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

FIFTH SECTION

DECISION

Application no. 46352/19
Yaroslav Olegovych VOLOSHCHUK
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 6 June 2024 as a Committee composed of:

Lado Chanturia*, President*,
Stéphanie Mourou-Vikström,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 46352/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 30 August 2019 by a Ukrainian national, Mr Yaroslav Olegovych Voloshchuk ("the applicant"), who was born in 1981, lives in Chornomorsk and was represented by Mr H. Hembach, a lawyer practising in Bergisch Gladbach (Germany);

the decision to give notice of several complaints in respect of the applicant's employment-related dispute to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, and to declare inadmissible the remainder of the application;

the applicant's observations and the decision not to admit the Government's belated observations to the case file;

the decision to request factual information and documents from the parties under Rule 54 § 2 (a) of the Rules of Court and their replies thereto;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's dismissal from the cyber police allegedly in breach of Article 8 of the Convention and Article 1 of Protocol No. 1, as well as Article 14 of the Convention and Article 1 of Protocol No. 12.

2. On 30 August 2019 the applicant signed and sent his application form to the Court. As stated therein, the final decision in the employment-related dispute had been delivered by the Supreme Court on 17 December 2018 and its duly certified copy had been served on the applicant on 1 April 2019. In substantiation, the applicant submitted a copy of a letter addressed to him from the Odesa Circuit Administrative Court of 26 March 2019 stating that his request for familiarisation with the case file had been allowed and informing him where and when that could be done. The letter also contained as enclosures the decisions of the courts of three instances in his case. The applicant submitted a copy of the envelope and the delivery tracking notice indicating that he had received that letter on 1 April 2019.

3. On 17 October 2019 the Registry of the Court sent a letter to the applicant acknowledging the receipt of the application form and indicating, inter alia, that the date of its introduction was 30 August 2019.

4. On 27 May 2021 it was decided to give notice of some of the applicant's complaints to the Government. While the latter's observations were not admitted to the file as belated, the applicant was able to submit his observations and just satisfaction claims.

5. On 20 December 2023 the President of the Section decided to apply Rule 54 § 2 (a) of the Rules of Court and to request further information and documents from the parties with a view to clarifying the date when the applicant had received, for the first time, the final ruling of the Supreme Court of 17 December 2018.

6. In reply to that request, the Government submitted that the ruling in question had been sent to the applicant by registered post and had been received by him on 29 December 2018. The Government enclosed the delivery tracking notice proving that.

7. The applicant replied to the Court's request for information and documents on 22 January 2024. He admitted the accuracy of the information provided by the Government. The applicant submitted, however, that he had not opened the envelope from the Supreme Court until March 2019. Furthermore, he argued that the copy of the ruling therein had not been duly certified and that he had therefore been obliged to request a duly certified copy. According to the applicant, he received such a copy on 1 April 2019. He considered that the application form, which he had introduced on 30 August 2019, was in compliance with the six-month time-limit to be calculated from that date.

8. In addition, the applicant stated, for the first time, that he had sent another application form to the Court on 29 June 2019, but that the post office had lost it. In substantiation, the applicant submitted copies of various postal documents, as well as his correspondence with the Ukrainian post office, from which it followed that he had indeed sent a registered parcel to the Court's address on 29 June 2019, which had been lost. The applicant also submitted screenshots of his supposed enquiry with the Court's Registry by

email on 17 July 2019 and the latter's reply of 18 July 2019 explaining the usual procedures for those wishing to introduce an application.

9. Furthermore, the applicant sent to the Court, along with his letter of 22 January 2024, a copy of what he claimed to be his application form of 29 June 2019. It did not contain his signature. Furthermore, the list of its annexes mainly referred to various mass media articles and correspondence. It did not mention any judicial decisions or any claims or appeals lodged by the applicant. It was noted in the "Remarks" field that the applicant was aware of the fact that he was introducing that application form on the latest date falling within the six-month time-limit.

THE COURT'S ASSESSMENT

10. The Court reiterates that the time-limit for lodging applications provided for in Article 35 § 1 of the Convention – six months at the material time – is a public policy rule and that it should examine the compliance with that rule of its own motion (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 29, 29 June 2012).

11. According to the well-established case-law of the Court, the six-month period starts running from the date on which the applicant and/or his or her representative has sufficient knowledge of the final decision in the process of exhaustion of domestic remedies (see *Koç and Tosun v. Turkey* (dec.), no. 23852/04, 13 November 2008, and, for a more recent reference, *Saakashvili v. Georgia* (dec.), nos. 6232/20 and 22394/20, § 47, 1 March 2022).

12. The six-month period is interrupted on the date of introduction of an application. According to Rule 47 of the Rules of Court, as in force since 1 January 2014, the date of introduction of an application for the purposes of Article 35 § 1 of the Convention is the date on which an application form satisfying the requirements of that Rule is sent to the Court. This means that an application must contain all of the information requested in the relevant parts of the application form and be accompanied by copies of the relevant supporting documents, including those relating to exhaustion of domestic remedies. The requirement in question is aimed at ensuring that the Court is provided with all the requisite material to conduct a meaningful initial examination of applications and in particular of the question whether the applicants' Convention complaints have been duly raised at the domestic level. The Court has held in that connection that failure to provide copies of relevant claims, appeals or other domestic submissions, without an adequate explanation, will normally render impossible the examination of the application by the Court and will generally result in the application not being allocated to any of the Court's judicial formations (see *Malysh and Ivanin v. Ukraine* (dec.), nos. 40139/14 and 41418/14, 9 September 2014).

13. It is established in the present case that the final judicial decision was served on the applicant on 29 December 2018 (see paragraphs 6 and 7 above). He has never alleged that its text was incomplete or that he was otherwise prevented from getting sufficient knowledge of its contents on that date. The Court therefore considers that the six-month period for the purposes of Article 35 § 1 of the Convention started running on 29 December 2018. The applicant's reference to the inexplicable three-month delay with opening the Supreme Court's envelope or some purported formal deficiencies in its ruling are of no relevance.

14. As regards the date when the six-month period was interrupted in the present case, the Court notes that it has received only one application form – dated 30 August 2019 – meeting the requirements of Rule 47 of the Rules of Court (see paragraphs 2-3 and 12 above). Even assuming, to the applicant's benefit, that his submissions to the Court and accompanying copies of documents of 22 January 2024 are accurate and credible even though they were brought to the Court's knowledge with a delay of almost four and a half years, the Court notes that the application form supposedly sent by the applicant to the Court on 29 June 2019 cannot be regarded as complying with Rule 47 of the Rules of Court, in particular, because it did not list any of the applicant's claims or appeals or any relevant judicial decisions among its annexes (see paragraphs 9 and 12 above).

15. In the light of the foregoing, the Court finds that the present application was introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 27 June 2024.

Martina Keller Deputy Registrar	Lado Chanturia President