

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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Date: 24/02/2016

DH-DD(2016)204

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: 1250 meeting (8-10 March 2016) (DH)

Item reference: Action plan (19/02/2016)

Communication from Ukraine concerning the case of Sergey Shevchenko against Ukraine (Application No. 32478/02)

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 : 1250 réunion (8-10 mars 2016) (DH)

Référence du point : Plan d'action

Communication de l'Ukraine concernant l'affaire Sergey Shevchenko contre Ukraine (Requête n° 32478/02)
(anglais uniquement)

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УКРАЇНА

УРЯДОВИЙ УПОВНОВАЖЕНИЙ У СПРАВАХ
ЄВРОПЕЙСЬКОГО СУДУ З ПРАВ ЛЮДИНИ

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14. 02. 2016 № 2013/12.0.1-41-16

Ha № _____



Ms Geneviève Mayer
The Head of Department
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Directorate General of Human rights – DG II
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*As to the execution of the Court's judgment
in the case of Sergey Shevchenko v. Ukraine*

Dear Madam,

Herewith please find enclosed the Action plan for the execution of the Court's judgment in the case of *Sergey Shevchenko v. Ukraine* (application no. 32478/02).

This information has been also sent by e-mail.

Encl: on 2 pages.

Yours faithfully,

Olga Davydchuk
Acting Government Agent

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Annex to the letter of the Government Agent of Ukraine before
the European Court of Human Rights
of 17.06.2016 no. 2019/12.0. P-41-16

Action plan
on measures to comply with the Court's judgment
in the case of Sergey Shevchenko v. Ukraine
(application no. 32478/02, judgment of 04/04/2006, final on 04/07/2006)

CASE SUMMARY

The case concerns the failure to conduct an effective and independent investigation into the death of A.S., the applicant's son who died in 2000 during military service.

INDIVIDUAL MEASURES

Just satisfaction

The applicant was awarded just satisfaction in the amount of EUR 20,000 in respect of non-pecuniary damage. This amount was transferred to the applicant's bank account on 15.09.2006.

Restitutio in integrum

Following the Court's judgment in the case of *Sergey Shevchenko v. Ukraine*, at the request of the Government Agent and at the instruction of the Prosecutor General's Office of Ukraine on 20.03.2015 the criminal proceedings were initiated into the fact of the improper performance of the duties by the prosecutors of the Military Prosecutor's Office of Ivano-Frankivsk garrison of the Western region during the pretrial investigation of the fact of applicant's son death.

The investigation is pending, the Government would keep the Committee informed on any further developments.

GENERAL MEASURES

The Government believe that the violations found in the present case resulted, first of all, from the malpractice of the public authorities. However, it should also be noted that the Ukrainian legislation has significantly changed since 2000.

Thus, in its judgment the Court pointed out that according to Article 101 of the old Criminal Procedural Code of 1960 (in force at the material time) the pre-investigative inquiry in cases concerning soldiers was performed by the commanding officers of military units for all crimes committed by their subordinates. It is due to this fact that in § 70 of the judgment the Court made a conclusion that the investigation wasn't independent since the investigating body represented the authority involved.

In 2012 the new Criminal Procedural Code (hereinafter - CPC) was adopted, and it greatly reduced the list of investigative bodies. The military commanders cannot conduct investigations any more, which is the exclusive competence of the military prosecution.

In 2014 the new Law "On Prosecution Service" was adopted. Both the CPC and this new Law provide no limitations as to investigative or other measures that the investigator of the military prosecutor's office can conduct depending on his military rank and the rank of military serviceman involved into crimes. For example, even the investigator with the lowest rank can suspend the performance of the duties by the military officers suspected in the offence.

The Government thus believe no additional legislative amendments are required. As regards the administrative practice, more information on reform of prosecutor's service in Ukraine, educative and other measures would be provided in the action plan for *Kaverzin/Afanasiev* groups of cases (group of cases concerning ill-treatment by law-enforcement authorities and ineffective investigation).

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PUBLICATION AND DISSEMINATION

The judgment was translated into Ukrainian and published in the Official Herald of Ukraine [*Ofitsiynyi Visnyk Ukrainy*] no. 33 of August 2006 and was placed on the Ministry of Justice official web-site.

The summary of the judgment was published in the Government's Currier [*Uriadovyi Kurier*] no. 144 of August 2006.

STATE OF EXECUTION OF JUDGMENT

The Government will inform the Committee of Ministers about further developments and measures taken.