



ECHR finds that judge's dismissal as the president of a court was unfair, rejects complaint of private life violation

In today's **Grand Chamber** judgment¹ in the case of [Denisov v. Ukraine](#) (application no. 76639/11) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights.

It declared **inadmissible** a complaint under **Article 8 (right to respect for private and family life)**.

The case concerned the applicant's removal from the post of president of the Kyiv Administrative Court of Appeal.

The Court found that the way that the High Council of Justice had first dismissed Mr Denisov as president of the court owing to managerial inefficiency and that the Higher Administrative Court had later reviewed that decision had revealed similar issues as in the case of [Oleksandr Volkov v. Ukraine](#). The first body had not been sufficiently independent and impartial and the second had not been able to remedy the defects of the first set of proceedings. There had therefore been a violation of the right to a fair trial.

After a review of its case-law, the Court noted that the protection of private life under Article 8 of the Convention could also be relied on in work-related disputes. However, it could not be applied in Mr Denisov's particular case as the reasons for his dismissal had not been linked to his private life and the dismissal itself had not had a significant impact on his private life after that. For instance, the consequences he had suffered in terms of lost prestige for no longer being the president of a court or because of the loss of salary, had not been severe enough to bring this provision of the Convention into play.

Principal facts

The applicant, Anatoliy Oleksiyovych Denisov, is a Ukrainian national who was born in 1948 and lives in Kyiv (Ukraine).

In June 2011 the Ukrainian High Council of Justice dismissed Mr Denisov from his role as president of the Kyiv Administrative Court of Appeal – though he continued to serve as a regular judge there.

The High Council of Justice considered that the administration of justice in the court had not been properly organised because of Mr Denisov's failure to duly perform the duties of president. Mr Denisov challenged his dismissal before the Higher Administrative Court, but his claim was dismissed as unsubstantiated.

In June 2013 Parliament also dismissed Mr Denisov from his remaining role as a judge, after he had tendered a statement of resignation.

Complaints, procedure and composition of the Court

Mr Denisov complained under Article 6 § 1 (right to a fair trial) of the European Convention that the proceedings before the two supervisory bodies had not been compatible with the requirements of

1. Grand Chamber judgments are final (Article 44 of the Convention).

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independence and impartiality. He also alleged that the second body had not provided a sufficient review of his case, impairing his right of access to a court.

He also complained about his dismissal as president of the court under Article 8 (right to respect for private life) of the Convention.

The application was lodged with the European Court of Human Rights on 8 December 2011. On 25 April 2017 the Chamber relinquished jurisdiction in favour of the Grand Chamber.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Guido **Raimondi** (Italy), *President*,
Angelika **Nußberger** (Germany),
Linos-Alexandre **Sicilianos** (Greece),
Ganna **Yudkivska** (Ukraine),
Helena **Jäderblom** (Sweden),
Robert **Spano** (Iceland),
Vincent A. **De Gaetano** (Malta),
Erik **Møse** (Norway),
André **Potocki** (France),
Yonko **Grozev** (Bulgaria),
Carlo **Ranzoni** (Liechtenstein),
Mārtiņš **Mits** (Latvia),
Gabriele **Kucsko-Stadlmayer** (Austria),
Alena **Poláčková** (Slovakia),
Georgios A. **Serghides** (Cyprus),
Marko **Bošnjak** (Slovenia),
Péter **Paczolay** (Hungary),

and also Françoise **Elens-Passos**, *Deputy Registrar*.

Decision of the Court

[Article 6 § 1](#)

The Court noted that the bodies and constitutional arrangements involved in this case were the same as in *Oleksandr Volkov*, where it had found a violation of the Convention after Mr Volkov had been dismissed as a judge.

In Mr Denisov's case, it held that the Ukrainian High Council of Justice, which had initially dismissed him for his managerial failings as president of the Kyiv Administrative Court of Appeal, was not sufficiently impartial and independent. Of the personnel who had made the decision to remove him, judges constituted the minority and there were members of the Council who were dependent in some way for their careers and salaries on other parts of the State apparatus. In addition, one of the judges had been the chairman of the preliminary inquiry which had recommended Mr Denisov's dismissal.

The Higher Administrative Court, to which Mr Denisov had then appealed, had in turn failed to provide a sufficient review of the case. It had, for instance, stated that Mr Denisov had not contested the facts behind his dismissal, which was not the case. It had also not genuinely taken up his allegations of a lack of impartiality against the first body.

In addition, the Higher Administrative Court itself was under the disciplinary jurisdiction of the High Council of Justice, meaning that its judges could not show, in the circumstances of the case, the independence and impartiality required under the Convention.

Article 8

The Court observed that people involved in work-place disputes could in certain circumstances seek to enforce their right to respect for their private life under the Convention. Such situations, for example, included those where people had been disqualified from a certain position because of their sexual orientation or because of other personal choices made as part of their private life.

Otherwise, applicants could seek redress because they had suffered consequences owing to such a work-place dispute, including a negative impact on an individual's relationships with others or a loss of reputation. Applicants had to provide clear evidence that such consequences had reached the necessary threshold for a finding that Article 8 applied.

The Court noted that Mr Denisov had been dismissed as the president of a court, but that he had been able to carry on his career as a judge until his resignation. He had provided no evidence that the reduction in his monthly income from losing his position as court president had seriously affected his private life, and he had not suffered a major impact on his ability to establish and develop relationships with others. Furthermore, his professional reputation had not been badly damaged as his work as a judge had never been questioned. The measure had also not raised any wider ethical questions linked to his personality and character.

The Court found overall that the effects of the dismissal on Mr Denisov's private life had not crossed the threshold of seriousness for an issue to be raised under Article 8 and so this part of the application was inadmissible.

The Court also rejected his complaints under Article 18 (limitation on use of restrictions on rights) and Article 1 of Protocol No. 1 to the Convention (protection of property).

Just satisfaction (Article 41)

The Court held that Ukraine was to pay the applicant 3,000 euros (EUR) in respect of non-pecuniary damage, and EUR 3,000 in respect of 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.