

## Applicant's inability to obtain a review of a prohibition on leaving the country until a debt had been fully paid off was in breach of the Convention

In today's Chamber judgment<sup>1</sup> in the case of [Stetsov v. Ukraine](#) (application no. 5170/15) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 2 of Protocol No. 4 (freedom of movement) to the European Convention on Human Rights.**

The case concerned a ban on leaving the country imposed on Mr Stetsov on account of a failure to reimburse a debt established by a judgment. According to domestic law at the material time, that prohibition could not be lifted until the full amount of the debt had been reimbursed. The ban had thus lasted for at least four years.

As regards the restrictions imposed on the grounds of unpaid debts, the Court emphasised that such measures could only be justified if they pursued the aim of guaranteeing the recovery of the debts in question. Accordingly, the authorities could not extend the restrictions for long amounts of time without a periodical review of their justification.

In the present case, the Court considered that Mr Stetsov had been subjected to measures which had been insufficiently justified and could not have been re-examined or reviewed until the strict deadline constituted by the date of full reimbursement. The Ukrainian authorities had therefore failed to honour the obligation to ensure that any interference with a person's right to leave his country was justified and proportionate *vis-à-vis* the circumstances, right from the outset and for the duration of the interference.

Nevertheless, the Court took note of the 2017 and 2018 reform of civil procedure, which allowed debtors to bring proceedings to lift travel restrictions. That reform had, however, come into effect after the events which had given rise to Mr Stetsov's application.

### Principal facts

The applicant, Oleg Nikolayevich Stetsov, is a Ukrainian national who was born in 1969 and lives in Dergachi (Ukraine).

In 2008 Mr Stetsov had stood surety for a loan contract between a bank and a commercial company. At a later date, following the company's failure to reimburse the loan, the bank sued Mr Stetsov in order to recover the remaining debt and the late-payment penalties. In 2014 a court of appeal allowed the bank's action. In the same year Mr Stetsov was prohibited from leaving the country until he had fully paid off the debt. The latter prohibition was ordered by the Kyiv Court of Appeal. Subsequently Mr Stetsov submitted several requests to lift the prohibition on leaving the country, but they were all dismissed on the grounds that the prohibition could only be lifted when the debt had been reimbursed in its entirety.

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](http://www.coe.int/t/dghl/monitoring/execution).

## Complaints, procedure and composition of the Court

Relying on Article 2 of Protocol No. 4 (freedom of movement) to the Convention, Mr Stetsov complained of an infringement of his freedom of movement and of his right to leave the country.

The application was lodged with the European Court of Human Rights on 19 January 2015.

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

Síofra O'Leary (Ireland), *President*,  
Mārtiņš Mits (Latvia),  
Ganna Yudkivska (Ukraine),  
Stéphanie Mourou-Vikström (Monaco),  
Jovan Ilievski (North Macedonia),  
Lado Chanturia (Georgia),  
Mattias Guyomar (France),

and also Victor Soloveytchik, *Section Registrar*.

## Decision of the Court

### [Article 2 of Protocol No. 4 \(freedom of movement\)](#)

The Court noted that Mr Stetsov had been banned from leaving the country for at least four years. It considered that this ban affecting the applicant's right to freedom of movement amounted to an interference for the purposes of Article 2 of Protocol No. 4. Such interference was prescribed by law (section 6 of the Law on the procedure for entry into and departure from Ukrainian territory in respect of Ukrainian nationals) and pursued a legitimate aim (protection of the rights of others).

As regards the proportionality of the interference, the Court reiterated that even where a measure restricting an individual's freedom of movement was originally justified, it could become disproportionate if it was automatically extended over a long period.

With more specific regard to restrictions imposed for reasons of unpaid debts, the Court pointed out that such measures were only justified if they pursued the aim of guaranteeing the recovery of the debts in question. Accordingly, the authorities could not extend the restrictions for very long periods without a periodical review of their justification.

The Court considered, in the light of the proportionality principle, that in addition to being difficult to establish and leaving a wide margin for subjectivity, the debtor's intention in cases of non-payment of the judgment debt could not be the sole grounds justifying the impugned restriction where it continued beyond a brief initial period. Indeed, the competent department should be capable of explaining how the travel ban might help recover the debt, having regard to the applicant's particular situation and any other specific circumstances of the case.

In Mr Stetsov's case, according to the national authorities who had initiated and authorised the measure in question, neither the court nor the bailiff had been competent to lift the prohibition or to review its expediency and effectiveness. It transpired from the domestic law at the time and from the position taken by the national authorities that once the prohibition had been imposed, it could only be lifted when the debt had been fully reimbursed by Mr Stetsov. In the Court's view, such provisions were contrary to Article 2 of Protocol No. 4 to the Convention.

Nevertheless, the Court took note of the 2017 and 2018 reform of civil procedure (Article 441 of the Code of Civil Procedure), which allowed debtors to bring proceedings to lift travel restrictions. That reform had, however, come into effect after the events which had given rise to the present application.

Having regard to those considerations, the Court held that Mr Stetsov had been subjected to measures which had been insufficiently justified and could not have been re-examined or reviewed until the deadline constituted by the date of full reimbursement. It therefore concluded that the Ukrainian authorities had failed to honour its obligation under Article 2 of Protocol No. 4 to the Convention to ensure that any interference with a person's right to leave his country was justified and proportionate *vis-à-vis* the circumstances, right from the outset and for the duration of the interference.

**There had therefore been a violation of Mr Stetsov's right to freedom of movement.**

#### **Just satisfaction (Article 41)**

The Court held that Ukraine was to pay Mr Stetsov 1,000 euros (EUR) in respect of non-pecuniary damage and EUR 850 in respect of costs and expenses.

*The judgment is available only in French.*

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