

Resolution CM/ResDH(2024)337

Execution of the judgments of the European Court of Human Rights

Eight cases against Ukraine

(Adopted by the Committee of Ministers on 5 December 2024
at the 1514th meeting of the Ministers' Deputies)

Application No.	Case	Judgment of	Final on
10543/03	LEONOV	26/01/2017	26/01/2017
38683/06	ALEKSANDR SMIRNOV	15/07/2010	15/10/2010
30075/06	ZAMFERESKO	15/11/2012	15/02/2013
38833/03	KIRPICHENKO	02/04/2015	02/07/2015
43109/05	SAMARDAK	04/11/2010	04/02/2011
29175/04	DUSHKA	03/02/2011	03/05/2011
17323/04	ISMAILOV	27/11/2008	27/02/2009
34331/03	SPINOV	27/11/2008	06/07/2009

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”),

Having regard to the final judgments transmitted by the Court to the Committee in these cases and to the violations established on account of torture and/or ill-treatment by the police, mostly in order to obtain confessions, and/or lack of effective investigations into such complaints (substantive and procedural violations of Article 3), as well as lack of speedy and thorough review of the lawfulness of detention on remand (violation of Article 5, paragraph 4), the absence of legal assistance as from the first questioning and use of evidence obtained through ill-treatment for the applicants' conviction (violation of Article 6, paragraphs 1 and 3 (c));

Recalling the respondent State's obligation, under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

- of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures preventing similar violations;

Having invited the Government of the respondent State to inform the Committee of the measures taken to comply with the above-mentioned obligation;

Having examined the consolidated and updated action plans provided by the Government indicating the individual measures adopted to execute the judgments including the information provided regarding the payment of the just satisfaction awarded by the Court (see documents DH-DD(2024)492 and DH-DD(2024)1134);

Noting with regret that no further individual measures are possible in the cases of *Aleksandr Smirnov*, *Zamferesko*, *Kirpichenko*, *Samardak*, *Dushka*, *Ismailov* in the light of the decisions of the domestic courts to terminate criminal proceedings as time-barred and in the cases of *Leonov* and *Spinov*, in which, despite the measures taken by the renewed investigations, it was impossible to rectify some key shortcomings identified by the Court; noting also that no further individual measures are necessary in the *Leonov* case in respect of the lack of speedy and thorough review of the lawfulness of detention on remand, and in the *Zamferesko* case given that the evidence obtained in breach of the Convention was declared inadmissible in the judicial proceedings reopened after the Court's judgment;

Recalling that the question of general measures required in response to the shortcomings found by the Court in these judgments continues to be examined within the framework of the *Kaverzin/ Afanasyev/ Belousov* groups of cases, also in the light of the Court's findings in these cases, and that the closure of these cases therefore in no way prejudices the Committee's evaluation of the general measures required;

Noting also that the outstanding questions related to lack of speedy and thorough review of the lawfulness of detention on remand, the absence of legal assistance as from the first questioning and use of evidence obtained through ill-treatment for the applicant's conviction, raised in the cases of *Leonov* and *Zamferesko* are being examined by the Committee in the context of the supervision of the *Ignatov* and *Balitskiy* groups of cases, respectively,

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention in these cases;

CONCLUDES that the necessary individual measures have been adopted;

DECIDES to continue to supervise the adoption of the necessary general measures concerning torture and/or ill-treatment in police custody and lack of effective investigation in this respect in the *Kaverzin/ Afanasyev/ Belousov* groups of cases; lack of speedy and thorough review of the lawfulness of detention on remand in the *Ignatov* group of cases; the absence of legal assistance as from the first questioning and use of evidence obtained through ill-treatment for the applicant's conviction in the *Balitskiy* group of cases;

DECIDES to close the examination of these cases.