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Meeting: 1507th meeting (September 2024) (DH)

Item reference: Action Plan (26/06/2024)

Communication from Ukraine concerning the group of cases of Shvets v. Ukraine (Application No. 22208/17)

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Communication de l'Ukraine concernant le groupe des affaires Shvets c. Ukraine (requête n° 22208/17)
(anglais uniquement)

DGI

26 JUIN 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH**Execution of Judgments of the European Court of Human Rights****Updated Action Plan
on measures to be taken for implementation of the Court's judgments
in the *Shvets* group of cases**

(Bondar v. Ukraine, application no. 7097/18, final on 17/12/2019,
Gen and Kaluzhska v. Ukraine, application no. 41596/19, final on 10/06/2021,
Spitsyn v. Ukraine, application no.52411/18, final on 07/10/2021,
Vykhovanok v. Ukraine, application no. 12962/19, final on 07/10/2021,
Zhupan v. Ukraine, application no.38882/18, final on 07/10/2021,
Dubas v. Ukraine, application no. 51222/20, final on 09/03/2023,
Pleshkov and Pleshkova v. Ukraine, application no. 5783/20, final on 09/03/2023)

CASE SUMMARY

This group of cases concerns the authorities' failure to enforce domestic judgments relating to granting custody or access rights to minor children (violations of Article 8). The Court found that the available legislative and administrative framework was insufficient to facilitate the voluntary compliance arrangements involving family and childcare professionals. Nor did it envisage an appropriate range of specific measures which might have been applied, subject to the proportionality principle, to ensure coercive compliance with the court judgment granting contact rights. The Court noted, in the *Shvets* case, in particular, that the enforcement proceedings in childcare cases disclose structural and systemic deficiencies in the domestic legal system of Ukraine (§ 38).

INDIVIDUAL MEASURES***1. Just satisfaction***

As was mentioned in the Action Plan of 16 October 2020¹, in the *Bondar v. Ukraine* case, the Court awarded the applicant just satisfaction in a total amount of UAH 218 485,76 (which is equal to EUR 7 914) in respect of non-pecuniary damage and in respect of costs and expenses. The awarded sum was paid within the time limit to the applicant on 03 March 2020.

In the *Gen and Kaluzhska v. Ukraine* case the sum in amount of UAH 144 030,15 (which is equal to EUR 4 500) awarded to the first and the second applicants was inherited by their son (the third applicant) and transferred to his bank account on 04 April 2022. Information about the payment of other sums awarded to the applicant's in this case was provided by the Government in the Action Plan of 23 November 2021². All the sums awarded by the Court in the above judgment were paid in full.

As to the *Spitsyn v. Ukraine* case, the Court hold to pay the applicant the just satisfaction in a total amount of UAH 166 799,60 (which is equal to EUR 5 500) in respect of non-pecuniary damage and costs and expenses. This sum was paid to the applicant on 14 December 2021.

Regarding the *Vykhovanok v. Ukraine* case, on 23 December 2021, the just satisfaction in the amount of UAH 169 253,45 was transferred to the applicant's bank account. On 10 January 2022,

¹ [https://hudoc.exec.coe.int/?i=DH-DD\(2020\)910E](https://hudoc.exec.coe.int/?i=DH-DD(2020)910E)

² [https://hudoc.exec.coe.int/eng?i=DH-DD\(2021\)1265E](https://hudoc.exec.coe.int/eng?i=DH-DD(2021)1265E)

the sum in the amount of UAH 69,00 was contributed to the applicant as well (bringing the total to EUR 5500).

In the *Zhupan v. Ukraine* case the Court awarded to the applicant just satisfaction in respect of non-pecuniary damage in the amount of EUR 6 000. This sum was transferred to the applicant's bank account by payment orders of 14 February 2024, (EUR 4 399.74) and of 21 March 2024 (EUR 1 600.26).

As to *the Dubas v. Ukraine* case, the Court awarded the applicant with just satisfaction in amount of UAH 181 566 (which is equal to EUR 4 500) in respect of non-pecuniary damage. This amount was paid to the applicant in full on 09 May 2023.

Regarding *the Pleshkov and Pleshkova v. Ukraine* case, on 25 May 2023, the just satisfaction awarded to Mr Pleshkov in the amount of UAH 90 516, 45 (which is equal to EUR 4 500) was transferred to the bank account of applicant's representative. On 10 August 2023, UAH 39 055,30 was also transferred to the representative of the first applicant as compensation in respect of costs and expenses. On 18 October 2023, the sum awarded to Ms Pleshkova by the Court's judgment in the amount of UAH 90 516, 45 (which is equal to EUR 4 500) was transferred to the bank account of the first applicant – Mr Pleshkov – as he is her legal representative.

Thus, all the sums of just satisfaction awarded in the cases of *Shvets group* were paid in full.

2. *Restitutio in integrum*

Regarding *the Bondar* case, on 18 February 2022, the Kherson City Court of the Kherson Region issued a decision on the lawsuit of Mr Bondar. His claim was partially satisfied and the periods of communication with the child were changed to Tuesdays and Thursdays from 17:00 to 19:00, as well as Sundays from 11:00 to 14:00 without the mother's presence. The decision entered into force on 24 March 2022. An appeal, according to Article 354 of the Code of Civil Procedure of Ukraine³ (the "CCP"), against decision could have been filed within 30 days from the day the decision was announced or from the day the full court decision was drawn up if only the introductory and final parts were announced, but the applicant did not use this opportunity.

At the same time, enforcement proceedings have been pending at the Korabelnyi Department of the State Bailiff's Service of Kherson of the Southern Interregional Department of the Ministry of Justice (the "Korabelnyi Department of the State Bailiff's Service") to enforce the writ of execution on the obligation not to cause obstacles to Mr Bondar to communicate with his daughter and participate in her upbringing.

In connection with the debtor's non-compliance with the court decision, the state bailiff imposed fines on the debtor and issued a resolution to establish a temporary restriction on the debtor's right to drive vehicles. In addition, by the decision of the Kherson City Court of the Kherson Region of 11 January 2020, the debtor's right to travel outside Ukraine was temporarily restricted.

At the same time, it should be noted that in accordance with para. 10² of Chapter XIII "Final and Transitional Provisions" of the Law of Ukraine "On Enforcement Proceedings"⁴ (the "Law"), temporarily, for the period until the termination or abolition of martial law in Ukraine, it is

³ <https://zakon.rada.gov.ua/laws/show/1618-15/conv#n8569>

⁴ <https://zakon.rada.gov.ua/laws/show/1404-19#Text>

prohibited to open executive proceedings and take measures to enforce decisions on the territory of territorial communities belonging to territories in which active hostilities are being conducted, or temporarily occupied territories in accordance with the list approved by the central executive body, which ensures the formation and implementation of state policy on the issues of the territory of Ukraine temporarily occupied by the Russian Federation (from the date of assigning the territories to those in which active hostilities are conducted, or temporarily occupied territories until such territories are excluded from the list). Thus, it is not possible to check the stage of the execution of the court decision by the debtor, as in the period from 01 March 2022 to 11 November 2022, the Kherson city territorial community was included in the list of temporarily occupied territories, from 11 November 2022 to 01 May 2023 – the territories of possible hostilities, and since 01 May 2023, it is included to the territories of active hostilities, where state electronic information resources are functioning.

During the period of martial law, the Korabelnyi Department of the State Bailiff's Service did not receive any statements from the parties to the enforcement proceedings regarding the organization of the meeting between the father and the child.

As to the case of *Gen and Kaluzhska v. Ukraine*, the Government draw attention to the fact that Mr S. Gen appealed to the Supreme Court to review the decision in case no. 520/13296/20 under exceptional circumstances, but he was refused by the decision of 21 September 2021⁵, since he appealed to the Court in connection with the non-fulfilment of the decisions on the implementation of the arrangements for meetings with the daughter, which were made in case no. 638/12278/15-П, but submitted an application to the Supreme Court to review the decision in case no. 520/13296/20, which related to the recognition of illegal and annulment of the decisions on the imposition of fines on the mother of his daughter. Therefore, the decisions that he demands to be reviewed were not subject of case in the Court, so there were no grounds for their review under exceptional circumstances by the Supreme Court.

Also, it was denied to Mr S. Gen to review the decision in case no. 638/12278/15-П under exceptional circumstances by decision of 21 September 2021⁶. In this situation, the Supreme Court refused, because the decision of the Civil Court of Cassation of 14 May 2018, which the applicant requested to review, was not a final decision that ended the case, so it could not be reviewed on exceptional grounds based on clause 2, part 3 of Article 423 of the Code of Civil Procedure. At the same time, the Supreme Court noted that the applicant can submit an application for review under exceptional circumstances of the decision of the Civil Court of Cassation of 16 January 2019, but the applicant did not claimed corresponding application.

In addition, Ms Kaluzhska also appealed to the Supreme Court to review the decision in case no. 520/14046/20 under exceptional circumstances. She was denied a review of the case by the decision of the Supreme Court of 27 September 2021,⁷ because the decision of the Civil Court of Cassation, which she requested to be reviewed under exceptional circumstances, related to the recognition of illegality and the cancellation of the decision on the imposition of a fine on the mother of her granddaughter and this decision was not the subject of consideration in the Court.

⁵ <https://reyestr.court.gov.ua/Review/100022850>

⁶ <https://reyestr.court.gov.ua/Review/99890375>

⁷ <https://reyestr.court.gov.ua/Review/100359341>

As to executive proceedings on enforcement of the writ of execution on establishing the time of communication of father, Mr S. Gen, with his minor daughter, they were pending from 03 May 2018 to 10 August 2022, executive proceedings were pending.

Pursuant to para. 9 of part 1 of Article 39 of the Law, on 10 August 2022, the state bailiff issued a resolution on the termination of executive proceedings in connection with the enforcement of the decision in full, based on the applicant's statement.

In addition, enforcement proceedings were pending on the writ of execution to choose the method of participation of grandfather, Mr N. Gen, and grandmother, Mrs Kaluzhska, in the upbringing of their granddaughter. On the basis of para. 3 of part 1 of Article 39 of the Law, on 12 April 2021, the state bailiff issued a resolution on termination the executive proceedings as writ of execution was enforced in full, based on the statement of the Mrs Kaluzhska's representative.

It is worth noting that specialists of the Service for Children of the Shevchenkivskyi District of the Department of Services for Children of the Kharkiv City Council (the "Service of the Kharkiv City Council") twice participated in executive actions to protect the rights of the child.

In order to resolve the issues raised in the applications submitted by Mr. S. Gen to the Department of Services for Children of the Kharkiv City Council in 2016 – 2021, specialists of the Service of the Kharkiv City Council conducted conversations with Ms Volokita – mother of Mr S. Gen's daughter – regarding the need to remove obstacles to the upbringing of their daughter.

There were also held specialist meetings with the Mr S. Gen's daughter during which they found that Ms Volokita constantly explained to her daughter the need to maintain good relations with her father, grandfather and grandmother.

Also, in November 2021, Mr S. Gen sent a complaint to the Mayor of Kharkiv regarding the ineffectiveness of the enforcement of the court's decision on his participation in the child's upbringing. To solve this problem meetings with Mr S. Gen and Ms Volokita, with the involvement of officials who specialize in work with children and protect of children's rights at the city and district levels were held, as well as personal meetings of the specialists of the Service of the Kharkiv City Council with Mr S. Gen.

It is also worth noting that the specialists of the Service of the Kharkiv City Council repeatedly gave recommendations to both Mr S. Gen and Ms Volokita to contact the Department of Social Work of the Kharkiv City Council, family psychologists or family mediators.

As of 22 May 2024, the conflicts between Mr S. Gen and Ms Volokita regarding access to their daughter and her upbringing have been solved and all cases on this issue that were considered by the Dzerzhynskyi District Court of the Kharkiv have been terminated. In particular, on 30 April 2024, two statements of Mr S. Gen on the rejection of the complaint against the actions and decisions of the state executive of the Shevchenkivskyi Department of State Executive Service in Kharkiv of Eastern Interregional Department of the Ministry of Justice⁸ and the inaction of the state executives of the Shevchenkivskyi Department of the State Executive Service in Kharkiv of the State Territorial Department of Justice in Kharkiv region and obligation to take measures to enforce the decision⁹ were satisfied.

⁸ <https://reyestr.court.gov.ua/Review/119109490>

⁹ <https://reyestr.court.gov.ua/Review/119109489>

In the case of *Spitsyn v. Ukraine*, the Kovpakivskyi Department of the State Bailiff's Service of Sumy of the Main Territorial Department of Justice received applications from Mr Spitsyn regarding the enforcement of the writ of execution on the obligation not to obstruct communication with the minor daughter.

On 01 September 2016, 13 September 2016, and 23 December 2016, the state bailiff, on the basis of para. 6 and 8 of the part 1 of Article 26 of the Law, issued a resolution on return of the executive document to the debt collector without acceptance for execution.

Also, from 03 September 2018, to 21 January 2022, the Kovpakivskyi Department of the State Bailiff's Service in Sumy was conducting enforcement proceedings regarding writ of execution on the obligation not to obstruct communication with the child. On 08 January 2019, the state bailiff issued a resolution on the termination of the executive proceedings in connection with execution in full. Subsequently, at the request of Mr Spitsyn, the enforcement proceedings were resumed by the resolution of the state bailiff of 19 November 2021.

In the course of enforcement proceedings, the state bailiff visited the debtor's and the child's place of residence multiple times. According to the results, it was established that the debtor gave Mr Spitsyn the opportunity to communicate with the child and did not interfere with this, but the child refused to communicate with Mr Spitsyn. Relevant acts have been drawn up on these facts. Taking into account the above, pursuant to para. 9 of the part 1 of Article 39 of the Law, on 21 January 2022, the state bailiff issued resolution on termination of the enforcement proceedings in connection with full implementation of the decisions in accordance with the executive documents. This resolution was not appealed.

The Service for Children of the Sumy City Council was involved as a third party in the civil proceedings on Mr Spitsyn's claims to national courts regarding establishment of the order of participation in raising the child and changing the daughter's last name. Also, a specialist of the Service for Children of the Sumy City Council was involved to carry out executive actions in order to give Mr Spitsyn access to the child, but the latter did not arrive at the specified place. Later, the Service for Children of the Sumy City Council was again involved in executive actions, which resulted in a meeting between Mr Spitsyn, his daughter and her mother.

As for the case of *Vykhovanok v. Ukraine*, the State Bailiff's Service of the Lviv region was engaged in the enforcement of the writ of execution to remove obstacles to Mr Vykhovanok's communication with his child. However, the enforcement proceedings in relation to this document were terminated multiple times by the state bailiff on the basis of para. 8 of part 1 of Article 49 of the Law (as worded on 26 October 2014), para. 9 of part 1 of Article 39 of the Law as the court's decision was enforced in full, as well as pursuant to para. 1 of part 1 of Article 37 of the Law at the request of the debt collector to return the writ of execution.

As of today, the enforcement proceedings to execute writ of execution to remove obstacles to Mr Vykhovanok's communication with his child are conducted by the Shevchenkivskyi Department of the State Bailiff's Service of Lviv of the Western Interregional Department (opened by the decision of the state bailiff of 03 November 2022).

For failure to comply with the court decision, the state bailiff repeatedly imposed fines on the debtor, and a notification was sent to the Lviv District Police Department No. 1 of the Main Department of the National Police of Lviv Region that the debtor committed a criminal offense under Article 382 of Criminal Code of Ukraine. Also, the state bailiff issued a resolution on

establishing a temporary restriction on the debtor's right to drive vehicles, which was later quashed, because according to the results of repeated inspections by the state bailiff at the place of enforcement actions, the debtor did not interfere with the child's communication with Mr Vykhovanok.

On 29 April 2024, the state bailiff issued a resolution on the involvement of representatives of the guardianship authority to participate in the implementation of executive actions, which were scheduled for 31 May 2024. However, the debtor and Mr Vykhovanok did not appear at the place of execution at the appointed time.

The representatives of the Service for Children of the Lviv City Council were present during the enforcement of the decision of the national court as to setting contact arrangements of child with father. However, during the implementation of executive actions, the child refused to stay with Mr Vykhovanok. Specialists of the Service for Children of the Lviv City Council repeatedly communicated with the daughter of Mr Vykhovanok and her mother (Ms Iltsiv) and involved social work specialists of the Lviv City Centre of Social Services for Family, Children and Youth.

Moreover, the specialists of the Service of Children of the Lviv City Council offered Ms Iltsiv to use mechanism of family mediation, but she and her daughter refused.

In the case of *Zhupan v. Ukraine* the Khust District Department of the State Bailiff's Service 4 times involved representatives of the Tutelage and Guardianship Service of the Khust City Council to executive actions aimed at implementing of the national court's decision on determining child's place of permanent residence with mother. Later new decision by the national court was announced, according to which child was to live with father.

Regarding the possibility of initiating a new civil proceeding to establish new contact arrangements with the child, pursuant to Article 186 of the CCP, a judge shall refuse to open proceedings in a case if there is a court decision or ruling to close the proceedings between the same parties, on the same subject matter and on the same grounds that has entered into force or there is a court order that has entered into force on the same requirements. At the same time, the current legislation does not contain any obstacles to the applicant to fill a claim to establish contact arrangements with the child as this issue has not been considered in national courts. However, as of today, the applicant has not availed herself of this possibility.

In the case of *Dubas v. Ukraine*, since 19 April 2023, the enforcement proceedings regarding the writ of execution on the obligation not to obstruct to participation in the upbringing and communication with the daughter have been repeatedly pending at the Holiivskyi Department of the State Bailiff's Service in Kyiv of the Central Interregional Department of the Ministry of Justice.

On 05 March 2022, the debtor left Ukraine. On 01 May 2023, the state bailiff sent a request on search for the debtor to the Holiivskyi District Court of Kyiv. The decision of the Holiivskyi District Court of Kyiv dismissed the request on the grounds that during its consideration, location of the debtor and the child was established and confirmed by proper evidence, in particular, a lease agreement of 28 February 2023, concluded between Katharina Wimmer and debtor in the Republic of Austria, Salzburg, a certificate of registration at the place of residence of 06 March 2022, and a temporary residence permit.

On 03 July 2023, the letter from the debtor regarding the execution of the court decision was received by the State Bailiff's Service. The debtor indicated on which days the child communicated with father in the messenger. On 04 July 2023, an application for determining the place of meeting from debtor's representative was received by the State Bailiff's Service. By it the debtor asked to determine the place of contacts and communication of the father, Mr Dubas, with the child at the address of the actual place of residence of the debtor with her daughter in the Republic of Austria, Salzburg.

Taking into account the above, there are circumstances that impede the enforcement actions, in connection with which the state bailiff issued multiple resolutions on postponement of enforcement actions, lastly on 05 December 2023.

In connection with non-compliance with the court decision, fines were applied by the state bailiff to the debtor on 09 January 2024, 02 February 2024 and 27 March 2024.

By the decision of the Holosiivskyi District Court of Kyiv of 03 April 2024¹⁰, the application of the state bailiff was approved and it was decided to change the method of execution on the obligation of Ms Stepanova (the mother of daughter of Mr Dubas) not to hinder Mr Dubas in his participation in raising and communicating with daughter by ensuring communication with his daughter in video conference mode via "Zoom" and/or "WhatsApp" for the period of martial law and/or the child's stay outside Ukraine until the return of debtor and/or child to the territory of Ukraine.

Ms Stepanova ensures the communication of Mr Dubas with her daughter through a video conference using the "Zoom" communication tool in the presence of the deputy head of the department of the State Bailiff's Service, according to the schedule determined by the court decision.

Further enforcement of the court decision will be organized in accordance with the requirements of the Law "On Enforcement Proceedings".

The Service for Children and Family of the Holosiivskyi District State Administration (the "Service of the Holosiivskyi District State Administration") was involved as a third party in the consideration of claims of Mr Dubas in national courts to establish the ways of his participation in raising a daughter and, after the decision in his case was made, specialists took part in executive actions to implement it. During the period of 2016 – 2021, the Service of the Holosiivskyi District State Administration received numerous appeals from both Mr Dubas and Ms Stepanova, after the consideration of which mediation was conducted and clarifications regarding the participation of both parents in raising of child were given.

The City Child Centre of Service for Children and Family of Kyiv City Administration (the "City Child Centre") reported that preliminary meetings had been held to study the conflict and to make a decision on family mediation, to which both parties agreed. However, later Ms Stepanova refused to participate in it.

It is also worth noting that the Dubas family was taken under social support, they visited a psychologist at the City Child Centre and a conversation with the parents was held aimed at increasing parental potential. The City Child Centre also reported that parents were ready to use

¹⁰ <https://reyestr.court.gov.ua/Review/118192107>

family mediation, but their mediation agreements were not extended after expiration and therefore mediation process was over.

Regarding *the Pleshkov and Pleshkova v. Ukraine* case, executive proceedings for enforcement of the writ of execution on establishing contact arrangements with the daughter hold by the Dniprovskiy Department of the State Bailiff's Service in Kyiv of the Central Interregional Department of the Ministry of Justice. In view of the failure to comply with the court decision, the state bailiffs imposed fines on the debtor on 23 September 2019, and 18 September 2020. By the decision of the Irpinskyi City Court of the Kyiv Region of 24 February 2020, the debtor declared wanted. By the decision of the Irpinskyi City Court of the Kyiv region of 04 June 2020, the submission of the state bailiff on the temporary restriction of the debtor's right to leave Ukraine was denied.

On 26 September 2020, the state bailiff issued a resolution establishing a temporary restriction on the debtor's right to drive vehicles.

The state bailiff visited the debtor's place of residence and found that the debtor was absent and the house was destroyed as a result of the Russian's military aggression against Ukraine and is in uninhabitable condition. Corresponding act was drawn up on 06 July 2022.

According to the response of the State Border Service of Ukraine of 04 July 2023, the debtor crossed the state border of Ukraine on 03 March 2022 (left) and 22 June 2022 (return).

On 11 April 2023, the state bailiff repeatedly sent to the Dniprovskiy District Court of Kyiv a submission on restrictions on the debtor's right to leave the territory of Ukraine, which was not satisfied. At the same time, by the decision of the Dniprovskiy District Court of Kyiv of 25 July 2023, the debtor declared wanted.

In addition, the state bailiff sent to the Dniprovskiy Police Department of the Main Department of the National Police of Ukraine in Kyiv a submission on bringing the debtor to criminal liability for non-compliance with the court decision under Article 382 of the Criminal Code of Ukraine. On 02 May 2024, a request was also sent to the Dniprovskiy Police Department of the Main Department of the National Police of Ukraine in Kyiv to obtain information regarding the search for the debtor.

Before Russian full-scale military invasion and destruction of debtor's house, specialists of the Service for Children and Family Affairs of the Irpin City Council (the "Service of the Irpin City Council") examined place of residence of daughter of Mr Pleshkov and established that the child's mother (Ms Pleshkova) provided all necessary living conditions. Additionally, a conversation was held with Ms Pleshkova regarding the inadmissibility of obstructing the father's communication with his daughter.

Specialists of the Service of the Irpin City Council and the Centre of Social Services for Family, Children and Youth made several visits to the child's place of residence and were present at meetings between the father and the child, there were no obstacles from the mother. Parents were constantly explained their rights and responsibilities as to the upbringing of their daughter.

The Service of the Irpin City Council was also involved as a third party in the court proceedings on claim lodged by Mr Pleshkov regarding participation in the upbringing of his daughter and communication with her. After the decision of the national court was made, specialists of the Service of the Irpin City Council were involved by the Irpin City Department of the State

Bailiff's Service to the implementation of this decision, as a result of what Mr Pleshkov met his daughter and her mother. Nevertheless, the daughter did not want to communicate with father. Furthermore, the Service of the Irpin City Council organized meetings of daughter of Mr Pleshkov with the psychologist, which took place from 23 March 2019 to 26 June 2019.

Taking in count the above, the Government believe that there are no other additional individual measures available to apply in the cases of *Zhupan, Gen and Kaluzhska and Spitsyn* and that there are no negative consequences ongoing as a result of the violations.

At the same time the Government will keep the Committee of Ministers informed on further individual measures adopted in the cases of *Bondar v. Ukraine, Vykhovanok v. Ukraine, Dubas v. Ukraine* and *Pleshkov and Pleshkova v. Ukraine*.

The Government would like to draw attention of the Committee of Ministers to the fact that the implementation of the decisions of national courts in the cases of the *Shvets group* is significantly complicated by the military actions that continues in Ukraine since the Russia's full-scale invasion on 24 February 2024. More information on the current situation in the country and its impact on the functioning of state bodies is provided below in the general measures section.

The Government would also like to emphasise that more comprehensive information on reforming of system of execution of national court decisions will be provided in the Government's communication within the *Burmych group of cases*, which is closely related to the issues raised in the *Shvets group of cases*.

GENERAL MESURES

As to the current situation

It is with deep regret that extremely difficult conditions continue to exist in Ukraine as a result of the full-scale invasion of the Russian Federation. The Russian army carries out attacks on facilities of civilian infrastructure and residential areas in a destructive, brutal and cynical way with missiles, MLRS, guided aerial bombs and attack drones resulting in significant casualties and destruction.

The overall impact of the horrific crimes committed by the Russians in Ukraine and their effect pose significant challenges on its state authorities. In addition to the daily increase in the number of victims among both Ukrainian civilians and the state institutions officials, the amount of infrastructure damage, including critical infrastructure, is resulting in significant losses to the State Budget.

As of today, the key priorities for the national authorities are the liberation of the entire Ukrainian territory from Russian occupiers, the full restoration of Ukraine's sovereignty within internationally recognised borders without any restrictions on sovereign rights, and the return of all Ukrainian citizens captured by Russia.

Additionally, Ukraine is currently the only country in the world that is being attacked by ballistic missiles almost daily. The Russians want to achieve a complete blackout of Ukraine. Since the end of February, Russia has conducted over 388 strikes on more than 131 energy infrastructure facilities resulting in losing more than 8 GW of power generation capacity. More than 800 heat supply facilities have been destroyed or damaged. There are also losses in distribution systems. The damage is more extensive than during the massive strikes in 2022-2023. Around 20 substations

were hit, power plants, including the Dnipro hydro power plant (capacity of 1578 MW), were damaged. 80% of Ukraine's thermal power infrastructure was destroyed recently, which led to a deficit of energy across the country. As of now, there is an energy shortage in Ukraine, which causes the introduction of regular power outages.

Nevertheless, the Government understands the need to ensure human rights and effectively fulfill its obligations to Ukrainians and international organizations, in particular the Council of Europe.

In this context, it is worth noting that the work is carried out by the Government with the aim of joining the European Union. On 08 November 2023, the European Commission (the "Commission") presented a Report on Ukraine¹¹ where, in particular, it emphasized progress, with legislation strengthening the social protection of children and support for families with children, and introducing the notion of the best interests of the child. However, the Commission noted as well that there still is a need to develop procedures and criteria to provide guidance for determining the best interests of the child, including of children in need of care and protection, and giving the best interests of the child due weight as a primary consideration. The disturbing issue of family separation, which became extremely relevant after Russia's invasion of Ukraine and has a negative impact, in particular, on the possibility of enforcing judgments of the Court in the *Shvets* group of cases, was not left out of the Commission's attention. In particular, it indicated that there is room to strengthen integrated social services to prevent this problem.

In view of the above, the Government once again emphasize the full awareness of the importance of compliance with the Convention and the practice of the Court and want to inform about the measures that, despite the conditions of martial law, they continue to take to improve the situation as to enforcement of domestic judgments relating to granting custody or access rights to minor children.

As to legislative amendments

On 14 July 2021, the Verkhovna Rada of Ukraine adopted in the first reading the Draft Law "On Enforced Execution of Decisions" (no. 5660)¹² ("the Draft Law no. 5660"), which is currently preparing for consideration in the second reading. This Draft Law stipulates, among other things, changes aimed at effective implementation of court decisions issued in the category of cases related to granting custody or access rights to minor children.

Articles 137 and 138 of the Draft Law no. 5660 propose to perform executive actions on the removal of the child and on establishing contact arrangements with the child, on removing of obstacles to the applicant's communication with the child, respectively, with the mandatory participation of the parent to whom the child is transferring and involvement of representatives of the tutelage and guardianship authorities as well as the police. These articles propose to allow the implementation of decisions of this type at the child's place of residence, location and education. In addition, they suggest allowing to bailiff to make forced entry into the premises where the child is located to enforce the decision.

¹¹ https://neighbourhood-enlargement.ec.europa.eu/document/download/bb61ea6d-dda6-4117-9347-a7191ecef3f_en?filename=SWD_2023_699%20Ukraine%20report.pdf

¹² https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=72223

In the event that the debtor does not voluntarily execute the decision on the removal of the child (namely, does not hand over the child to the debt collector), the bailiff organizes the execution of the decision without the participation of the debtor.

If the debtor fails to comply with the decision on the removal of the child or does not appear on the day, time and place determined by the bailiff to execute the decision, the bailiff, in particular, issues a resolution imposing a fine on the debtor in amount of 200 tax-free minimum incomes of citizens as provided by Article 157 of Draft Law no. 5660. If the debtor does not comply with the decision repeatedly, bailiff imposes a double fine, applies to the pre-trial investigation authorities with a notification on the commission of a criminal offense, issues a resolution on establishing a temporary restriction of the debtor's right to leave Ukraine (the procedure for such restriction is stipulated by Article 133 of the Draft Law no. 5660), issues a resolution on establishing a temporary restriction on the debtor with the right to drive vehicles (with the exceptions defined in part 10 of Article 134 of the Draft Law no. 5660).

The same articles suggest to give the state bailiff the right to apply to the court to resolve the issue of temporary placement of a child to a children's or medical institution, to the family of relatives or a foster carer with the aim of preventing harm to the child, if there is a threat to the child's life and health or risk of change of child's location and hindering or complicating the execution of the decision.

The deputies of the Verkhovna Rada of Ukraine are also working on the Draft Law "On Amendments to the Law of Ukraine "On Enforcement Proceedings" regarding the implementation of decisions on establishing contact arrangements with the child" (no. 9426)¹³ of 27 June 2023. Among other things, it proposes to supplement part 2 of Article 18, which stipulates the duties of the bailiff, with para. 7 of the following content: "to involve the body of tutelage and guardianship during the implementation of the decision to establish contact arrangements with the child, the decision to remove obstacles to the communication with the child in the event of existence of signs of the child's unwillingness to contact the debt collector and in other cases provided by law".

Article 64¹ of the Law of Ukraine "On Enforcement Proceedings" is proposed to be supplemented with part 2-1, namely:

"If signs of the child's unwillingness to contact the debt collector are established, the state bailiff is obliged to involve the body of tutelage and guardianship in order to draw up a plan of measures for the further implementation of the court's decision.

The state bailiff draws up an act on establishing signs of the child's unwillingness to contact the debt collector and sends it to the tutelage and guardianship body.

The tutelage and guardianship body draws up a plan of measures to implement the court decision, which must determine recommendations to the parties in order to ensure the best interests of the child, in particular understanding that it is in the interests of the child to have both parents participating in its upbringing, and submit it for approval to the court that made a decision.

The plan of measures to implement the court decision is mandatory for the parties to implement from the day the court decision enters into force".

¹³ <https://itd.rada.gov.ua/billInfo/Bills/Card/42163>

In addition, with the aim of improving the current legislation and Ukraine's proper fulfillment of international obligations to the Council of Europe in terms of the proper and timely implementation of the decisions of the Court, the Ministry of Justice of Ukraine has developed a Draft Law of Ukraine "On Amendments to Certain Legislative Acts on Strengthening the Protection of Rights and Freedoms of Human and Citizen During the Enforcement of Decisions"(no. 10389)¹⁴, which was registered in the Verkhovna Rada of Ukraine on 03 January 2024.

This Draft Law proposes to improve some provisions of the legislation on the enforcement of court decisions with the involvement of the child, in particular, on establishing communication with the child, on removing obstacles to meetings with the child. Changes are suggested to Article 19 of the Family Code of Ukraine regarding the participation of the guardianship authority during consideration of applications of state bailiffs submitted to the court during the enforcement of court decisions with the involvement of the child; to Article 13 of the Law of Ukraine "On Social Work with Families, Children and Youth"¹⁵ regarding the establishment of the obligation of subjects of social work with families, children and youth to participate in executive actions; to Articles 32, 33, 64¹ of the Law of Ukraine "On Enforcement Proceedings" on specifying the actions of the bailiff during the execution of decisions of the specified category.

The Government believe that the adoption of the mentioned draft laws will help to prevent violations similar to those identified by the Court in the *Shvets* group of cases.

As to usage of mediation during consideration of applications on granting custody or access rights to minor children

Mediation plays an important role in reducing the number of lawsuits to courts and, accordingly, enforcement proceedings. This mechanism of resolving disputes is popularized, among other things, as a result of the adoption of the Law of Ukraine "On Mediation" (no. 1875-IX)¹⁶ (the "Law "On Mediation"). Thus, according to the information provided by the National Association of Mediators, more government agencies and organizations begun to contact mediators for cooperation, including the Ministry of Social Policy of Ukraine, the Ministry of Justice of Ukraine, the Services for Children, Family and Youth, and tutelage and guardianship authorities.

Examples of such cooperation include:

- development of an updated draft of the State Standard of Mediation as Social Service with the Ministry of Social Policy, which is currently undergoing the approval procedures provided by law;
- set up of mediation rooms in courts in Odesa;
- concluding of a cooperation agreement between the Service for Children of the Lviv City Council and the public organization "Lviv Mediation Center" to implement the project "Introduction of Mediation as an Alternative Dispute Resolution".

In addition, the public's awareness of mediation has increased due to the fact that after the adoption of the Law "On Mediation" public authorities more frequently offer to use it to resolve family conflicts out of court and, as a result, reduce risks of causing a psychological trauma to children.

¹⁴ <https://itd.rada.gov.ua/billInfo/Bills/Card/43480>

¹⁵ <https://zakon.rada.gov.ua/laws/show/2558-14#n133>

¹⁶ <https://zakon.rada.gov.ua/laws/show/1875-20#Text>

The Law “On Mediation” also amended legislation. For example, part 7 of Article 49 of the CCP now states that the parties may reconcile, including through mediation, at any stage of the court proceedings, and the result of the parties’ agreement may be formalized in a settlement agreement. Article 142 of CCP was amended to establish the distribution of costs in case of recognition of a claim, closure of proceedings or leaving a claim without consideration in the event of reaching settlement agreement between the parties, withdrawal of a claim by the plaintiff or recognition of a claim by the defendant following mediation, 60% of the court fee paid when filing the relevant claim or complaint will be refunded.

Additionally, the Law “On Mediation” amended Article 13 of the Law of Ukraine “On Social Work with Families, Children and Youth” with the right for subjects of social work with families, children and youth to propose solutions to disputes, arising in families and other objects of social work, through mediation.

It is worth noting that even before the adoption of the Law “On Mediation”, the Law of Ukraine “On Free Legal Aid” (no. 3460-VI)¹⁷ (the “Law “On FLA”) was in force. Among other provisions, it establishes that assistance in ensuring a person’s access to secondary legal aid and mediation is a type of state guarantee of free primary legal aid and defines what types of legal services are classified as such too (para. 4 of part 2 of Article 7).

In addition, para. 11 of part 18 of the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Simplifying Access to Free Legal Aid” (no. 3022-IX)¹⁸ (the “Law “On Amendments”) supplemented Article 17 of the Law “On FLA” with para. 14, according to which the powers of Free Legal Aid Centers were expanded to include the possibility of providing mediation services in accordance with the established procedure.

Employees of the Free Legal Aid Center are guided by the Procedure for the Provision of Free Legal Aid by Specialists of Local Centers for the Provision of Free Secondary Legal Aid, approved by the Order no. 2 of 28 January 2019, of the Coordination Center of Legal Aid Provision¹⁹ (the “Procedure”). According to para. 5 of part 2 of the Procedure, when providing free primary legal aid specialist determines the type of legal aid that can be given, including assistance in access to mediation and written advice/clarification on legal issues, as well as indicates proposals for possible options for resolving the issue of the client, including alternative methods (if any).

On the basis of para. 5 of part 2 of the Procedure, after providing assistance in ensuring access to mediation, employees of the Free Legal Aid Center may refer the client, with his/her consent, to a mediator with whom the center has concluded an agreement (memorandum) on cooperation in providing mediation services to subjects of the right to free legal aid on a pro bono basis. Within the framework of cooperation agreements (memorandums), mediators provide their services free of charge to clients who intend to apply to the court and those who already filed a lawsuit or are defendants in court proceedings. At the same time, receiving mediation services does not prevent a person from usage of free legal aid.

The Law “On Amendments” also supplemented the Law “On FLA” with Article 28¹, according to which the Coordination Center of Legal Aid Provision, which belongs to the sphere of administration of the Ministry of Justice of Ukraine, among other things, forms and maintains in the

¹⁷ <https://zakon.rada.gov.ua/laws/show/3460-17/ed20230803#Text>

¹⁸ <https://zakon.rada.gov.ua/laws/show/3022-20#Text>

¹⁹ <https://zakon.rada.gov.ua/rada/show/v0002419-19#Text>

prescribed manner the Register of mediators engaged by Free Legal Aid Centers (the “Register”), and monitors the quality of mediation services provided by such mediators.

Pursuant to this provision, the Ministry of Justice issued Order no. 5298/5 of 28 November 2022, “On Approval of the Procedure for Maintaining the Register of Mediators Engaged by Free Secondary Legal Aid Centers by the Coordination Center of Legal Aid Provision, the Procedure for Competitive Selection of Mediators Engaged by Free Secondary Legal Aid Centers”²⁰. On 10 March 2023, the Coordination Center of Legal Aid Provision issued Order no. 121-ar “On Conducting a Competitive Selection of Mediators Involved by Centers for Free Secondary Legal Aid”²¹, which approved the Schedule for Conducting a Competitive Selection of Mediators Involved by Centers for Free Secondary Legal Aid. As a result of the competitive selection, 104 mediators²² were included in the Register which was published in free access on the official website of the Coordination Center of Legal Aid Provision²³.

As noted by the Coordination Center of Legal Aid Provision, the majority of legal disputes referred by the staff of Free Legal Aid Centers to mediators for their settlement or prevention relate to family legal relations, including those that affect the rights and interests of children, in particular, disputes over child support (alimony), determining the child’s place of residence, removing obstacles to communication with the child or setting a schedule of contacts with the child, etc.

In addition, the Coordination Center, together with the Ministry of Justice of Ukraine, is considering the possibility of establishing a procedure for provision of mediation services in certain legal conflicts affecting rights and interests of children in civil legal relations, in particular division of property and divorce when there are minor children in family; tutelage and guardianship of minors and persons with disabilities; cross-border conflicts arising in international cases on children’s rights.

For the period from 01 January 2021 to 30 July 2023, employees of local Free Legal Aid Centers suggested clients to resolve the dispute through mediation in 483 cases, in 210 cases of which clients agreed to this service and were referred to a mediator(s).

In 43 cases, out of 210, mediators took preparatory measures for mediation with the parties together or separately to determine the possibility of mediation to prevent or resolve the conflict (dispute).

Out of these 43 cases, 30 cases resulted in contracts or mediation agreements.

At the same time, verbal agreements on communication with children and their upbringing were reached as aggregate issues in disputes (conflicts) on other requests, in particular, on deprivation of parental rights, alimony and division of marital property.

During the period from 01 August 2023 to 30 April 2024, the employees of the free legal aid centers in 4 cases offered to resolve the dispute with the help of mediation in the following categories of disputes: regarding the determination of the place of residence of a minor child with his father (1 case in 2023); regarding the elimination of obstacles in communication with a minor child and the return of the child to Ukraine (1 case in 2023); regarding participation in the

²⁰ <https://zakon.rada.gov.ua/laws/show/z1499-22#Text>

²¹ <https://legalaid.gov.ua/wp-content/uploads/2023/03/konkurs-mediatoriv-12032023-121ag.pdf>

²² <https://legalaid.gov.ua/novyny/pidsumky-konkursnogo-vidboru-mediatoriv-dlya-spivpracz-z-systemoyu-bpd-za-rezultatamy-dvoh-konkursiv-vidibrano-104-mediatoriv/>

²³ <https://legalaid.gov.ua/reyestr-mediatoriv/>

upbringing of the child, including establishing the order of visits with the child (visitation schedule) (2 cases in 2024). In all cases, clients were referred to mediators. In 2 cases regarding participation in the upbringing of the child, the parties agreed to participate in the mediation procedure after carrying out preparatory activities for mediation.

As to statistical data on enforcement proceedings regarding access to children

Reporting period	Total amount of enforcement proceedings for the reporting period	Opened for the reporting period	Closed during the reporting period	Unexecuted at the end of the reporting period
2021	539	271	195	344
2022	544	198	158	386
2023	578	214	141	437
01 January 2024 – 30 April 2024	513	76	87	426

The Government would like to emphasize that the implementation of executive actions has become more difficult due to the full-scale invasion of Russia to the territory of Ukraine, as a result of which, in particular, a significant number of female left the territory of Ukraine with their children. However, despite the extremely difficult circumstances of the ongoing military aggression of the Russian Federation, the Government take all possible measures to ensure that the decisions of national courts on this category of cases are effectively implemented.

Domestic court practice

When considering cases regarding the elimination of obstacles in communication with a child, national courts study the circumstances of the case in detail in order to make a reasoned decision that will ensure the implementation of the best interests of the child. The Government would like to cite several examples of court cases regarding access to children to support this thesis.

In case no. 545/2247/18 PERSON_1 applied to the national court with a claim to eliminate obstacles in meeting with the child, to determine ways to participate in education and communication with it. The decision of the court of first instance, which was upheld by the decision of the appeal court, determined the manner and procedure of the applicant's communication with his son. The Supreme Court, by its decision of 24 April 2024²⁴, left the previous court decisions unchanged. The Supreme Court agreed with the conclusions of the courts of previous instances that in view of the temporary stay of the defendant and the child abroad, taking into account the need to ensure the safety of the child, the obligation of the defendant to ensure communication between father and son through telephone and electronic communication corresponds to a proper and effective way of protecting the rights of PERSON_1 and contributes to the elimination of obstacles in the upbringing of his minor son. The Supreme Court also noted that the child's temporary departure should not be used as a way of restricting the father's rights to communicate with the child, which should be implemented in order to maintain family relations and the child's emotional contact with his father. However, the real possibilities between the father and the child in the

²⁴ <https://reyestr.court.gov.ua/Review/118688764>

existing conditions are narrowed due to objective reasons, therefore the courts of the first and appellate instances determined the only possible way for the plaintiff to participate in communication with his son.

In the decision of 06 December 2023, (case no. 359/1144/21), the Supreme Court considered a case in which PERSON_1 (mother) asked to take the child from PERSON_2 (father) and to return her to her previous place of residence with the mother, as well as to establish a schedule of communication for father and daughter²⁵. In this case, the father filed a counterclaim to determine the place of residence of the child with him and establish a schedule of communication with the mother. It is important that in this case the court of first instance took into account the opinion of the child who wanted to live with the father. She argued her position and expressed it without pressure. Thus, the court of first instance established for the child the place of residence with the father and determined the schedule of communication with the mother, taking into account the conclusions of the Services for Children, as well as the view of the child herself. The appellate court agreed with such conclusions after additional interview with the child about her desire to live with her father. When reviewing decisions, the Supreme Court took into account the conclusions of the Court regarding the determination of the best interests of the child and ensuring a balance between the interests of the child and parents, as well as provisions of international law acts on the expression of the opinion of the child during the consideration of the case in courts. Moreover, the expression of the child's opinion was analyzed in detail by the Supreme Court and the expediency of its consideration was substantiated. Thus, the Supreme Court supported the decisions of the courts of previous instances.

The Supreme Court also issued a decision of 29 September 2023, in case no. 752/9414/21²⁶. The mother applied to the court of first instance with a request to change the schedule of the father's communication with their daughter, establishing it via the Internet or by telephone and only if the child gives her consent. She substantiated the request by the fact that as a result of the child's refusal to communicate with the father, he inflicted physical injuries on the plaintiff in front of their daughter. This caused psychological damage to the child and she needed to seek psychological help.

The court of first instance rejected the claim, stating that conditioning the father's visits solely on the child's wishes will make it impossible for the father to exercise his rights to participate in raising and seeing the child and asserting the plaintiff did not provide evidence to support her arguments. This decision was left unchanged by the court of appeal, which considered that changing the order of the father's participation in raising his daughter in the manner indicated by the plaintiff is a violation of his and child's rights to unimpeded communication guaranteed by law. The Supreme Court, after analyzing the circumstances of the case and applying the conclusions of the Court in similar cases, indicated that in such sensitive legal relations as determining or changing the method of participation in raising a child, ensuring the restoration of relations and emotional contact of a minor child personally with his father, should prevail over the desire of other persons to limit or completely fence off the child from meetings with the father. The father also has the right to personal communication with the child, and the mother does not have the right to prevent the father from communicating with the child and participating in its upbringing, if such communication does not have a negative impact on the development of the child and contacts take place precisely in the interests of the child. Moreover, the arguments of the cassation complaint about the violation of the

²⁵ <https://reyestr.court.gov.ua/Review/115476407>

²⁶ <https://reyestr.court.gov.ua/Review/113967329>

best interests of the minor daughter were not confirmed. In view of this, the Supreme Court left the decisions of the courts of previous instances unchanged.

Thus, when considering cases regarding children's communication with the parent with whom they do not live, national courts take into account various factors, including the state of war, which significantly affects the possibility of personal meetings of children with their parents. In addition, national courts analyze other circumstances of the case in order to ensure the best interests of the child, in particular taking into account the child's opinion and the conclusions of specialists regarding the relevance of its position. It is also important that when solving issues regarding participation in raising children, a balance is also ensured between the interests of the child and the parents, which is manifested in the impartial resolution of cases by domestic courts, when one parent tries to unreasonably limit the other in the opportunity to communicate with a common child.

Capacity-building measures

- from 2019 to 2022, 30 mediators of the Association of Family Mediators of Ukraine were trained under the program “Family Mediation with the Participation of Minors” conducted by the public organization “International training center “Mediation School”. 17 mediators out of these 30 have completed a separate additional accreditation program on working with minors in mediation;

- in January 2021, the event “USA-Ukraine: Online Family Mediation Simulation” was organized with the participation of Michael Meday, a member of the Board of Directors of the Colorado Mediation Association and Chair of the MAC Legislative Committee (USA);

- in 2021 the training “Features of online work with children in family mediation” was held by the Association of Family Mediators of Ukraine;

- in June 2021, the event “USA-UK-Ukraine: Financial Issues in Family Mediation. Online Simulation” was held;

- on 16 July 2021, the National Association of Mediators of Ukraine, the public organization “Center for Law and Mediation” and “PRAVOKATOR” legal center organized a round table-workshop on the topic “Ethical standards and mechanism of mediation in Ukraine: what is necessary and sufficient?”;

- from 26 October 2021 to 04 November 2021, a training seminar was held for Services for Children workers on the topic “Actual issues of social and legal protection of children”, where issues related to the removal of children and their placement were considered;

- from October to November 2021, professional training was conducted in the field of professional development and training services were provided for specialists of Services for Children (and Family) of territorial communities of Kyiv region on the topic: “Mediation as a social service. Basic concepts. Principle of action”;

- in the autumn of 2022, the National Association of Mediators of Ukraine conducted a training course “Trauma-informed peacebuilding: tools for mediators and dialogue facilitators in Ukraine” jointly with Mediators Beyond Borders International with the support of a grant from the American Arbitration Association – International Center for Dispute Resolution Foundation and the United States Agency for International Development (USAID) “Justice for All” program;

- in January-February 2023, the National Association of Mediators of Ukraine held a number of training workshops for mediators on issues of professional ethics as part of the project “Strengthening the capacity of the community of mediators to form quality criteria for dispute resolution services in Ukraine” with the support of the “Matra Program” of the Kingdom of the Netherlands. In future, within the framework of the named project, it is planned to discuss issues of

ethical responsibility of mediators, create an online course on mediation, including its legal regulation and mediator ethics, organize a conference to discuss mediation policies and practices;

- on 29 March 2023, with the participation of the National Association of Mediators of Ukraine as a co-organizer, the All-Ukrainian Round Table “Mediation in Doctrine, Legislation, and Practice” was held, initiated by Vinnytskyi State Pedagogical University. The program of the event included 13 reports highlighting the current state of development and implementation of mediation in various areas, including family mediation;

- in 2023, the Ukrainian Academy of Mediation launched a series of events “Professional support for mediators”, which take place monthly on various issues and in various formats;

- in 2023, specialists of the National Social Service conducted 25 training seminars, which were attended by about 2 000 employees of the child protection system and almost 1 500 heads of Services for Children from all regions of Ukraine. The workshops focused on the specifics of implementing international standards for the protection of children’s rights, ensuring, protecting and observing children’s rights as a local community responsibility, participation of the tutelage and guardianship authority in court cases as a third party, etc;

- from 13 to 17 November 2023, Department of the National School of Judges of Ukraine in Odesa held lectures for judges on the topic “Application of the European Court of Human Rights and its practice in the administration of justice. The decision of the ECtHR against Ukraine”, “Legal grounds for annulment of the decision of the court of first instance in disputes about determining the place of residence of the child and distinguishing this category of cases from other cases”, “Application of the European Convention on Human Rights and practice of the European Court of Human Rights in the administration of justice. Decision of the ECtHR against Ukraine”;

- every year, from 11 January to 12 December, the National Association of Mediators of Ukraine and its partners hold the “Mediation Month in Ukraine”, during which a number of events are held both to educate and to improve the professional level of mediators;

- on 26 October 2023, and 03 November 2023, training seminars were held for heads and employees of the Services for Children of Zakarpattia region on the topic: “Actual issues of social and legal protection of children”, where issues related to the immediate removal of children and their placement were considered ;

- in 2023, the Service for Children of Zakarpattia Regional Military Administration carried out 4 inspections on the activities of Commissions on the Protection of Children’s Rights at local self-government bodies. Based on the results, a digest on topical issues of Commissions activity was issued;

- from 26 September 2023 to 04 October 2023, training was held for employees of Services for Children of Zakarpattia region on topic “Actual issues related to the activities of the Commissions on the Protection of Children’s Rights”, where questions related to the resolution of issues related to the way parents participate in raising a child, determination of the child’s place of residence, preparation of the submission to the court of the conclusions of guardianship authorities were raised;

- from 16 to 18 April 2024, representatives of the Services for Children of the Zakarpattia region took part in the seminar “Better care for every child”, where the issue of mediation in resolving family disputes was considered.

Publication and dissemination

The *Spitsyn v. Ukraine* judgment was translated into Ukrainian and published in the Official Herald of Ukraine [*Ofitsiynyi Visnyk Ukrainy*], no. 66, of 26 August 2022.

The Ukrainian translation of the judgment is also available on the Ministry of Justice of Ukraine official website²⁷ and on the Verkhovna Rada of Ukraine official website²⁸. The translation is also available on the HUDOC database²⁹.

The summary of the Court's judgment in Ukrainian language was published in the Government's Currier [*Uriadovyi Kurier*], no. 234 of 04 December 2021, and put on the Ministry of Justice of Ukraine official website³⁰. It was also posted on the website of the Supreme Court³¹.

By letters of 17 November 2021, explanatory notes as to the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court, Kovpakivskiy District Court of Sumy and the National School of Judges of Ukraine ("the NSJU"). In addition, letters of 17 November 2021 regarding the rendered decision were also sent to the National Police of Ukraine and Sumy Regional Police Department. Ukrainian Parliament Commissioner for Human Rights was notified of the decision in the case of *Spitsyn v. Ukraine* by letter of 17 November 2021, as well.

The *Vykhovanok v. Ukraine* judgment was translated into Ukrainian and published in the Official Herald of Ukraine [*Ofitsiyni Visnyk Ukrainy*], no. 55, of 19 July 2022.

The Ukrainian translation of the judgment is also available on the Ministry of Justice of Ukraine official website³², and on the Verkhovna Rada of Ukraine official website³³. The translation is also available on the HUDOC database³⁴.

The summary of the Court's judgment in Ukrainian language was published in the Government's Currier [*Uriadovyi Kurier*], no. 234 of 04 December 2021, and put on the Ministry of Justice of Ukraine official website³⁵. It was also posted on the website of the Supreme Court³⁶.

By letters of 17 November 2021, explanatory notes as to the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court, Lviv Court of Appeal, Zaliznychniy District Court of Lviv and the NSJU. Ukrainian Parliament Commissioner for Human Rights was notified of the decision in the case of *Vykhovanok v. Ukraine* by letter of 17 November 2021, as well.

The *Zhupan v. Ukraine* judgment was translated into Ukrainian and published in the Official Herald of Ukraine [*Ofitsiyni Visnyk Ukrainy*], no. 55, of 19 July 2022.

The Ukrainian translation of the judgment is also available on the HUDOC database³⁷, as well as on the legal portal *Liga Zakon*³⁸.

²⁷ <https://minjust.gov.ua/files/general/2023/07/18/20230718111502-44.pdf>

²⁸ https://zakon.rada.gov.ua/laws/show/974_h12

²⁹ <https://hudoc.echr.coe.int/eng?i=001-212049>

³⁰ <https://minjust.gov.ua/files/general/2021/11/17/20211117153810-13.docx>

³¹ https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/Spitsyn_2021_12_06.pdf

³² <https://minjust.gov.ua/files/general/2023/03/24/20230324140430-63.pdf>

³³ https://zakon.rada.gov.ua/laws/show/974_g89#Text

³⁴ <https://hudoc.echr.coe.int/eng?i=001-212050>

³⁵ <https://minjust.gov.ua/files/general/2021/11/18/20211118170706-57.docx>

³⁶ https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/Vykhovanok_2021_12_06.pdf

³⁷ <https://hudoc.echr.coe.int/eng?i=001-212023>

³⁸ <https://ips.ligazakon.net/document/SOO01521>

The summary of the Court's judgment in Ukrainian language was published in the Government's Currier [*Uriadovyi Kurier*], no. 234, of 12 April 2021. It was also posted on the website of the Supreme Court³⁹.

By the letter of 17 November 2021, explanatory notes as to the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court, Zakarpatskyi Court of Appeal, Khust District Court of Zakarpattia region. Ukrainian Parliament Commissioner for Human Rights was notified of the decision in the case of *Zhupan v. Ukraine* by letter of 17 November 2021, as well.

The *Dubas v. Ukraine* judgment was translated into Ukrainian and published in the Official Herald of Ukraine [*Ofitsiyni Visnyk Ukrainy*], no. 68, of 10 August 2023.

The Ukrainian translation of the judgment is also available on the Ministry of Justice of Ukraine official website⁴⁰. The translation is also available on the HUDOC database⁴¹.

The summary of the Court's judgment in Ukrainian language was published in the Government's Currier [*Uriadovyi Kurier*], no. 68 of 06 April 2023 and put on the Ministry of Justice of Ukraine official website⁴². It was also posted on the website of the Supreme Court⁴³.

By letters of 21 March 2023, explanatory notes as to the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court, Holosiivskyi District Court of Kyiv and Kyiv Court of Appeal. In addition, letters of 21 March 2023, regarding the rendered decision were also sent to the Ministry of the Interior of Ukraine, National Police of Ukraine, Kyiv Regional Police Department, Holosiivskyi Police Department of Kyiv Regional Police Department and National Academy of the Interior of Ukraine. Letters to the Ministry of Social Policy of Ukraine, Kyiv City State Administration, Holosiivska District State Administration, Service for Children and Family Affairs of Kyiv City State Administration, Service for Children and Family Affairs of Holosiivskyi District State Administration were sent on 22 March of 2023, as well. In addition, Ukrainian Parliament Commissioner for Human Rights was notified of the decision in the case of *Spitsyn v. Ukraine* by letter of 21 March 2023.

The *Pleshkov and Pleshkova v. Ukraine* judgment was translated into Ukrainian and published in the Official Herald of Ukraine [*Ofitsiyni Visnyk Ukrainy*], no. 68, of 10 August 2023.

The Ukrainian translation of the judgment is also available on the Ministry of Justice of Ukraine official website⁴⁴. The translation is also available on the HUDOC database⁴⁵.

The summary of the Court's judgment in Ukrainian language was published in the Government's Currier [*Uriadovyi Kurier*], no. 71, of 11 April 2023 and put on the Ministry of Justice of Ukraine official website⁴⁶. It was also posted on the website of the Supreme Court⁴⁷.

³⁹ https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/Zhupan_2021_12_06.pdf

⁴⁰ <https://minjust.gov.ua/files/general/2023/04/06/20230406100850-34.pdf>

⁴¹ <https://hudoc.echr.coe.int/eng?i=001-223381>

⁴² <https://minjust.gov.ua/files/general/2023/03/22/20230322173446-17.docx>

⁴³ https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/zakonodastvo/Dybas_Ukraine.pdf

⁴⁴ <https://minjust.gov.ua/files/general/2023/03/22/20230322111559-99.pdf>

⁴⁵ <https://hudoc.echr.coe.int/eng?i=001-223379>

⁴⁶ <https://minjust.gov.ua/files/general/2023/03/22/20230322111559-57.docx>

⁴⁷ https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/zakonodastvo/Pleshkov_Ukraine.pdf

By letters of 21 March 2023, explanatory notes as to the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court, Dniprovskiy District Court of Kyiv, Kyiv Court of Appeal and the NSJU. In addition, letters of 21 March 2023 regarding the rendered decision were also sent to the Ministry of Social Policy of Ukraine, Kyiv City State Administration, Dniprovsk District State Administration, Service for Children and Family Affairs of Kyiv City State Administration, Service for Children and Family Affairs of Dniprovsk District State Administration, Irpin City Council and Service for Children and Family Affairs of Irpin City Council. Ukrainian Parliament Commissioner for Human Rights was notified of the decision in the case of *Pleshkov and Pleshkova v. Ukraine* by letter of 21 March 2023, as well.

CONCLUSIONS OF THE RESPONDENT GOVERNMENT

The Government would like to assure the Committee of Ministers of the acknowledgment of the key role of the Convention in ensuring human rights in Ukraine and the determination to continue taking all feasible actions to fulfil the Government's obligations in this regard.

The Government would also like to note that they are aware of the importance of the problem identified by the Court in judgments which are included in *Shvets v. Ukraine group of cases*. Despite the additional difficulties arising as a result of full-scale invasion of Russia to the territory of Ukraine in the implementation of such sensitive domestic courts decisions related to communication with children, the Government is doing everything possible to effectively implement measures in this regard.

For this purpose, draft of laws have been developed to improve the enforcement procedure of court decisions, including those related to the establishment of contacts with children and to remove obstacles to upbringing of them.

Additionally, the mediation mechanism, which is legislatively regulated by the Law of Ukraine "On Mediation", facilitates the resolution of family disputes, including those involving children, out of court. This not only helps to reduce the number of court decisions, and, accordingly, enforcement proceedings, in cases of this category, but also helps to maintain a favorable psychological environment for the child, which is in the best interests of the child.

Moreover, the State Bailiff's Service, tutelage and guardianship authorities and other interested bodies and organizations conduct various activities that promote professional development in order to improve the efficiency of the implementation of decisions related to establishing contact with the child, removing obstacles to meetings with the child and upbringing of them.

The Government believe that no further individual measures are necessary in the cases of *Zhupan v. Ukraine*, *Gen and Kaluzhska v. Ukraine* as well as *Spitsyn v. Ukraine* and respectfully request the Committee of Ministers to close the examination of these cases in this regard.

The Government also believe they show due diligence in fulfillment of the obligations arising from the judgments in the above group of cases and will inform the Committee of Ministers about further developments and measures taken.