



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

FIFTH SECTION

CASE OF KOVALENKO AND OTHERS v. UKRAINE

*(Application no. 42466/10 and 3 others -
see appended list)*

JUDGMENT

STRASBOURG

3 May 2018

This judgment is final but it may be subject to editorial revision.

In the case of Kovalenko and Others v. Ukraine,

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

André Potocki, *President*,

Síofra O’Leary,

Mārtiņš Mits, *judges*,

and Liv Tīsterstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 12 April 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Ukrainian Government (“the Government”).

THE FACTS

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

4. The applicants complained of the excessive length of civil proceedings and of the lack of any effective remedy in domestic law.

THE LAW**I. JOINDER OF THE APPLICATIONS**

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

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

6. The applicants complained that the length of the civil proceedings in question had been incompatible with the “reasonable time” requirement and

that they had no effective remedy in this connection. They relied on Article 6 § 1 and Article 13 of the Convention, which read as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

7. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities and what was at stake for the applicants in the dispute (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

8. In the leading case of *Krasnoshapka v. Ukraine* (no. 23786/02, 30 November 2006), the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

10. The Court further notes that the applicants did not have at their disposal an effective remedy in respect of these complaints.

11. These complaints are therefore admissible and disclose a breach of Article 6 § 1 and of Article 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Krasnoshapka v. Ukraine*, no. 23786/02, §§ 61 and 66, 30 November 2006), the Court considers it reasonable to award the sums indicated in the appended table.

14. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 and Article 13 of the Convention concerning the excessive length of civil proceedings;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 3 May 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

André Potocki
President

APPENDIX

List of applications raising complaints under Article 6 § 1 and Article 13 of the Convention
(excessive length of civil proceedings and lack of any effective remedy in domestic law)

| No. | Application no. Date of introduction | Applicant name Date of birth | Start of proceedings | End of proceedings | Total length Levels of jurisdiction | Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant / household (in euros) ¹ |
|-----|--|--|--|---------------------------|--|--|
| 1. | 42466/10 16/07/2010 | Igor Sergiyovych Kovalenko 03/04/1972 | 14/08/2003 | 16/07/2010 | 6 years, 11 months and 3 days 3 levels of jurisdiction | 900 |
| 2. | 31207/13 10/10/2011 (4 applicants) | <u>Household</u> Viktor Ivanovych Kolomiyets 19/09/1950 Nataliya Sergiyivna Kolomiyets 07/07/1955 Sergiy Viktorovych Kolomiyets 25/05/1975 Volodymyr Viktorovych Kolomiyets 17/04/1976 | 02/08/2004 | 22/02/2012 | 7 years, 6 months and 21 days 3 levels of jurisdiction | 1,600 |
| 3. | 19799/14 10/06/2014 | Yuliya Ivanivna Lavrynenko 01/07/1937 | 11/09/1997 (date of entry into force of the Convention in respect of Ukraine) | 18/12/2013 | 16 years, 3 months and 8 days 3 levels of jurisdiction | 1,200 |
| 4. | 26610/17 28/03/2017 | Kateryna Anatoliyivna Myronenko 07/04/1966 | 27/07/2011 13/03/2013 | 28/11/2012 pending | 1 year, 4 months and 2 days 3 levels of jurisdiction More than 5 years 3 levels of jurisdiction | 500 |

¹ Plus any tax that may be chargeable to the applicants.