

SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES



Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

Date: 04/10/2024

DH-DD(2024)1119

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Report (03/10/2024)

Communication from Ukraine concerning the case of Boychuk and Raspyakhin v. Ukraine (Application No. 61415/13) (Group MUSHTA v. Ukraine, 8863/06)

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1514^e réunion (décembre 2024) (DH)

Référence du point : Bilan d'action (03/10/2024)

Communication de l'Ukraine concernant l'affaire Boychuk et Raspyakhin c. Ukraine (requête n° 61415/13) (Groupe MUSHTA c. Ukraine, 8863/06) (**anglais uniquement**)

Execution of Judgment of the European Court of Human Rights

Action Report

on measures to comply with the European Court of Human Rights' judgment in the case of *Boychuk and Raspryakhin v. Ukraine*

(Application no. 61415/13, final on 11/04/2024)

DGI

03 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

CASE SUMMARY

The case concerns limitations on the applicants access to courts (violations of Article 6).

INDIVIDUAL MEASURES

Just satisfaction

The Court awarded per applicant sum in the amount of EUR 900 in respect of non-pecuniary damage.

The awarded sum in the amount of UAH 38,772.18 (EUR 900) was transferred to Mr Raspryakhin bank account under payment order No. 154 of 21 May 2024.

The awarded sum in the amount of UAH 39,504.51 (EUR 900) was transferred to Mr Boychuk bank account under payment order No. 169 of 04 June 2024.

Restitutio in integrum

By the letters of 18 April 2024 the Government informed the applicants and their representatives (Mr Karvatsky and Mr Tarakhkalo) about the possibility provided by the legislation in force to apply for the review of the impugned proceedings in the light of the Court's findings in the applicants' case.

According to the information received from the Supreme Court by the letter of 13 September 2024, Mr Boychuk and Mr Raspryakhin have not availed themselves of applying for the review of the impugned proceedings within the term prescribed by the law.

Thus, the Government are of opinion that there are no other individual measures that should be taken in respect of these applicants.

GENERAL MEASURES

The Government would like to note that the case of *Boychuk and Raspryakhin v. Ukraine* represents similarities to the case of *Mushta v. Ukraine*, closed by the Resolution CM/ResDH(2017)378 adopted by the Committee of Ministers on 25 October 2017 at the 1298th meeting of the Ministers' Deputies¹.

The Government would also like to emphasise that the violation of the applicants' rights in this case arose from the inconsistency practice of the domestic courts. At the same time the Government would like to inform about the amendments in the national legislation, as well as to provide information on the positive practice of national courts regarding the exemption of low-income persons and persons held in custody from paying court fees when submitting applications to national courts.

¹ [https://hudoc.exec.coe.int/#/{%22execidentfier%22:\[%22001-178807%22\]}](https://hudoc.exec.coe.int/#/{%22execidentfier%22:[%22001-178807%22]})

Legislation

The Court found a violation of the provisions of the Convention in this case concerning limitations on the applicants' access to courts for their failure to pay the relevant court fee.

The Law of Ukraine "On Court Fees" No. 3674-VI² (hereinafter – the Law No. 3674-VI) came into force on 1 November 2011. This Law defines the legal basis for the collection of court fees, payers, objects and rates of court fees, the procedure for payment, exemption from payment and refund of court fees. An exhaustive list of persons who are unconditionally exempt from paying court fees in all instances is provided in Article 5 of this Law, while Article 8 outlines the individuals to whom the court may grant a court fee exemption.

An analysis of Article 5 of the Law No. 3674-VI, both in its current version and in the version in force at the time the applicants applied to the national courts, shows that they did not fall into the category of individuals who were unconditionally exempt from paying court fees due to their personal social and legal status or the subject matter of their dispute. At the same time, they could have applied for a court fee exemption under Article 8 of Law No. 3674-VI, which they did.

However, it should be noted that at the time of consideration by the national courts of the applicants' relevant requests, the current version of Article 8 of the Law No. 3674-VI provided a general basis for court decisions to grant benefits such as delayed payment, payment by instalments, reduction of court fees, or exemption from payment. This basis was limited to the criterion of "the property status of the party" and did not include clarifications that could help courts to analyse individual situations effectively.

Later in order to provide greater guarantees of protection to low-income categories of plaintiffs and to ensure better access to court for them in accordance with Ukraine's obligations under Article 6 of the Convention, Article 8 of the Law No. 3674-VI was amended by the Law of Ukraine No. 2147-VIII "On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and Other Legislative Acts"³ dated 3 October 2017, which entered into force on 15 December 2017.

The legislator has defined three groups of conditions related to the socio-economic status of a person, his/her social and legal status and the subject matter of the dispute, on the basis of which the court, taking into account the property status of a party, may, by its decision at the request of a party, delay payment or pay by instalments of the court fee for a certain period, but not longer than until the court decision in the case is made (Article 8 § 1 of the Law No. 3674-VI), as well as reduce the amount of the court fee or exempt from it payment (Article 8 § 2 of the Law No. 3674-VI).

In accordance with these amendments, the court may grant a court fee exemption to the following categories of persons based on their property status:

- individual plaintiffs, if the amount of the court fee exceeds 5 percent of the annual income of such plaintiff for the previous calendar year (Article 8 § 1.1 of the Law No. 3674-VI);

- certain categories of parties belonging to more vulnerable segments of society, such as single mothers (fathers) of a child under the age of fourteen or a child with a disability, one of the parents of such a child, if the other parent evades child support, members of a low-income or large family, military servicemen, persons acting in the interests of minors or underage persons and persons who

² <https://zakon.rada.gov.ua/laws/show/3674-17#Text>

³ <https://zakon.rada.gov.ua/laws/show/2147%D0%B0-19#n477>

have been recognised by a court as incapacitated or whose legal capacity is limited (Article 8 § 1.2 of the Law No. 3674-VI);

- to the parties if the subject of the claim is the protection of social, labour, family, housing rights, compensation for health damage (Article 8 § 1.3 of the Law No. 3674-VI).

As to the right of sentenced persons/detainees to greater guarantees and opportunities for access to court, the Government would like to inform the following.

On 08 October 2016 amendments to the Law of Ukraine “On Court Fees” came into force. The Law of Ukraine of 07 September 2016 No. 1491-VIII “On Amending Certain Legal Acts of Ukraine with a View to Enhancing Detainees’ and Prisoners’ Access to Justice”⁴ supplemented Article 5 § 1 of the Law with paragraph 17, which extends the benefit of exemption from court fees to persons sentenced to life imprisonment, imprisonment for a fixed term and to non-custodial sentences, as well as to persons taken into custody - in cases related to issues resolved by the court during the execution of the sentence in accordance with Article 537 of the Code of Criminal Procedure of Ukraine, in the absence of funds sufficient to pay the court fee on their personal accounts.

At the same time, if this special rule cannot be extended to this category of plaintiffs due to the fact that the subject matter of their claim is not related to the issues to be resolved by the court during the execution of the sentence in accordance with Article 537 of the Code of Criminal Procedure of Ukraine, they may also be exempted from paying the court fee or its payment may be delayed or pay by instalments.

When analysing Article 8 of the Law No. 3674-VI, it should be taken into account that the construction used by the legislator “the court, taking into account the property status of the party, may...” empowers the court to reduce the burden of court fees for the person applying to it. This construction gives grounds to conclude that reducing the burden of court fees incurred by a party is not an obligation of the court, but is within the judge’s discretion, which can be exercised in certain circumstances.

Accordingly, a person who applies to the court with a relevant request must confirm his or her difficult financial situation, which makes it impossible for him or her to pay the court fee in the manner and/or amount prescribed by law, with appropriate, admissible, sufficient and reliable evidence that will prove the need for the court to apply the relevant benefit to him or her.

The analysis of the case law of the courts of first instance and appellate courts in cases of consideration of applications for exemption from payment of court fees, reduction of their amount, granting delayed payment or payment by instalments gives grounds to assert that the court, when considering cases of this category, is guided by the fundamental principles enshrined in the Convention, in particular in the context of ensuring the right of access to court provided for in Article 6. The court when assessing the applicant’s financial situation, takes into account such personal circumstances of the applicants as the availability and amount of real income (salary, scholarship, pension, other income), movable and immovable property, securities, and the possibility of disposing of them without significant deterioration of the financial situation. Having duly assessed these circumstances, the court grants or dismisses the request for exemption from payment of the court fee.

Examples of the domestic court practice

The Government would like to present the examples of court decisions granting the above-

⁴ <https://zakon.rada.gov.ua/laws/show/1491-19#n22>

mentioned requests:

- the decision of the Leninsky District Court of Poltava of 28 August 2024 in case No. 553/2145/24 (<https://reyestr.court.gov.ua/Review/121234740>);
- the decision of the Bilhorod-Dnistrovskiy City District Court of Odesa Region of 27 July 2023 in case No. 495/7517/23 (<https://reyestr.court.gov.ua/Review/112462609>);
- the decision of the Novomoskovsk City District Court of Dnipropetrovsk Region of 20 April 2023 in case No. 183/4752/23 (<https://reyestr.court.gov.ua/Review/110395119>);
- the decision of the Fifth Administrative Court of Appeal of 12 April 2022 in case No. 420/2545/22 (<https://reyestr.court.gov.ua/Review/103929664>);
- the decision of the Donetsk District Administrative Court of 23 February 2021 in case No. 200/1673/21-a (<https://reyestr.court.gov.ua/Review/95067991>).

If a person believes that the court of first instance or the appellate court has incorrectly assessed their ability to pay the court fee, they may appeal the decision to a higher court.

The case law of the court of cassation on quashing the decisions of lower courts that have unreasonably dismissed claims due to non-payment of court fees

In case No. 480/6100/23⁵ PERSON_1 filed an administrative claim stating three non-property claims and requested exemption from the court fee due to a low income. He asserted that he was facing difficult financial situation and have only received social benefits in 2022, as he was caring for his mother, who has a first-group disability and receives a small disability pension. His entire income consisted of compensation for individuals providing social services for the care of a person with a disability on a non-professional basis. He submitted relevant certificates to the court to confirm these circumstances.

The court of first instance dismissed the request by its decision of 12 July 2023. At the same time, the court argued that since in total in 2022 PERSON_1 was paid social benefits in the amount of UAH 43210.51, and the amount of the court fee was UAH 3220.8 and exceeded 5 percent of the plaintiff's annual income (UAH 2160.52), reduced the amount of the court fee and offered PERSON_1 to pay it as for two non-property claims in the amount of UAH 2147.20. The court of appeal upheld this decision.

Having disagreed with these decisions, PERSON_1 filed a cassation appeal with the Supreme Court. Having examined in detail all the arguments, the Supreme Court by its decision of 27 May 2024, quashed the decisions of the courts of previous instances, finding that when calculating the amount of the court fee, the courts did not take into account the provisions of Article 4 § 3 of the Law 3674-VI and did not apply a coefficient of 0.8 to reduce the relevant amount of the court fee rate in connection with the filing of a claim in electronic form with the court of first instance through the Electronic Court subsystem. Accordingly, applying a coefficient of 0.8, the amount of court fees for three non-property claims exceeded 5 percent of PERSON_1's annual income. The Supreme Court also recognised that the courts had not investigated and properly assessed all the evidence provided by the plaintiff to prove his difficult financial situation. Taking into account all the circumstances of this case, the Supreme Court quashed the decisions of the lower courts.

⁵ <https://reyestr.court.gov.ua/Review/119308650#>

In case No. 160/24736/21⁶ PERSON_2 simultaneously with the appeal filed a request for exemption from payment of the court fee due to inability to pay it and provided the court with the following documents in support of the said: a certificate from the Pension Fund of Ukraine confirming that he is not a pension recipient and is not registered; information from the State Register of Real Property Rights and the Register of Real Property Rights, the State Register of Mortgages, the Unified Register of Prohibitions on the Alienation of Real Property in respect of the subject; information from the State Register of Individual Taxpayers on the amounts of income paid and taxes withheld for 2021 and 2022. In addition, the plaintiff noted that if the court concludes that it is necessary to submit additional supporting documents of unsatisfactory property status that will be necessary for the court to consider his request, he will provide them.

Assessing PERSON_2's request for exemption from court fees in its decision of 09 August 2022, the appellate court, referring to the provisions of Article 8 § 1 and § 2 of the Law No. 3674-VI, stated that the current legislation establishes an exhaustive list of grounds for exemption from court fees, and therefore the court has no grounds to grant the request and exempt from paying court fees. At the same time, in the operative part of the abovementioned decision, the appellate court did not dismiss the appellant's request, but instead offered that the appellant, within 10 days of receiving the decision of leaving the appeal, to rectify the defects of the appeal by providing the court with proper evidence of payment of the court fee for filing an appeal against the decision of the first instance court in a case involving a non-property claim. Later by its decision of 19 September 2022, the court of appeal returned the appeal to the appellant on the grounds that the defects of the appeal had not been rectified within the time limit set by the court.

The Supreme Court disagreed with this conclusion of the court of appeal and found it premature. In its decision of 22 November 2022, the Supreme Court noted that the court of appeal, having failed to investigate the circumstances stated by the complainant and formally referring to the fact that the circumstances cited in his request did not indicate the existence of grounds for exemption from paying the court fee, did not indicate what circumstances and evidence PERSON_2 had to provide to confirm the level of his property status, given that such evidence is assessed by the court in its internal conviction based on its direct, comprehensive, full and objective examination. In case of insufficient evidence submitted by the plaintiff to prove the financial inability to pay the court fee, the court had to offer the plaintiff to submit the evidence that, in its opinion, was not enough to resolve his request.

By its decision of 05 December 2022, the court of appeal exempted PERSON_2 from paying the court fee and opened proceedings on his appeal.

In case No. 905/1965/19⁷ on the bankruptcy of K.Energo Joint Stock Company PERSON_3 applied to the local court for recognition as a creditor in this case and requested exemption from paying the court fee for filing this application in accordance with Article 8 of the Law No. 3674-VI. In the request PERSON_3 stated that he could not pay the court fee of UAH 4,204, which was equivalent to his three-month pension for consideration of the application with a monetary claim against the debtor in the amount of UAH 1,700, which was actually the amount of his pension for one month (UAH 1,690), and provided evidence of his unsatisfactory financial situation.

The first instance and appellate courts refused to exempt the plaintiff from paying the court fee, referring to the provisions of Article 45 of the Bankruptcy Code of Ukraine, noting that the mandatory attachment to the statement of claims against the debtor is evidence of payment of the court fee for

⁶ <https://reyestr.court.gov.ua/Review/107461373>

⁷ <https://reyestr.court.gov.ua/Review/93155676>

filing such a statement, and the provisions of Article 8 of the Law No. 3674-VI, which stipulate that the grounds for exemption from payment of the court fee are the absence of income for the previous calendar year, apply exclusively to individuals who are plaintiffs in lawsuits.

In its decision of 26 November 2020, the Supreme Court agreed with PERSON_3's arguments that his right to access to court was violated due to the excessive burden of paying the court fee. The Supreme Court noted that the legislation does not provide for specifics regarding the procedure for paying the court fee for filing a bankruptcy creditor's application with monetary claims against a debtor in respect of which bankruptcy proceedings have been opened, and that in such cases the general provisions of the Law No. 3674-VI are applicable. Since it followed from the content of PERSON_3's application for recognition as a creditor in case No. 905/1965/19 on the bankruptcy of K.Energo JSC that his monetary claims against the debtor were justified by the fact that PERSON_3 had overpaid for the services of supplying hot water consumed by him, the Supreme Court recognised that PERSON_3 had actually applied for protection of his social right to an adequate standard of living, which was violated as a result of his payment to the debtor for the consumed utilities in a higher amount.

The Supreme Court found erroneous the conclusions of the court of appeal that there were no grounds for applying Article 8 of the Law No. 3674-VI to the disputed legal relations, and therefore the denial of the court of appeal's request to dismiss PERSON_1's request for exemption from paying court fees was premature.

In the case No. 520/13312/2020 the Kharkivskiy District Administrative Court rejected the detainee's claim against the Kharkiv SIZO regarding unauthorised review of a letter received from the lawyer. This decision was appeal by the convict with a request for exemption from court fees. On 25 January 2021 the Second Administrative Court of Appeal rejected the convict's request noting that there was no evidence of the detainee's financial difficulties that made it impossible to pay the court fee.

On 9 September 2021⁸ the Supreme Court concluded that the appellate court's conclusion was premature as it did not investigate and provide a legal assessment of the detainee's arguments and provided evidence to confirm the existence of circumstances that could be grounds for the exemption from paying the court fee. The cassation court quashed the previous court decision and remitted the case to the court of appeal.

The Government would like to provide examples of other decisions of the Supreme Court, in which it recognised the error of the lower courts' conclusions that there were no grounds for granting the applicant a court fee exemption:

- of 14 August 2019 in case No. 640/18329/18 (<https://reyestr.court.gov.ua/Review/83632767>);
- of 10 February 2021 in case No. 826/15498/18 (<https://reyestr.court.gov.ua/Review/94770383>);
- of 16 February 2022 in case No. 203/4829/20 (<https://reyestr.court.gov.ua/Review/103930767>);
- of 14 July 2022 in case No. 160/10361/20 (<https://reyestr.court.gov.ua/Review/105248134>);
- of 21 September 2022 in case No. 303/7754/21 (<https://reyestr.court.gov.ua/Review/106659939>);
- of 18 January 2024 in case No. 520/495/23 (<https://reyestr.court.gov.ua/Review/116396852>);
- of 31 January 2024 in case No. 380/17083/23 (<https://reyestr.court.gov.ua/Review/116681245>).

⁸ <https://reyestr.court.gov.ua/Review/99482454>

The Government also offer to familiarise with the court practice of the court of cassation on granting requests for exemption from the court fee when filing a cassation appeal, in particular, exemption from its payment, on the grounds set forth in paragraphs 1, 3 of part one of Article 8 of the Law No. 3674-VI:

- the decision of the Supreme Court of 31 March 2020 in case No. 201/398/18 (<https://reyestr.court.gov.ua/Review/88574915>);
- the decision of the Supreme Court of 09 April 2020 in case No. 2-2525/10 (<https://reyestr.court.gov.ua/Review/88739548>);
- the decision of the Supreme Court of 07 December 2020 in case No. 335/8837/15-П (<https://reyestr.court.gov.ua/Review/93505659>);
- the decision of the Supreme Court of 18 November 2021 in case No. 560/4223/19 (<https://reyestr.court.gov.ua/Review/101190640>);
- the decision of the Supreme Court of 14 March 2023 in case No. 640/9673/19 (<https://reyestr.court.gov.ua/Review/109573207>);
- the decision of the Supreme Court of 04 July 2023 in case No. 240/15284/22 (<https://reyestr.court.gov.ua/Review/112029760>);
- the decision of the Supreme Court of 07 July 2023 in case No. 240/32579/21 (<https://reyestr.court.gov.ua/Review/112064989>);
- the decision of the Supreme Court of 27 January 2021 in case No. 564/2567/20 (<https://reyestr.court.gov.ua/Review/94489854>);
- the decision of the Supreme Court of 14 November 2023 in case No. 381/4594/21 (<https://reyestr.court.gov.ua/Review/114904700>);
- the decision of the Supreme Court of 01 May 2024 in case No. 129/2878/21 (<https://reyestr.court.gov.ua/Review/120065792>);
- the decision of the Supreme Court of 15 August 2024 in case No. 753/16875/21 (<https://reyestr.court.gov.ua/Review/121047357>);
- the decision of the Supreme Court of 22 July 2021 in case No. 160/10767/20 (<https://reyestr.court.gov.ua/Review/98493690>);
- the decision of the Supreme Court of 17 August 2018 in case No. 819/834/18 (<https://reyestr.court.gov.ua/Review/76008572>).

In addition to the above examples of court practice, the Government would also like to draw attention to the recent legal opinion of the Grand Chamber of the Supreme Court, expressed in the decision of 29 November 2023 in case No. 906/308/20⁹, that the provisions of Article 8 § 1.1 of the Law may be applied as a general rule not only to the plaintiff (as this provision expressly states), but also to the defendant - an individual, if there is a relevant ground defined by the said provision, and that the refusal to exempt a defendant from paying court fees on the grounds that such a person is a defendant (in case of filing an appeal or cassation appeal), without the court examining the evidence by which the defendant justifies the existence of grounds for applying the relevant benefit to him, harms the very essence of the defendant's right of access to court.

⁹ <https://reyestr.court.gov.ua/Review/115598835>

An analysis of court decisions available in the Unified State Register of Court Decisions shows that courts apply this legal position of the Grand Chamber of the Supreme Court:

- the decision of the Volyn Court of Appeal of 21 December 2023 in case No. 161/5092/23 (<https://reyestr.court.gov.ua/Review/115872271>);
- the decision of the Northern Commercial Court of Appeal of 09 January 2024 in case No. 927/252/21 (<https://reyestr.court.gov.ua/Review/116228758>);
- the decision of the Zhytomyr Court of Appeal of 07 February 2024 in case of No. 276/2307/23 <https://reyestr.court.gov.ua/Review/116817656>;
- the decision of the Supreme Court of 17 January 2024 in case No. 352/1118/22 (<https://reyestr.court.gov.ua/Review/116445910>);
- the decision of the Lviv Court of Appeal of 01 August 2024 in case No. 453/1547/21 (<https://reyestr.court.gov.ua/Review/120760685>).

The case law of the court of cassation on the review of lower courts decisions, when it upheld the conclusions of those courts on dismissal of motions for exemption from payment of court fees on the grounds of their unreasonableness

In case No. 120/9094/22¹⁰ PERSON_1 filed a request with an appeal to exempt him from paying the court fee, which he justified by the fact that he did not have the financial possibility to pay the court fee. In support of his arguments, PERSON_1 provided the court with information about himself from the State Register of Individual Taxpayers on the sources/amounts of income paid and taxes withheld as of 13 February 2023, which established that there was no information about his income for the period from the 3rd quarter of 2021 to the 3rd quarter of 2022. In addition, he also provided certificates from the Pension Fund of Ukraine confirming that he is not registered as a recipient of a subsidy, does not receive payments and is not registered as a pension recipient in accordance with the Law of Ukraine “On Compulsory State Pension Insurance”.

The court of admissied the request, justifying its position by the fact that, contrary to the law, PERSON_1 submitted information that did not contain information on the amount of the plaintiff’s annual income for 2022 (the previous calendar year) in full, as it did not contain information for the 4th quarter of 2022. The court of appeal also found that PERSON_1’s permanent place of residence was Portugal, but he did not provide evidence that would indicate the absence or presence of income at the place of permanent residence. The Supreme Court, in its decision dated 09 May 2024, recognised the conclusions of the court of appeal that the information provided by the plaintiff did not confirm the fact that the amount of the court fee exceeded 5 percent of his annual income, since the court did not have information about the plaintiff’s income for the entire previous year (2022).

In case No. 916/1220/23¹¹ PERSON_2 filed a claim with the Commercial Court of Odesa Region against the Private Joint Stock Company “House of Vintage Cognacs ‘Tavria’ to recover UAH 19,024,909.04 and a request for exemption from paying the court fee in the amount of UAH 285,373.64.

By its decision of 29 March 2023, the court dismissed PERSON_2’s request for exemption from paying the court fee, citing that the evidence provided by the plaintiff (a certificate of the amount of the old-age pension received by him in 2022 in the amount of UAH 160551.76 and information from

¹⁰ <https://reyestr.court.gov.ua/Review/118962250>

¹¹ <https://reyestr.court.gov.ua/Review/113203843>

the State Register of Individual Taxpayers on the lack of information about his income for 2022) did not confirm his real property status and did not indicate that he is unable to pay the determined court fee for filing a claim, and that the court has not been provided with information on the presence/absence of funds in bank or deposit accounts, movable or immovable property, or securities.

Considering PERSON_2's cassation appeal against these court decisions, the Supreme Court, in its decision of 04 September 2023, concluded that it should be dismissed. It recognised that the plaintiff had not claimed in his lawsuit, appeal or cassation appeal that he had a difficult financial situation, but only insisted that "the plaintiff definitely falls within the scope of parts one and two of Article 8 of the Law No. 3674-VI". The Supreme Court took into account that the plaintiff did not provide either the court of first instance or the court of appeal with evidence of the presence/absence of funds in bank or deposit accounts and securities, although the courts had indicated to the plaintiff that they should be submitted for a comprehensive examination of the circumstances of his financial situation. The Supreme Court also noted that the plaintiff had the right to apply to the court for a delayed payment and payment by instalments of the court fee or a reduction in its amount, but did not exercise this right.

The Government would like to summarise the measures taken by the state to improve the relevant provisions of the legislation on the collection of court fees contributed to ensuring the observance of the rights protected by the Convention, in particular the right of access to court, and the application of an individual approach to a person in each individual case of this category. The current system of court fees in Ukraine is flexible enough to allow a party that is not exempt from paying court fees under the law, but has difficulties paying them due to its financial situation, to use full or partial exemption from payment or reduction of the amount of court fees and to file a relevant request with the court.

Publication and dissemination

The Ukrainian translation of the judgment was published in the official Government's print outlet – Official Herald of Ukraine [*Ofitsiyni Visnyk Ukrainy*], No. 68 of 06 August 2024.

The summary of the Court's judgment in Ukrainian language was published in the Government's Currier [*Uriadovyi Kurier*], No. 92 of 04 May 2024.

The translation is also available on the Ministry of Justice official web-site¹² and HUDOC database¹³.

By the letters of 18 April 2024 explanatory notes on the conclusions of the Court in the abovementioned judgment together with its summary were sent to the Supreme Court, the Tysmenytsya Town Court of Ivano-Frankivsk Region, the Eighth Administrative Court of Appeal, the Kirovskyy District Court in Kirovograd, the Kropyvnytskyy Court of Appeal and the National School of Judges.

In order to ensure correct and uniform application by the domestic courts the provisions of the Convention and the Court's case-law the Supreme Court disseminated the Court's conclusions in the *Boychuk and Raspryakhin* case among the appellate courts.

CONCLUSIONS OF THE RESPONDENT STATE

Despite Russia's aggression, Ukraine continues to provide stability of institutions guaranteeing, in particular, the rule of law and human rights.

¹²<https://minjust.gov.ua/m/rishennya-schodo-suti-za-alfavitom>

¹³<https://hudoc.echr.coe.int/ukr?i=001-233873>

The Government would like to emphasise that current legislation together with the consistence court practice will prevent the similar violations as in this case in future.

The Government of Ukraine believe that they show due diligence in fulfillment of obligations arising from the above judgment and no additional measures are required. Accordingly, the Government kindly ask the Committee of Ministers to close the supervision of this case.