



Judgments concerning the Czech Republic and Ukraine

The European Court of Human Rights has today notified in writing the following 12 judgments, of which one (*Kryzhanivskyy v. Ukraine*) is a Committee judgment and is final. The others are Chamber judgments and are not final¹.

One length-of-proceedings case, with the Court's main finding indicated, can be found at the end of the press release. The judgments are available only in English.

Pekárny a cukrárny Klatovy, a.s. v. the Czech Republic (application nos. 12266/07, 40059/07, 36038/09 and 47155/09)

The case concerned a number of court decisions prohibiting the applicant company from convening general meetings, imposed between 2005 and 2009 as interim measures in proceedings concerning a dispute over the ownership of 90 percent of the company's shares. Relying in particular on Article 1 of Protocol No. 1 (protection of property) and Article 6 (right to a fair trial), the applicant company complained that those measures had interfered with its peaceful enjoyment of its possessions and that they had been ordered in proceedings to which it was not a party. The company had therefore not been able to challenge the measures and had had no effective remedies against them.

No violation of Article 1 of Protocol No. 1

No violation of Article 6 (in applications nos. 12266/07 and 40059/07)

Violation of Article 6 (in applications nos. 36038/09 and 47155/09)

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant company. It awarded to the company 3,000 euros (EUR) for costs and expenses.

Borisenko v. Ukraine (no. 25725/02)

The applicant, Sergey Borisenko, is a Ukrainian national who was born in 1967 and lives in Novotroitske (Ukraine). Convicted of robbery and sentenced to seven years' imprisonment in June 2005, he complained of the length of his pre-trial detention in a temporary detention centre, where he remained after having fully served a previous prison sentence in July 2003. He relied on Article 5 § 3 (right to liberty and security). Relying further on Article 6 § 1 (right to a fair trial), he also complained about the excessive length of the criminal proceedings against him.

Violation of Article 5 § 3

Violation of Article 6 § 1 (length)

Just satisfaction: EUR 1,700 (non-pecuniary damage)

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

Dovzhenko v. Ukraine (no. 36650/03)

The applicant, Sergey Dovzhenko, is a Ukrainian national who was born in 1972 and is currently serving a life sentence for murder. Convicted in September 2003 by a judgment eventually upheld by the Supreme Court in April 2005, he complained under Article 6 § 2 (presumption of innocence) about newspaper articles which had reported on the proceedings against him and in which law enforcement officers had referred to him as a "criminal". Relying further on Article 6 §§ 1 and 3 (right to a fair trial), Mr Dovzhenko complained that he had not been represented by a lawyer before the Supreme Court and that he had not had an opportunity to study all the materials in the case file. Lastly, he complained that the authorities had refused to dispatch his correspondence during his detention while his case was considered by the Supreme Court, in breach of Article 8 (right to respect for private and family life and correspondence).

Violation of Article 6 § 2

Violation of Article 6 §§ 1 and 3 (c) (fairness)

Violation of Article 8

Just satisfaction: The applicant did not submit a claim for just satisfaction.

Feldman v. Ukraine (no. 2) (no. 42921/09)

The applicant, Boris Feldman, is a Ukrainian national who was born in 1958 and lives in Dnipropetrovsk (Ukraine). The vice-president and majority shareholder of a bank, he was convicted of embezzlement in April 2002. Relying on Article 8 (right to respect for private and family life) and Article 9 (freedom of thought, conscience and religion), he complained that he had not been allowed to receive family visits, to attend his father's funeral, or to see a rabbi during his pre-trial detention.

Two violations of Article 8 (concerning both the refusal to authorise family visits as well as to allow the applicant to attend his father's funeral)

Just satisfaction: The applicant did not submit a claim for just satisfaction

Gorovenky and Bugara v. Ukraine (nos. 36146/05 and 42418/05)

The applicants are five Ukrainian nationals. They are the relatives of two men who were shot in November 1999 by a police officer who was off-duty, and who was later sentenced to life imprisonment. Relying on Article 2 (right to life), the applicants complained that by not having supervised the keeping and use of firearms by one of its officers, the State had failed to protect their relatives' lives.

Violation of Article 2 (life)

Just satisfaction: EUR 12,000 each to four of the applicants in respect of non-pecuniary damage; and, EUR 150 to the first applicant and EUR 2,099 to the third applicant for costs and expenses.

Iglin v. Ukraine (no. 39908/05)

The applicant, Ruslan Iglin, is a Ukrainian national who was born in 1981 and is currently serving a life sentence for a number of offences, including murder. Convicted in 2005, he complained in particular that the conditions of his detention in a pre-trial detention facility, where he was held between January 2004 and August 2006, had been degrading, in particular due to inadequate sanitary and health-care arrangements. He relied on Article 3 (prohibition of inhuman or degrading treatment). Further relying on

Article 6 §§ 1 and 3 (b) and (c) (right to a fair trial), he also complained that the Supreme Court in the appeal proceedings had denied his requests for additional time to familiarise himself with the case file and to ensure the participation of a lawyer in the cassation hearing. Lastly, he complained, under Article 13 (right to an effective remedy), that he had not had effective remedies in respect of his complaints and, under Article 34 (right of individual petition), that the first-instance court had refused to provide him with copies of documents from the case file requested by the European Court of Human Rights.

Violation of Article 3 (conditions of detention)

Violation of Article 6 § 1 in conjunction with Article 6 § 3 (b) and (c) (fairness)

Violation of Article 13

No violation of Article 34

Just satisfaction: EUR 15,000 (non-pecuniary damage)

Igor Shevchenko v. Ukraine (no. 22737/04)

The applicant in this case was Igor Shevchenko, a Ukrainian national who was born in 1979 and died in 2010, and whose application was pursued after his death by his mother. Hit by a car on a pedestrian crossing in 1993 and left severely disabled, Mr Shevchenko complained that the investigation of the accident had been lengthy and ineffective. He relied on Article 2 (right to life), Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy).

Violation of Article 2 (investigation)

Just satisfaction: EUR 8,000 (non-pecuniary damage)

Kiryakov v. Ukraine (no. 26124/03)

The applicant, Aleksandr Kiryakov, is a Ukrainian national who was born in 1949 and lives in Lysychansk (Ukraine). The director of the State Melnikova coal mine at the time, he was charged with a number of offences in 2002, including abuse of authority in connection with the acquisition of portable telephones for the mine and tax evasion. All charges were eventually dropped, the last relevant court decision being taken in September 2007. Relying in particular on Article 6 § 1 (right to a fair trial), Mr Kiryakov complained that the criminal proceedings against him had been unreasonably long and that he had never been reinstated in his position as director of the mine, notwithstanding two court orders in this regard.

Violation of Article 6 § 1 (length)

Just satisfaction: EUR 1,200 (non-pecuniary damage)

Todorov v. Ukraine (no. 16717/05)

The applicant, Igor Todorov, is a Ukrainian national who was born in 1966 and lives in Simferopol (Ukraine). Suffering from a number of illnesses, including a serious eye disease, and having served a seven-year prison sentence for membership in a criminal association and robbery, he complained that the healthcare arrangements during his detention had been inadequate and had led to him losing his eyesight. He relied on Article 3 (prohibition of inhuman or degrading treatment). Relying on Article 5 § 3 (right to liberty and security), he complained that his pre-trial detention, between August 1999 and November 2004, had been unjustifiably long. Further relying on Article 6 §§ 1, 2 and 3 (c) (right to a fair trial), he also complained that the criminal proceedings against him

had been unfair, because he was not represented by a lawyer at the initial stage of the proceedings, and that they had been unreasonably long.

Violation of Article 3 (inadequate medical care)

Violation of Article 5 § 3

Violation of Article 6 §§ 1 and 3 (c) (fairness – applicant’s initial questioning without a lawyer)

Violation of Article 6 § 1 (length)

Just satisfaction: EUR 18,000 (non-pecuniary damage)

Trymbach v. Ukraine (no. 44385/02)

The applicant, Viktor Trymbach, is a Ukrainian national who was born in 1954 and lives in Krivyy Rig (Ukraine). Sentenced to prison for having shot to death three people who were trying to steal metal parts of an electricity station near his farm in May 2000, he complained in particular that his right to defence had been violated, because at the initial stage of the investigation he had not had a lawyer, although legal representation was obligatory under domestic law. He relied on Article 6 §§ 1 and 3.

No violation of Article 6 §§ 1 and 3 (c) (fairness)

Ustyantsev v. Ukraine (no. 3299/05)

The applicant, Sergey Ustyantsev, is a Ukrainian national who was born in 1972 and is currently in custody. Convicted of car theft and sentenced to prison in 2003, he complained that the conditions of his detention pending trial had been in violation of Article 3 (prohibition of inhuman or degrading treatment). He also complained, under Article 34 (right of individual petition), that he had been unable to provide copies of documents in support of his application, as his relevant requests had been disregarded by the authorities.

Violation of Article 3 (conditions of detention)

No violation of Article 34

Just satisfaction: EUR 6,000 (non-pecuniary damage)

Length-of-proceedings cases

In the following case, the applicant complained in particular about the excessive length of (non-criminal) proceedings.

Kryzhanivskyy v. Ukraine (no. 36619/05)

Violation of Article 6 § 1

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Press contacts

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

Emma Hellyer (tel: + 33 3 90 21 42 15)

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

Kristina Pencheva-Malinowski (tel: + 33 3 88 41 35 70)

Nina Salomon (tel: + 33 3 90 21 49 79)

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

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.