



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

FIFTH SECTION

CASE OF GEVEL AND OTHERS v. UKRAINE

*(Applications nos. 22271/14 and 3 others -
see appended list)*

JUDGMENT

STRASBOURG

15 November 2018

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

In the case of Gevel and Others v. Ukraine,

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

Yonko Grozev, *President*,

Gabriele Kucsko-Stadlmayer,

Lətif Hüseyinov, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 25 October 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. Notice of the applications was given 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. In application no. 6314/18 the applicant also raised another complaint 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. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

12. The applicant in application no. 6314/18 submitted another complaint under Article 2 of Protocol No. 4 to the Convention which also raised issues under the Convention, given the relevant well-established case-

law of the Court (see appended table). This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that it also discloses a violation 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 of Article 2 of Protocol No. 4 to the Convention as regards the other complaint 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 15 November 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Yonko Grozev
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's name Date of birth	Representative's 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.	22271/14 07/03/2014	Viktor Vasylyovych Gevel 13/04/1977	Oleksandr Oleksiyovych Stakhyeyev Kropyvnytskyy	16/05/2006 11/12/2009	29/01/2009 09/08/2013	2 years, 8 months and 14 days 3 levels of jurisdiction 3 years, 7 months and 30 days 3 levels of jurisdiction		500
2.	63645/17 19/08/2017	Natalya Volodymyrivna Valchuk 22/02/1974	Dmytro Viktorovych Yagunov Kyiv	25/03/2013 24/01/2017	29/09/2016 pending	3 years, 6 months and 5 days 1 level of jurisdiction More than 1 year and 8 months 1 level of jurisdiction		1,500
3.	6314/18 26/01/2018	Andriy Viktorovych Syur 10/04/1980	Igor Yuriyovych Godetsky Kyiv	07/12/2012	pending	More than 5 years and 9 months 2 levels of jurisdiction	Prot. 4 Art. 2 (1) - excessive length of obligation not to abscond: prolonged personal undertaking limiting the freedom of movement - 5 years and 3 months and still pending	2,000
4.	7203/18 26/01/2018	Vyacheslav Yuriyovych Gratsiotov 18/02/1991	Oleksiy Olegovych Glazov Odesa	24/08/2010	10/10/2017	7 years, 1 month and 17 days 3 levels of jurisdiction		900

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