



Judgments and decisions of 15 September 2022

The European Court of Human Rights has today given notification in writing of 39 judgments¹ and 81 decisions²:

seven Chamber judgments are summarised below;

a separate press release has been issued for one Chamber judgment in the case of *Rabczewska v. Poland* (application no. 8257/13);

a separate press release has also been issued for one decision in the case of *Makovetsky v. Ukraine* (no. 50824/21);

31 Committee judgments, concerning issues which have already been examined by the Court, and the 80 decisions can be consulted on [Hudoc](#) and do not appear in this press release.

The judgments summarised below are available only in English.

Anatoliy Yeremenko v. Ukraine (application no. 22287/08)

The applicant, Anatoliy Vasylyovych Yeremenko, is a Ukrainian national who was born in 1949 and lives in Kyiv. He is a journalist.

The case concerns defamation proceedings and an injunction against the applicant which resulted from an article written by him in the weekly publication *Dzerkalo Tyzhnya*. The article concerned alleged judicial corruption, in particular a judgment delivered in Donetsk on the basis of a forged copy of a document.

Relying on Article 10 (freedom of expression), Article 6 § 1 (right to a fair trial) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights, and Article 1 of Protocol No. 1 (protection of property) to the European Convention, the applicant complains, in particular, of the order to remove the article from the newspaper website, of his being held liable for it, of a violation of his intellectual property, and of professional discrimination.

No violation of Article 10 on account of the domestic courts' decisions in the injunction proceedings
Violation of Article 10 on account of the domestic courts' decisions in the defamation proceedings

Just satisfaction:

non-pecuniary damage: 4,500 euros (EUR)

costs and expenses: EUR 147

Kaganovskyy v. Ukraine (no. 2809/18)

The applicant, Volodymyr Volodymyrovych Kaganovskyy, is a Ukrainian national who was born in 1958.

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a judgment's 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. Under Article 28 of the Convention, judgments delivered by a Committee are final.

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.

² Inadmissibility and strike-out decisions are final.

The case concerns Mr Kaganovskyy's confinement in the "enhanced (intensive) supervision unit" of the Kyiv Psychoneurological Residential Institution (KPRI) for a period of ten days in 2017, which in his opinion was an isolation ward. He had been voluntarily admitted to the KPRI in 2014.

He relies on Article 5 §§ 1, 4 and 5 (right to liberty and security) and Article 3 (prohibition of inhuman or degrading treatment) of the European Convention.

Violation of Article 3 on account of the conditions of the applicant's confinement in the KPRI unit

Violation of Article 5 § 1

Violation of Article 5 § 4

Violation of Article 5 § 5

Just satisfaction:

The Court noted that in the present case the applicant had died in the course of the proceedings before it without leaving any heirs who had expressed the wish to pursue his application. Accordingly, the Court did not award any sum in respect of non-pecuniary damage.

Costs and expenses: EUR 5,000

M.K. v. Ukraine (no. 24867/13)

The applicant, M.K. is a Ukrainian national who was born in 1980 and lives in Mykolayiv.

The case concerns an allegedly unlawful blood test for human immunodeficiency virus (HIV) that was carried out on M.K. – then a border guard – in a military hospital, the results of which were conveyed to third parties but were not sent to her. It also concerns the resulting court action.

Relying on Article 8 (right to respect for private life) of the Convention, she complains, in particular, that the test was carried out without her consent, of the hospital's concealing the results, and of its staff disclosing the results to third parties.

Violation of Article 8 on account of the hospital's failure to inform the applicant of the results of her HIV testing and the disclosure of the applicant's HIV-positive status to her mother and at her place of work

Just satisfaction:

non-pecuniary damage: EUR 5,000

costs and expenses: EUR 1,000

O.M. and D.S. v. Ukraine (no. 18603/12)

The applicants, O.M. and D.S., are Kyrgyz nationals who were born in 1968 and 2007 respectively and live in the Netherlands. O.M. is D.S.'s mother.

O.M. – an ethnic Ukrainian – was a journalist and former member of the Kyrgyz Parliament. In 2010, following O.M.'s husband's suspicious death, civil unrest and her having been charged with connected crimes, the applicants fled Kyrgyzstan for Kazakhstan, ultimately electing to move to Europe to seek asylum there. The case concerns their treatment in Kyiv Airport by the authorities when they sought protection on arrival. They were removed to Georgia. They were ultimately given asylum in the Netherlands, allegedly on account of their fear of ill-treatment and an unfair trial if returned to Kyrgyzstan.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Article 5 (right to liberty and security), Article 13 (right to an effective remedy), and Article 34 (right of individual application), the applicants complain, in particular, that their removal to Georgia was in breach of the interim measure indicated by the Court and did not take account of the risk to them of real harm if returned

to Kyrgyzstan, of a lack of an effective remedy in that respect, and of unlawful detention by Ukrainian border guards.

Violation of Article 3

Violation of Article 34

Just satisfaction:

non-pecuniary damage: EUR 7,500

Stanislav Lutsenko (no. 2) v. Ukraine (no. 483/10)

The applicant, Stanislav Nikolayevich Lutsenko, is a Ukrainian national who was born in 1977 and lives in Makiyivka (Ukraine).

The case concerns Mr Lutsenko's treatment by the prison authorities, in particular alleged reprisals, following a judgment by the Court in his favour (*Lutsenko v. Ukraine*, no. 30663/04) in 2008. The actions included, among other things, transfers to three different prisons and disciplinary sanctions.

Relying on Article 8 (right to respect for private and family life), Article 18 (limitation on use of restrictions of rights), and Article 34 (right of individual petition), Mr Lutsenko complains, in particular, of his life in prison being adversely affected by the authorities' alleged reprisals.

Violation of Article 8

Just satisfaction:

non-pecuniary damage: EUR 4,500

costs and expenses: EUR 850

Vadym Melnyk v. Ukraine (no. 62209/17)

The applicant, Vadym Anatoliyovych Melnyk, is a Ukrainian national who was born in 1970 and lives in Vyshenki (Kyiv Region).

Mr Melnyk was arrested in 2017 and charged with serious crimes including organisation of kidnapping and organisation of murder. The case concerns, in particular, his placement in a metal cage in the courtroom during the trial, the lawfulness of his pre-trial detention, and his medical treatment while in detention.

He relies on Article 3 (prohibition of inhuman and degrading treatment) and Article 5 § 1 and 3 (right to liberty and security), and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court).

Violation of Article 3

Violation of Article 5 § 1

Violation of Article 5 § 3 regarding the applicant's deprivation of liberty from 16 May 2017 to 22 August 2019

No violation of Article 5 § 4

Just satisfaction:

non-pecuniary damage: EUR 10,000

the Court rejected the claim in respect of cost and expenses.

Zakarpatska Oblasna Spilka Spozhyvchykh Tovarystv and Others v. Ukraine (nos. 65719/10, 42520/10 and 54581/10)

The applicants are an association of consumer cooperatives based in Uzhhorod (Ukraine), Zakarpatska Oblasna Spilka Spozhyvchykh Tovarystv, and two Ukrainian nationals, Neonila Grygoriivna Ageyeva and Svitlana Valentynivna Khlabytova, who were born in 1939 and 1960 and live in Luhansk and Yalta (both Ukraine) respectively.

The case concerns domestic court decisions on commercial disputes, and in particular the Constitutional Court's setting out the competence of the Supreme Court in determining such disputes. This led to the applicants' cassation appeals in such cases not being examined by the Supreme Court but instead being returned to them.

Relying on Article 6 § 1 (right to a fair trial), the applicants complain that they were arbitrarily deprived of access to the Supreme Court.

Violation of Article 6 § 1 in respect of the right of access to the Supreme Court of the first applicant
No violation of Article 6 § 1 in respect of the unreasonable length of the proceedings in the first application.

Just satisfaction:

non-pecuniary damage: the first applicant did not submit any claim in respect of non-pecuniary damage

costs and expenses: EUR 1,500 to the first applicant

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Press contacts

echrpess@echr.coe.int | tel: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.