



Suspect in weapons trading ill-treated by Ukrainian police

In today's Chamber judgment in the case [Bocharov v. Ukraine](#) (application no. 21037/05), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

A violation of Article 3 (prohibition of inhuman and degrading treatment and lack of an effective investigation) of the European Convention on Human Rights.

The case concerned Mr Bocharov's allegation that he was arrested in suspicious circumstances and severely beaten by the police in order to make him confess to storing and trading in weapons.

Principal facts

The applicant, Yevgeniy Yuryevich Bocharov, is a Ukrainian national who was born in 1970 and lives in Kharkiv (Ukraine).

According to Mr Bocharov, he was arrested on 11 April 2002 by the Kharkiv regional police department. He was severely beaten both in a forest, where he was initially taken, and then at a police station. As a result, he confessed to storing and trading in weapons.

Mr Bocharov was hospitalised almost immediately after being released the next day. On admission he was reported as having injuries to his head, chest, kidneys as well as broken ribs and concussion. He informed the medical staff that he had been beaten by the police. He was discharged on 4 May 2002.

While still in hospital he lodged a formal complaint with the prosecuting authorities accusing three police officers of the Kharkiv regional police department of ill-treatment.

Following a referral letter issued by the prosecutor, Mr Bocharov was examined by a medical expert on 15 August 2002. The ensuing report noted light to medium injuries to the chest and kidneys as well as concussion.

Between June 2002 and November 2007, the criminal investigation into the allegations was closed and reopened on a number of occasions with orders to carry out the investigation further. Notably, in December 2002 the investigation was resumed with an order to investigate Mr Bocharov's complaint that he had been ill-treated by officers of the Kharkiv regional police department and not the Moskovskiy district police department. Furthermore, in January 2003 the accused police officers were questioned and in May 2003 a confrontation was arranged between them and Mr Bocharov.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

Ultimately, in November 2007 the criminal proceedings were terminated due to lack of evidence.

The Government denied Mr Bocharov's allegations, submitting that he had been summoned by the police for questioning and that, as a result, ammunition stored at his home and outside the city had been seized.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Bocharov alleged that he had been severely beaten by the police and that no effective investigation had been carried out into his allegation.

The application was lodged with the European Court of Human Rights on 18 April 2005.

Judgment was given by a Chamber of seven, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,
Elisabet **Fura** (Sweden),
Karel **Jungwiert** (the Czech Republic),
Boštjan M. **Zupančič** (Slovenia),
Mark **Villiger** (Liechtenstein),
Ganna **Yudkivska** (Ukraine),
Angelika **Nußberger** (Germany), *Judges*,

and also Stephen **Phillips**, *Deputy Section Registrar*.

Decision of the Court

Article 3

Within hours of his release from the police station Mr Bocharov was taken to hospital in a state of health that was such that he had to stay there for more than 20 days. The injuries initially diagnosed in hospital were further corroborated by Mr Bocharov's consistent account of the suspicious circumstances of his arrest and detention as well as ill-treatment. As a detainee, Mr Bocharov was under the control of the State and it was therefore responsible for finding and prosecuting those who had caused him such harm. Having failed to do so, the Court considered that Mr Bocharov had sustained his injuries as a result of inhuman and degrading treatment for which the Ukrainian Government was responsible, in violation of Article 3.

What is more, there were delays in: securing medical evidence – for example failure to order an expert medical report while Mr Bocharov was still in hospital – despite the fact that he had told staff there that he had been ill-treated and that he had lodged a formal complaint while still hospitalised; and, furthering the investigation – notably, the accused police officers had only been questioned nine months after the alleged beating and the confrontation between them and Mr Bocharov more than a year later. Indeed, the investigation had even been directed at first – until December 2002 – against the wrong police department. Given those serious shortcomings, the Court considered that the domestic authorities had not adequately investigated Mr Bocharov's allegations of ill-treatment, in further violation of Article 3.

Article 41 (just satisfaction)

The Court held that Ukraine was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 5,000 for costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.