

## SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



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Meeting: 1186 meeting (3-5 December 2013) (DH)

Item reference: Action plan (14/11/2013)

Communication from Ukraine concerning the case of Karabet and others against Ukraine (Application No. 38906/07)

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Réunion : 1186 réunion (3-5 décembre 2013) (DH)

Référence du point : Plan d'action

Communication de l'Ukraine relative à l'affaire Karabet et autres contre Ukraine (requête n° 38906/07)  
**(Anglais uniquement)**

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Annex to the letter of Acting Government Agent  
before the European Court of Human Rights  
of \_\_\_\_\_ 2013 no. \_\_\_\_\_

**Action plan**  
**on measures to comply with the Court's judgment**  
**in the case of Karabet and others v. Ukraine**  
(appl. nos 38906/07 and 52025/07, judgment of 17/01/2013, final on 17/04/2013)

The applicants are 18 Ukrainian nationals who were serving prison sentences in Izyaslav Prison, where, on 14 January 2007, they participated in a hunger strike to protest against the conditions of their detention. The case concerned the applicants' complain under Article 3 (prohibition of torture) of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the Convention) of having been ill-treated during and after the security operation following the strike. They further complained, under Article 13 (right to an effective remedy) of the Convention, that the investigation of these allegations was ineffective. Finally, applicants complained under Article 1 of Protocol No. 1 to the Convention that their personal belongings had not all been returned to them following their hasty transfer to different detention facilities.

The Court held that there were violations of Article 3 of the Convention (with the respect of all the applicants except for the seventeenth) on account of:

- the applicants' torture in the prison and the detention center;
- lack of an effective investigation into the applicants' allegation of torture;

The Court also held that there has been the violation of Article 1 of Protocol No. 1 on account of the failure of the Izyaslav Prison's administration to return personal belongings to the applicants (with the exception of the seventeenth applicant).

### **1. Individual measures**

In the light of Court's conclusions in the present case individual measures are just satisfaction payment and review of the impugned proceedings (restitution in integrum).

#### *1.1. Just satisfaction*

The Court awarded the just satisfaction to be paid (*see the list of applicants the just satisfaction was awarded to, the sum of just satisfaction awarded and the date of payment in the table below*) in respect of non-pecuniary damages and costs and expenses, plus any taxes that may be chargeable to the applicants.

No.	Name of the Applicants	Sum, UAH	Date & Notes
1	Karabet Olena Ivanivna	263,209.50	02/10/2013, for Karabet Vitaliy Nikolayevich
2	Beksyak Artyom Valeriyevich	263,209.50	18/09/2013
3	Shorban Igor Vladimirovich	263,209.50	27/09/2013
4	Knyshov Konstantin Georgiyevich	263,209.50	13/09/2013
5	Kolesnikov Aleksandr Anatolyevich	263,209.50	06/09/2013
6	Shmyglenko Yuriy Yevgenyevich	366,954.63	16/09/2013
7	Lebedev Denis Nikolayevich	263,209.50	06/09/2013
8	Shalamay Igor Yaroslavovich	263,209.50	20/09/2013
9	Danylyuk Aleksey Vladimirovich	263,209.50	30/09/2013
10	Tovsultanov Anzor	263,209.50	06/09/2013

	Umarkhanovich		
11	Khodakivska Viktoriya Gennadiyivna	263,209.50	26/09/2013, for Khodakovsiy Konstantin Aleksandrovich
12	Krasovskiy Mikhail Yuryevich	263,209.50	21/09/2013
13	Globenko Dmitriy Sergeyevich	263,209.50	06/09/2013
14	Klimashenko Nikolay Dmitriyevich	263,209.50	06/09/2013
15	Plokhov Yevgeniy Leonidovich	263,209.50	06/09/2013
16	Garbuz Tetyana Olegivna	263,209.50	23/09/2013, for Ivanov Aleksandr Stanislavovich
17	Batashev Maksim Sergeyevich	263,209.50	19/09/2013

The interest for the applicants is pending to be paid. The Government will submit further information as to its execution.

#### *1.2. Restitutio in integrum*

By the letters of 17 May 2013 and 1 June 2013 (addressed to the mother of one of the applicants) the Government of Ukraine informed all the applicants about the possibility provided by the legislation in force to apply for the review of the impugned proceedings. According to the information available, the applicants didn't avail themselves of such possibility.

## **2. General measures**

The Government believe that the violations found in the present case are caused by the deficiencies in national legislation as well as in administrative practice of the law-enforcement authorities and require, therefore, respective legislative amendments and changes in administrative practice.

In the context of procedural limb of Article 3 of the Convention the Government note that the measures implemented in respect of eliminating legislative shortcomings and change of administrative practice were already summarized in action plans/reports in the cases of *Nechiporuk and Yonkalo v. Ukraine*, *Kaverzin v. Ukraine* and in the cases of *Afanasiev group*.

### **3. Publication and dissemination**

The summary of the judgment was published in the Government's Courier [Uriadovyi Kurier], no. 35 of 30.05.2013 and placed on the Ministry of Justice of Ukraine official web-site. The judgment was translated into Ukrainian and will be in the nearest future placed on the Ministry of Justice of Ukraine official web-site.

By the letters of 17 May 2013 explanatory notes as to the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court of Ukraine, High Specialized Court of Ukraine for Civil and Criminal Cases, Khmelnyts'kyi District Court of Appeal, Shepetivs'kyi Interregion Court of Khmelnyts'k District. Also, the Court's conclusions in the above case were reported to the staff of the Prosecutor General's Office of Ukraine, Rivne District Prosecutor's Office, Khmelnyts'kyi District Prosecutor's Office, Shepetivs'kyi Interregion Prosecutor's Office together with subordinate departments.

Moreover, the Court's conclusions in the above judgment were included into the submission to the Cabinet of Ministers of Ukraine as to execution of ECRH judgments (# 12.0.1-9/5765 of 27/06/2013).

The aforecited authorities reported the Court's conclusions in the above case to the judges and prosecutors of the above courts and prosecutors' offices.



#### **4. Conclusions of the Respondent Government**

The Government consider that they show due diligence under the way of fulfillment of obligations arising from the mentioned judgment and further will inform the Committee of Ministers about the measures taken in order to ensure full implementation of the execution strategy proposed for the enforcement of the judgment in this case.