants redress in line with the

pilot judgment (see *Yuriy Nikolayevich Ivanov v. Ukraine*, cited above, §§ 82 and 99 and point 6 of the operative part).

The Court is satisfied that the Government explicitly acknowledge the excessive length of the execution of judgments in the applicants' favour. It also notes that the compensations that the Government offered are comparable with Court awards in similar cases, taking account, *inter alia*, of the specific delay in each particular case.

The Court therefore considers that it is no longer justified to continue the examination of the relevant parts of the applications. It is also satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of these parts of the applications.

Accordingly, the relevant parts of the applications which concern the applicants' complaints of the lengthy non-enforcement of judgments in their favour should be struck out of the list.

B. Remainder of the complaints

Having carefully examined the remainder of the applicants' complaints in the light of all the material in its possession, and in so far as the matter complained of is within its competence, the Court finds that it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that these parts of the applications are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Takes note of the terms of the respondent Government's declaration in respect of the excessive duration of the enforcement of the judgments in the applicants' favour;

Decides to strike the applications out of its list of cases in so far as it relates to the above complaint in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the applications inadmissible.

Stephen Phillips
Deputy Registrar

Mark Villiger
President

ANNEX

No.	Appl. Number	Name(s) of the applicant(s), born in	Date of introduction	Domestic decisions about the lengthy non-enforcement of which the applicants complain (name of the court or of another authority, date of the decision)	Compensation offered (euro)
1.	50687/06	SHRAM LEONID MIKHAYLOVICH (1935)	16/10/2006	03.03.2006, Sovetskyy District Court of Makiyivka	810
2.	350/07	IGNASHKOVA VALENTYNA STEPANIVNA (1939)	01/12/2006	26.04.2005, Desnyanskyy District Court of Chernigiv	975
3.	15407/07	POPOV GENNADIY GRIGORYEVICH (1970)	29/03/2007	28.03.2005, Pervomaysk Court	990
4.	22489/07	SULAYEV LEONID IVANOVICH (1945)	10/05/2007	29.10.2004, Novogrodivka Court	1,065
5.	42505/07	LESIK SVETLANA IVANOVNA (1965)	15/09/2007	17.05.2005, Krasnyy Luch Court	960
6.	42961/07	PANCHUGINA KSENIYA VLADIMIROVNA (1970)	15/09/2007	02.10.2003, 01.06.2005, Krasnyy Luch Court	1,260
7.	42999/07	SHCHURENKO IRINA VIKTOROVNA (1975)	15/09/2007	16.05.2005, Krasnyy Luch Court	960
8.	43006/07	POTAPOVA YELENA VLADIMIROVNA (1975)	15/09/2007	09.06.2005, Krasnyy Luch Court	945
9.	43014/07	RUDYCHEV VLADIMIR NIKOLAYEVICH (1951)	15/09/2007	16.05.2005, Krasnyy Luch Court	945
10.	45995/07	KOROBEYNIKOVA VALENTINA NIKOLAYEVNA (1955)	13/10/2007	07.10.2002, 15.06.2005, Krasnyy Luch Court	1,440
11.	46067/07	BAYDYSH VASILIY IVANOVICH 1938)	13/10/2007	26.11.2003, 15.07.2005, Krasnyy Luch Court	1,230
12.	52277/07	YEFANOVA NATALYA YEVGENYEVNA (1982)	20/11/2007	04.07.2005, Krasnyy Luch Court	930
13.	52281/07	YEFANOV DMITRIY NIKOLAYEVICH (1980)	20/11/2007	18.05.2005, Krasnyy Luch Court	960
14.	52284/07	YEFANOVA LYUBOV MIKHAYLOVNA (1958)	20/11/2007	11.05.2005, Krasnyy Luch Court	960

15.	52296/07	IVASHCHISHINA LYUDMILA PETROVNA (1960)	20/11/2007	23.06.2005, Krasnyy Luch Court	945
16.	52311/07	YEFANOV NIKOLAY VASILYEVICH (1955)	20/11/2007	18.05.2005, Krasnyy Luch Court	945
17.	52317/07	NESTEROV VLADIMIR IVANOVICH 1955)	20/11/2007	03.12.2001, 17.05.2005, Krasnyy Luch Court	1,575
18.	8641/08	AFANASENKO ANATOLIY IVANOVICH (1964)	25/01/2008	13.05.2005, Krasnyy Luch Court	960
19.	8675/08	KUZOVENIN VYACHESLAV ANDREYEVICH (1939)	25/01/2008	24.06.2005, Krasnyy Luch Court	945
20.	8686/08	KUZOVENIN VYACHESLAV ANDREYEVICH (1939)	25/01/2008	24.06.2005, Krasnyy Luch Court	945
21.	8707/08	KUZOVENINA VALENTINA DEMYANOVNA (1948)	25/01/2008	17.05.2005, Krasnyy Luch Court	945
22.	8711/08	SHATOKHINA MARINA MIKHAYLOVNA (1974)	25/01/2008	11.05.2005, Krasnyy Luch Court	960
23.	8714/08	SHATOKHIN RUSLAN VLADIMIROVICH (1974)	25/01/2008	16.05.2005, Krasnyy Luch Court	960
24.	27301/08	SVETLAKOVA LYUDMYLA IVANIVNA (1953)	23/05/2008	19.10.2007, Kramatorsk Court	480
25.	29209/08	SHUTYAYEVA GALINA VALENTINOVNA (1957)	28/05/2008	16.05.2005, Krasnyy Luch Court	960
26.	29219/08	SOBOLEVA SVETLANA VLADIMIROVNA (1967)	28/05/2008	18.07.2005, Krasnyy Luch Court	930
27.	29234/08	KONOVAL GALINA IVANOVNA (1954)	28/05/2008	15.07.2005, Krasnyy Luch Court	930
28.	29238/08	KARAVAYEVA LYUBOV PETRIVNA (1954)	28/05/2008	18.07.2005, Krasnyy Luch Court	930
29.	29243/08	MINAYEV ALEKSANDR NIKOLAYEVICH (1956)	28/05/2008	01.07.2005, Krasnyy Luch Court	930
30.	37452/08	PECHONKA IGOR VOLODYMYROVYCH (1966)	11/07/2008	13.03.2007, Starokostyantyniv Court	645
31.	39076/08	KOROTKIKH VLADIMIR ILLICH (1953)	02/08/2008	13.08.2003, Krasnyy Luch Court	1,290

32.	39079/08	SIVAKOV ALEKSANDR MIKHAYLOVICH (1957)	02/08/2008	31.05.2002, 13.05.2005, Krasnyy Luch Court	1,515
33.	39143/08	MOISEYENKO TATYANA PETROVNA (1957)	08/08/2008	13.05.2005, Krasnyy Luch Court	960
34.	42876/08	KRAVTSEV OLEKSANDR ANATOLIYOVYCH (1969)	26/08/2008	28.02.2005, Bolgradsk Court	1,005
35.	1812/09	GICHKO NADEZHDA VLADIMIROVNA (1958)	02/12/2008	18.05.2005, Krasnyy Luch Court	960
36.	4526/09	TARASOVA SVETLANA LEONIDOVNA (1958)	11/12/2008	16.05.2005, Krasnyy Luch Court	960
37.	4539/09	ARTYUKHOV ANATOLIY VASILYEVICH (1982)	11/12/2008	25.05.2005, Krasnyy Luch Court	960
38.	4557/09	OSIN VITALIY ANATOLYEVICH (1981)	11/12/2008	30.07.2003, 10.10.2003, Krasnyy Luch Court	1,290
39.	4574/09	OSINA NINA VASILYEVNA (1954)	11/12/2008	17.05.2005, Krasnyy Luch Court	960
40.	4581/09	GAVRUSHCHENKO NADEZHDA NIKOLAYEVNA (1949)	11/12/2008	29.02.2002, 16.06.2005, Krasnyy Luch Court	1,545
41.	18543/09	VINOGRADOV NIKOLAY VIKTOROVICH (1954)	17/03/2009	26.03.2003, Krasnyy Luch Court	1,350
42.	23388/09	FIRSOV GENNADIY VLADIMIROVICH (1961)	21/04/2009	07 .07.2004, Kerch Court	1,125