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Meeting: 1501st meeting (June 2024) (DH)

Item reference: Addendum to the Action Plan (29/05/2024)

Communication from Ukraine concerning the case of OLEKSANDR VOLKOV v. Ukraine (Application No. 21722/11)

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Réunion : 1501^e réunion (juin 2024) (DH)

Référence du point : Addendum au plan d'action (29/05/2024)

Communication de l'Ukraine concernant l'affaire OLEKSANDR VOLKOV c. Ukraine (requête n° 21722/11)
(anglais uniquement)

DGI

30 MAI 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH



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Ms Clare Ovey

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*As to the execution of the Court's judgments
in the Oleksandr Volkov group of cases*

Dear Madam,

Taking into account the decision of the Ministers' Deputies CM/Del/Dec(2024)1492/H46-38¹ adopted at the 1492nd meeting, hold on 12-14 March 2024, the Government of Ukraine would like to submit an additional information to the Consolidated and Updated Action Plan in the *Oleksandr Volkov group of cases* of 15 January 2024² regarding individual measures taken for implementation of the Court's judgments.

As to the case of Kulykov and Others v. Ukraine

| No. | Case title and application number | The results of the re-examination of the applicants' cases |
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| 1. | Andriy Volodymyrovych KULYKOV (No. 5114/09) | On 15 June 2021 the High Council of Justice (the HCJ) refused the applicant's dismissal from the |

¹ [https://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2024\)1492/H46-38E](https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2024)1492/H46-38E)

² [https://hudoc.exec.coe.int/eng?i=DH-DD\(2024\)58E](https://hudoc.exec.coe.int/eng?i=DH-DD(2024)58E)



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| | | <p>post of judge of the Military local court of the Dnipropetrovsk garrison.</p> <p>On 4 September 2006 the Military local court of the Dnipropetrovsk garrison was liquidated by the decree of the President of Ukraine No.730/2006³.</p> <p>On 25 October 2023 Mr. Kulykov was recommended for transfer to the position of judge of the Dnipropetrovsk Circuit Administrative Court.</p> <p>On 28 November 2023 Mr. Kulykov was transferred to the position of judge of the Dnipropetrovsk Circuit Administrative Court by the decision of the HCJ⁴.</p> <p>On 5 December 2023 Mr. Kulykov was enrolled in the staff of the Dnipropetrovsk Circuit Administrative Court in accordance with the order of the Acting Chairman of the Court N. Zakharchuk-Borysenko No. 740-к.</p> <p>The Government consider that no further individual measures are required regarding the applicant.</p> |
| 2. | Oleg Volodymyrovych BACHUN (No. 9740/11) | <p>On 26 January 2021 the HCJ refused the applicant's dismissal from the post of judge of the District Administrative Court of Kyiv.</p> <p>The applicant was not reinstated in his office.</p> <p>In accordance with the Law of Ukraine No. 2825-IX dated 13 December 2022 "On the Liquidation of the District Administrative Court of Kyiv and the Formation of the Kyiv Regional Administrative Court"⁵, the court stopped administering justice on 15 December 2022.</p> <p>On 16 January 2024, the HQCJ considered the issue of recommending Mr. Bachun for transfer to the position of judge to another court.</p> <p>The HQCJ refused the applicant to submit to the HCJ a recommendation to transfer him to the position of judge of the Kyiv District Administrative Court, and appointed a qualification assessment for suitability for the position of a judge.</p> <p>The database of exams is being updated for the purposes of taking exams by judges within the scope of qualification assessment for compliance with the position held.</p> <p>The decision of the HQCJ on the appointment of an exam within the framework of qualification</p> |

³ <https://www.president.gov.ua/documents/7302006-4763>

⁴ <https://hci.gov.ua/doc/doc/41988>

⁵ <https://zakon.rada.gov.ua/laws/show/2825-IX#Text>

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| | | <p>assessment for suitability for the position held, in particular, to Mr. Bachun, will be made after updating the exam databases.</p> <p>The issue of Mr. Bachun's transfer to the position of a judge to another court of the same level can be decided by the HCJ after he confirms his suitability for the position of a judge by passing a qualification exam.</p> <p>The updated information will be provided in further communications.</p> |
| 3. | <p>Kyrylo Oleksandrovykh KORMUSHYN (No.68443/11)</p> | <p>On 19 August 2020 the Cassation Administrative Court within the Supreme Court (the "CAC") quashed the decision of the HCJ on dismissal of the applicant from the post of judge and obliged HCJ to consider the materials of disciplinary proceedings against Mr Kormushyn.</p> <p>The Grand Chamber within the Supreme Court (the "GC") upheld the decision of CAC of 19 August 2020.</p> <p>As of today, the disciplinary proceedings are pending before the HCJ.</p> <p>As of 20 November 2023, the materials related to Mr. Kormushyn were automatically distributed and transferred to the members of the HCJ for the preparation.</p> <p>On 05 February 2024, the First Disciplinary Chamber of the HCJ brought the applicant to disciplinary responsibility and dismissed him from the post of judge.</p> <p>On 12 February 2024, Mr. Kormushyn filed a complaint against the decision of the First Disciplinary Chamber of the HCJ.</p> <p>Consideration of the complaint was included in the agenda of the meeting of the HCJ on 09 May 2024. Due to the lack of a quorum, this complaint was removed from the agenda.</p> <p>The updated information will be provided in further communications.</p> |
| 4. | <p>Lyudmyla Ivanivna STASOVSKA (No. 20554/11)</p> | <p>On 21 September 2021 the CAC quashed the decision of the HCJ on dismissal of the applicant from the post of judge.</p> <p>On 9 June 2022 the Grand Chamber within the Supreme Court (the "GC") upheld the decision of CAC of 21 September 2021.</p> <p>As of today, the disciplinary proceedings are pending before the HCJ.</p> <p>As of 20 November 2023, the materials related to Ms. Stasovska were automatically distributed and transferred to the members of the HCJ for the</p> |

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| | | <p>preparation.</p> <p>On 06 March 2024, the Second Disciplinary Chamber of the HCJ closed the disciplinary proceedings against the applicant, as she reached 65 years of age.</p> <p>In accordance with Part 3 of the Article 120 of Law of Ukraine “On the Judiciary and the Status of Judges”, a judge cannot administer justice from the day after he/she reaches the age of sixty-five.</p> <p>Therefore, on 19 March 2024, the applicant was dismissed from the post of judge of the Zavodskiy District Court of Dniprodzerzhynsk of Dnipropetrovsk Region in accordance with the Law of Ukraine No. 3481-IX⁶ “On Amendments to the Law of Ukraine “On the Judiciary and Status of Judges”.</p> <p>The Government consider that no further individual measures are required regarding the applicant.</p> |
| 5. | Lidiya Volodymyrivna TOKAR (No. 54135/12) | <p>On 15 July 2021, the CAC quashed the decision of the HCJ on dismissal of the applicant from the post of judge of the Leninskyi District Court of Vinnitsa.</p> <p>The decision of the HCJ was quashed without further reinstatement of the applicant on the position of the judge.</p> <p>The applicant was born in 1956. In accordance with Part 3 of the Article 120 of Law of Ukraine “On the Judiciary and the Status of Judges”⁷, a judge cannot administer justice from the day after he/she reaches the age of sixty-five.</p> <p>Therefore, applicant being the age over sixty-five cannot be reinstated in her office.</p> <p>Thus, on 02 April 2024, the applicant was dismissed from the post of judge of the Leninskyi District Court of Vinnitsa in accordance with the Law of Ukraine No. 3481-IX⁸ “On Amendments to the Law of Ukraine “On the Judiciary and Status of Judges”.</p> <p>The Government consider that no further individual measures are required regarding the applicant.</p> |
| 6. | Volodymyr Mykolayovych KORZACHENKO (No. 4588/11) | <p>On 18 June 2020 the applicant was dismissed from the post of judge of the Nosivskyy district court of Chernigiv region in accordance with part. 3 of Article 126.6 of the Constitution of Ukraine.</p> |

⁶ <https://itd.rada.gov.ua/billInfo/Bills/Card/41557>

⁷ <https://zakon.rada.gov.ua/laws/show/1402-19#Text>

⁸ <https://itd.rada.gov.ua/billInfo/Bills/Card/41557>

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| | | <p>On 29 October 2020 the CAC granted the applicant's appeal in part, quashed the decision of the HCJ of 18 June 2020 and obliged the HCJ to reconsider the disciplinary proceedings regarding the applicant. On 1 July 2021 the GC upheld the decision of the CAC of 29 October 2020.</p> <p>As of today, the disciplinary proceedings are pending before the HCJ.</p> <p>As of 20 November 2023, the materials related to Mr. Korzachenko were automatically distributed and transferred to the members of the HCJ for the preparation.</p> <p>On 05 February 2024, the First Disciplinary Chamber of the HCJ brought the applicant to disciplinary responsibility and dismissed him from the post of judge.</p> <p>On 14 February 2024, Mr. Korzachenko filed a complaint against the decision of the First Disciplinary Chamber of the HCJ.</p> <p>Consideration of the complaint was included in the agenda of the meeting of the HCJ on 14 March 2024. Based on the results of the review of the complaint, the HCJ decided to postpone the review of Mr. Korzachenko's complaint.</p> <p>The updated information will be provided in further communications.</p> |
| 7. | Igor Anatoliyovych BONDARENKO (No. 5678/12) | <p>On 23 June 2020 the applicant was dismissed from the post of judge in accordance with part. 3 of Article 126.6 of the Constitution of Ukraine. The applicant appealed against the HCJ decision to the CAC.</p> <p>On 23 September 2020 the CAC refused the applicant's claim.</p> <p>On 25 March 2021 the GC upheld the decision of the CAC dated 23 September 2020.</p> <p>The Government consider that no further individual measures are required regarding the applicant.</p> |
| 8. | Aleksandr Ivanovich VOLVENKO (No. 77810/12) | <p>As to the HCJ decision of 14 July 2020 the applicant was dismissed from the post of judge in accordance with part. 3 of Article 126.6 of the Constitution of Ukraine.</p> <p>The applicant appealed against the HCJ decision to the CAC. The CAC opened proceedings on 01 October 2020. Since 01 October 2020, Volvenko submitted ten applications to the CAC to postpone the consideration of the case.</p> <p>The court proceedings are still pending.</p> |
| 9. | Sergiy Mykhaulovych | As to the HCJ decision of 16 June 2020 the |

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| | KONYAKIN (No. 12812/11) | applicant was dismissed from the post of judge in accordance with part. 3 of Article 126.6 of the Constitution of Ukraine. On 15 October 2020 the CAC refused the applicant's claim. (No. 12812/11). On 13 May 2021 the GC upheld the decision of the CAC of 15 October 2020. The Government consider that no further individual measures are required regarding the applicant. |
| 10. | Yuriy Oleksiyovych STREBKOV (No. 242/13) | By the HCJ decision of 28 July 2020 the applicant was dismissed from the post of judge in accordance with part. 3 of Article 126.6 of the Constitution of Ukraine. On 7 December 2020 the CAC upheld the decision of the HCJ dated 28 July 2020 (No. 242/13). On 25 March 2021 the GC dismissed the applicant's appeal and upheld the decision of the CAC of 7 December 2020. The Government consider that no further individual measures are required regarding the applicant. |

As to the case of Denisov v. Ukraine

According to the Court judgment the just satisfaction in amount of EUR 3000 shall be paid to the applicant and EUR 3000 – to the applicant's representatives into the bank account designated by the applicant's representatives, this amount to be paid into the bank account designated by the applicant's representatives and to be converted into the currency of the respondent State at the rate applicable at the date of settlement.

On 22 January 2019, the full sum in amount of EUR 6000 (UAH 190,531.18) was erroneously transferred to the applicant's bank account.

In this regard, on 14 December 2021 the enforcement proceedings on payment of sum awarded to the applicant's representatives were reopened.

After the judgment was delivered by the Court, the applicant's representatives submitted their full banking details to the state bailiff for just satisfaction to be transferred to them but in the currency of pounds sterling. However, the Government would like to emphasis that just satisfaction in this case was awarded **in national currency.**

On 03 January 2023, the state bailiff sent a letter to the e-mail address of the applicant's representatives, who was notified of the need to provide bank details for transferring funds **in national currency.** On 10 January 2024, the state bailiff sent a letter to the e-mail address of the applicant's representatives, where further explained that it is not possible to transfer just satisfaction to the applicant's representative's bank account in the currency of pounds' sterling or/and to the bank account of non-resident banks, while the martial law in Ukraine is imposed. The state bailiff informed the applicant's representatives about the possibility of payment in national currency and asked to provide the bank details for transferring funds **in national currency of Ukraine.**

The Government would also like to inform that according to the letter of the National Bank of Ukraine dated 03 May 2024, according to the subparagraph 9 of the para. 128 of the Chapter X and to subparagraph 9 of the para. 138 of the Chapter XI of the "Provisions on protective measures and determination of the procedure for carrying out individual operations in foreign currency", approved

by the Resolution of the Board of the National Bank of Ukraine No. 5 dated 02 January 2019 (as amended)⁹, as well as to the subparagraph 47 of the para. 14 of the Resolution of the Board of the National Bank of Ukraine No. 18 dated 24 February 2022 “On the Operation of the Banking System Under Martial Law”¹⁰, the transfer of just satisfaction in hryvnia for fulfilling the Government’s obligation in connection with the Court’s judgment in the national currency is possible to the account of the non-resident beneficiary (legal entity), which is opened in the bank of Ukraine. Such a transfer in the national currency of Ukraine can also be made through a correspondent account of a non-resident bank, opened in a bank of Ukraine, to the beneficiary’s account in a foreign bank in hryvnia.

The Government would like to underline that in such cases as *Kulykov and Others* and *Oleksandr Volkov* the Court didn’t specified that just satisfaction awarded in respect of costs and expenses shall be transferred to the bank account designated by the applicant’s representatives and converted into the currency of the respondent State at the rate applicable at the date of settlement. Thus, the state bailiff transferred just satisfaction awarded in respect of costs and expenses to the bank account of the applicant’s representatives, submitted by the applicant’s representatives without additional obstacles. In the *Denisov* case just satisfaction was awarded **in national currency** of the respondent State. The state bailiff cannot act contrary to the Court’s decision.

The enforcement proceedings are still pending. The just satisfaction in the amount of EUR 3,000 (UAH 92,425.20) is located on the special deposit account of the Ministry of Justice of Ukraine. The Government will keep the Committee of Ministers informed on state of enforcement proceedings.

Additionally, the Government would like to emphasise that Ukrainian authorities will continue fulfil their obligations aimed at full execution of the Court’s judgments in the present group of cases and will inform the Committee of Ministers about further developments and measures taken.

Yours faithfully

Marharyta SOKORENKO,
Agent
before the European Court of Human Rights

⁹ <https://www.tax.gov.ua/zakonodavstvo/podatkovye-zakonodavstvo/normativno-pravovi-akti-z-pitan-kpr/postanovi-pravlinnya-nbu/print-73184.html>

¹⁰ <https://zakon.rada.gov.ua/laws/show/v0018500-22#Text>