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Meeting: 1259 meeting (7-9 June 2016) (DH)

Item reference: Action report (20/04/2016)

Communication from the Russian Federation concerning the case of Pushchelenko and Others (Klyakhin group) against Russian Federation (Application No. 45392/11)

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Réunion : 1259 réunion (7-9 juin 2016) (DH)

Référence du point : Bilan d'action

Communication de la Fédération de Russie concernant l'affaire Pushchelenko et autres (groupe Klyakhin) contre Fédération de Russie (Requête n° 45392/11) (*anglais uniquement*)



ACTION REPORT
on the execution of the judgment of the
European Court of Human Rights in case
nos. 45392/11, 47671/11, 62205/11,
45312/13 and 53366/13 *Pushchelenko and others v. Russia*
(judgment of 12 March 2015, final on the same date)

Violation

In its judgment *Pushchelenko and others v. Russia* the European Court of Human Rights found the violation of Article 5 § 3 of the Convention in connection with unreasonably long detention of applicants A.V. Pushchelenko, V.V. Isachkov, S.A. Kasyanov, O.A. Fobyanchuk, and M.A. Lysenko.

Individual Measures:

1. Just satisfaction.

1.1. The European Court awarded no compensation to applicants A.V. Pushchelenko, V.V. Isachkov, S.A. Kasyanov, as they did not submit any claim for just satisfaction.

1.2. In respect of the applicants O.A. Fobyanchuk and M.A. Lysenko

Surname, name and patronymic of the applicant	Non-pecuniary damage	Legal costs and expenses	Payment
Fobyanchuk Oleg Aleksandrovich		EUR 850	The amount was fully paid on 22 May 2015 in roubles according to the exchange rate as of the date of the payment (payment order no. 140442 in the amount of RUB 46,957.49).
Lysenko Mikhail Alekseyevich	EUR 4,000	EUR 850	The amount was fully paid on 6 August 2015 in roubles according to the exchange rate as of the date of the payment (payment order no. 287878 in the amount of RUB 334,631.09).

2. The applicants A.V. Pushchelenko, V.V. Isachkov, M.A. Lysenko are not kept in remand prison (they serve their sentences according to the court judgments in relevant correctional facilities).

Due to the fact that the European Court found that the applicants' detention was unsubstantiated long, upon the recommendation of the Chairman of the Supreme Court, by the judgment of the Presidium of the Supreme Court declared illegal and quashed all the decisions on extension of the detention of the above applicants.

Neither the applicants nor their representatives brought any complaints or claims before the court in connection with the entry into force of the European Court's judgement.

3. The sentence delivered in the criminal case against the applicants S.A. Kasyanov and O.A. Fobyanchuk did not become final and is appealed by the applicants. The Committee of Ministers of the Council of Europe will be informed on any further developments.

General Measures:

1. The adoption of general measures to solve problem of excessive length of detention and prevention of further relevant violations is being carried out in the framework of execution of judgments in *Klyakhin* group of cases and of the “pilot” judgment in case *Ananyev and others v. Russia*.

2. The Court’s judgment in *Pushchelenko and others v. Russia* was forwarded to the Constitutional Court of the Russian Federation and to the competent state authorities (the Supreme Court, the General Prosecutor's Office, the Primorskiy Territorial Court, the Saratov Regional Court, the Federal Penitentiary Service, the Investigative Committee of Russia, the Ministry of Internal Affairs of Russia) for taking into account in practice and adopting measures to prevent similar violations in the future in accordance with the jurisdiction.

The named competent state authorities communicated copies of the European Court's judgment to their structural subdivisions and territorial agencies with necessary instructions to take into account the European Court's legal positions in their practice.

3. The text of the European Court's judgement in case *Pushchelenko and others v. Russia* is published in Russian on the official websites of the Ministry of Justice of Russia, the General Prosecutor's Office, on the Supreme Court's internal website, and in the “Consultant Plus” legal reference system. The information about this judgment was published in Russian in “Garant” legal reference system.

Conclusion:

The Russian authorities believe that the violations in respect of A.V. Pushchelenko, V.V. Isachkov and M.A. Lysenko have eliminated to the maximum possible extent; accordingly, the Russian authorities have fulfilled their obligations under Article 46 of the Convention and the Committee of Ministers’ of the Council of Europe supervision in respect of 3 applicants in this part may be ceased.