



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

FIFTH SECTION

CASE OF SHVETS AND OTHERS v. UKRAINE

*(Application no. 40506/07 and 8 others -
see appended list)*

JUDGMENT

STRASBOURG

12 January 2017

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

In the case of Shvets and Others v. Ukraine,

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

Khanlar Hajiyev, *President*,

Faris Vehabović,

Carlo Ranzoni, *judges*,

and Hasan Bakırcı, *Deputy Section Registrar*,

Having deliberated in private on 15 December 2016,

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 criminal proceedings and of the lack of any effective remedy in domestic law. Some applicants also raised other complaints under the provisions of the Convention.

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 principally that the length of the criminal 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 ... any criminal charge against him, 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, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

8. In the leading case of *Merit v. Ukraine*, no. 66561/01, 30 March 2004, 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 as to 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. REMAINING COMPLAINTS

12. Some applicants submitted other complaints which also raised issues under the Convention, in accordance with the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the

Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in *Ivanov v. Ukraine*, no. 15007/02, 7 December 2006.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. 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.”

14. Regard being had to the documents in its possession and to its case-law (see, in particular, *Bevz v. Ukraine*, no. 7307/05, § 52, 18 June 2009), the Court finds it reasonable to award the sums indicated in the appended table.

15. 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 criminal proceedings;
4. *Holds* that there has been a violation as regards the other complaints raised under well-established case-law of the Court (see appended table);
5. *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 12 January 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Deputy Registrar

Khanlar Hajiyev
President

APPENDIX

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

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Other complaints under well- established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	40506/07 16/08/2007	Roman Yuriyovych SHVETS 27/05/1979		06/04/2001 24/10/2005	08/08/2003 24/03/2009	2 years, 4 months and 3 days 2 levels of jurisdiction 3 years, 5 months and 1 day 2 levels of jurisdiction		1,500
2.	12722/08 11/02/2008	Maksim Nikolayevich PLAKHOTIN 13/12/1981		11/09/2004	pending	More than 12 years, 3 months and 4 days 2 levels of jurisdiction		4,200
3.	42638/08 14/08/2008	Valentina Petrovna KIRPA 27/03/1951	Mikhail Aleksandrovich Tarakhkalo Kyiv	19/06/2002	pending	More than 14 years, 5 months and 27 days 2 levels of jurisdiction	Prot. 4 Art. 2 (1) - excessive length of obligation not to abscond	7,000
4.	24296/11 08/04/2011	Yaroslav Mykhaylovych PIDGAYNYI 06/02/1952		10/03/2000	pending	More than 16 years, 9 months and 5 days 3 levels of jurisdiction	Prot. 4 Art. 2 (1) - excessive length of obligation not to abscond	8,600
5.	53420/11 11/08/2011	Sergey Nikolayevich GOLUBNICHYI 21/10/1957		21/05/2001	16/02/2011	9 years, 8 months and 27 days 3 levels of jurisdiction	Prot. 4 Art. 2 (1) - excessive length of obligation not to abscond	3,100
6.	35684/12 05/06/2012	Valeriy Anatoliyovych RASHCHUPKO 09/03/1957		04/05/2006	10/12/2011	5 years, 7 months and 7 days 1 level of jurisdiction	Prot. 4 Art. 2 (1) - excessive length of obligation not to abscond	2,300
7.	65855/13 10/10/2013	Yevgen Olegovych LICHKOV 11/12/1971	Viktor Borysovych Vasylyuk Kyiv	28/09/2004	11/01/2015	10 years, 3 months and 15 days 2 levels of jurisdiction	Prot. 4 Art. 2 (1) - excessive length of obligation not to abscond	3,900

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
8.	22735/16 14/04/2016	Yevgeniy Igorevych KHAYKIN 17/09/1958	Dmytro Viktorovych Yagunov Kyiv	09/02/2013	29/03/2016	3 years, 1 month and 21 days 1 level of jurisdiction		900
9.	22736/16 14/04/2016	Igor Dmytrovych TREMBOVETSKYY 05/12/1963	Dmytro Viktorovych Yagunov Kyiv	09/02/2013	29/03/2016	3 years, 1 month and 21 days 1 level of jurisdiction		900

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