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

# FIFTH SECTION

# DECISION

Application no. 25250/16
Varvara Mykolayivna SVYSTUN against Ukraine
and 2 other applications
(see list appended)

The European Court of Human Rights (Fifth Section), sitting on 3 November 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 deliberated, decides as follows:

## FACTS AND COMPLAINTS

The list of applicants and the relevant details of the applications are set out in the appended table.

### The circumstances of the cases

The facts of the cases, as submitted by the applicants, may be summarised as follows.

In application no. 25250/16 the Stavyshche District Court of Kyiv Region rendered two judgments in the applicant's favour (on 20 July 2011 and on 2 September 2011), ordering a pension supplement in the amount of one minimum old-age pension and an additional health-damage pension of 15% of the minimum old-age pension for the periods from 5 May 2011 to 18 June 2011 and from 19 June 2011 to 22 July 2011, under sections 39 and 51 of the Chernobyl Victims (Status) Act (*Закон України "Про статус і соціальний захист громадян, які постраждали внаслідок*

*Чорнобильської катастрофи"*). In his application the applicant informed the Court that the outstanding debts under the judgments in question had amounted to UAH 1,516 (at the material time equivalent of EUR 135) and UAH 1,144.30 (at the material time equivalent of EUR 102).

In application no. 26596/16 the applicant has a special status of "a child of war" and was entitled, under the judgment of the Myronivka District Court of Kyiv Region of 5 October 2011, to a special supplement to her pension in the amount of 30% of the minimum pension in accordance with section 6 of the Children of War Social Protection Act (*Закон України "Про соціальний захист дітей війни"*). On 9 January 2016 the competent authorities informed the applicant that the outstanding debt under the judgment in question had amounted to UAH 1,701.15 (at the material time equivalent of EUR 162).

In application no. 37731/16 on 11 June 2012 the Ovruch District Court of Zhytomyr Region awarded to the applicant the monthly allowance under Article 37 of the Chernobyl Victims (Status) Act in the amount of 40% of the minimum old-age pension for the period from 1 March 2011 to 31 July 2011. In his application the applicant informed the Court that the outstanding debt under the judgment in question had amounted to UAH 1,901 (at the material time equivalent of EUR 190).

The judgments in the applicants' favour became binding, but the applicants were unable to obtain the enforcement of the judgments in due time.

The applicants complained under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention about the non-enforcement or delayed enforcement of domestic decisions and the lack of any effective remedy in domestic law.

# THE LAW

## A. Joinder of the applications

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

## B. Complaints under Articles 6 § 1 and 13 of the Convention and Article 1 of the Protocol No. 1

In the present applications, having examined all the material before it, the Court considers that, for the reasons stated below, the applications should be declared inadmissible.

The applicants complained about the alleged failure of the competent authorities to enforce the domestic judgments rendered in their favour.

The Court notes that in the present cases the amounts of the outstanding debt due to the applicants are not higher than EUR 200. The Court finds it, therefore, appropriate to determine of its own motion whether the applicants have suffered any significant disadvantage and thus, whether their complaints are admissible under Article 35 of the Convention, as amended by Protocol No. 14, which entered into force on 1 June 2010.

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 500 (see, for instance, *Ştefănescu v. Romania* (dec.), no. 11774/04, 12 April 2011; *Gururyan v. Armenia* (dec.), no. 11456/05, 24 January 2012; *Bazelyuk v. Ukraine* (dec.), no. 49275/08, 27 March 2012, etc.).

In its judgment in the case of *Makara and 249 others v. Ukraine* the Court has found a lack of "significant disadvantage" in the cases, where the delays in enforcement concerned the payment of relatively small amounts (see, *Makara and others v. Ukraine*, no. 36173/08, ECHR, 12 December 2013).

The same approach was taken in other Ukrainian cases also dealt with by the Court (see, for instance, *Kiselyov v. Ukraine*, no. 42953/04, § 18, 13 July 2013; *Khvorostyanoy and Others v. Ukraine* [Committee], nos. 54552/09 and foll., §§ 16-19, 25 July 2013; *Shtefan and Others v. Ukraine* [Committee], nos. 36762/06 and foll., §§ 30-32, 31 July 2014).

The Court 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.

Moreover, the Court observes that the applicants do not argue that the loss of such sums would have a major impact on their personal life in the light of their specific circumstances.

The Court 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* (no. 40450/04, 15 October 2009) 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*, cited above; *Shchukin and Others v. Ukraine* [Committee], nos. 59834/09 and foll., 13 February 2014; *Shtefan and Others v. Ukraine*, cited above, etc.).

Finally, the Court considers that in the present cases the applicants' complaints were duly considered by the domestic courts, as required by Article 35 § 3 (b) of the Convention (see *Korolev v. Russia* (dec.), no. 25551/05, 1 July 2010; *Holub v. the Czech Republic* (dec.), no. 24880/05, 14 December 2010).

Having regard to the Court's case-law cited above and taking into account the constant practice of dealing with such complaints under the "no significant disadvantage criteria", as well as considering the relatively minor and supplement nature of the awards in the present case, the Court is of the opinion that the applicants did not suffer significant disadvantage as a result of the delayed enforcement of the judgments in their favour.

The Court, therefore, concludes that the applicants' complaints must be declared inadmissible under Article 35 §§ 3 (b) 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 24 November 2016.

Hasan Bakırcı
Deputy Registrar

Khanlar Hajiyev
President

# APPENDIX

| No. | Application no.<br>Date of introduction | Applicant name<br>Date of birth | Representative name and location |
|---|---|---|---|
| 1. | 25250/16<br>28/04/2016 | **Varvara Mykolayivna SVYSTUN**<br>01/10/1939 | |
| 2. | 26596/16<br>23/03/2016 | **Kateryna Mykhaylivna LYTVYNOVA**<br>06/12/1938 | |
| 3. | 37731/16<br>26/04/2016 | **Volodymyr Petrovych CHORNYY**<br>02/01/1950 | **Nevmerzhytska Tetyana Oleksandrivna**<br>Zhytomyr |