



Grand Chamber to examine four complaints by Ukraine against Russia over Crimea and Eastern Ukraine

The European Court of Human Rights Chamber dealing with four inter-State applications by Ukraine against Russia has decided to relinquish jurisdiction over the cases in favour of the Grand Chamber¹.

The four cases are **Ukraine v. Russia (application no. 20958/14)**, **Ukraine v. Russia (IV) (no. 42410/15)**, **Ukraine v. Russia (V) (no. 8019/16)**, and **Ukraine v. Russia (VI) (no. 70856/16)**.

The cases concern Ukraine's allegations of violations of the European Convention on Human Rights by Russia and armed groups which Russia allegedly controls. The applications were made under several Articles, including Article 2 (right to life), Article 3 (prohibition of torture and inhuman or degrading treatment), Article 5 (right to liberty and security), Article 6 (right to a fair trial).

The cases have been notified to the Russian Government, which have made submissions on them.

Ukraine v. Russia (application no. 20958/14) and Ukraine v. Russia (V) (application no. 8019/16)

The original application, *Ukraine v. Russia*, was lodged on 13 March 2014.

The Ukrainian Government maintain that from 27 February 2014, the Russian Federation – by exercising effective control over the Autonomous Republic of Crimea, an integral part of Ukraine, and by exercising control over separatists and armed groups operating in Eastern Ukraine – has exercised jurisdiction over a situation which has resulted in numerous Convention violations. The applicant Government rely on Articles 2, 3, 5, 6, 8 (right to respect for private life), 9 (freedom of religion), 10 (freedom of expression), 11 (freedom of assembly and association), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the Convention and Article 1 of Protocol No. 1 (protection of property) and Article 2 of Protocol No. 4 (freedom of movement) to the Convention.

In particular, the applicant Government allege that between March and September 2014, Ukrainian military servicemen, officers of law-enforcement bodies and civilians were killed as a result of the allegedly illegal annexation of Crimea and Russian support for separatist armed groups in Eastern Ukraine. They allege that the killings amounted to a widespread and systematic practice. They also allege cases of torture or other forms of ill-treatment of civilians and of arbitrary deprivation of liberty. It is further alleged that a number of Crimean Tatars were subjected to ill-treatment on account of their ethnic origin or their attempts to protect Ukrainian national symbols. The applicant Government state that Ukrainian nationals living in Crimea and Sevastopol were automatically recognised as Russian nationals and that pressure was exerted on those who expressed the wish to remain Ukrainian nationals. There were allegedly cases of attacks, abductions, ill-treatment and harassment of journalists doing their work. It is alleged that property belonging to Ukrainian legal entities was subjected to unlawful control, namely by being taken by the self-proclaimed authorities of the Crimean Republic, which acts were later approved by Russian legislation. Finally, the

¹ Under Article 30 of the European Convention of Human Rights "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects."

Government of Ukraine maintain that the new border between Crimea and Ukraine has led to Ukrainian nationals' entry into Crimea being unlawfully restricted.

The Court applied Rule 39 of the Rules of Court (interim measures) to this case. It called upon both Russia and Ukraine to refrain from any measures, in particular military action, which might bring about violations of the civilian population's Convention rights, notably under Articles 2 and 3. The interim measure remains in force.

Division of the case

To make its processing of the case more efficient, the Court decided on 9 February 2016 to divide it geographically. All the complaints related to the events in Crimea up to September 2014 remained as case no. 20958/14, while complaints relating to events in Eastern Ukraine and Donbass up to September 2014 were put under **Ukraine v. Russia (V), application no. 8019/16**.

Both the applicant and the respondent Governments have submitted their observations on the merits of the cases.

Ukraine v. Russia (IV) (application no. 42410/15) and Ukraine v. Russia (VI) (no. 70856/16)

The original application, Ukraine v. Russia (IV), was lodged on 27 August 2015.

The case mainly covers events in Crimea and Eastern Ukraine from September 2014.

The Ukrainian Government maintain that the Russian Federation has exercised and continues to exercise effective control over Crimea and – by controlling separatists and armed groups there – de facto control over the regions of Donetsk and Luhansk. According to the Ukrainian Government, Russia is therefore responsible for numerous Convention violations in those areas.

The Government of Ukraine rely on Articles 2, 3, 5, 6, 8, 9, 10, 11, 14 as well as Article 18 (limitation on use of restrictions on rights). It also cites Article 1 of Protocol No. 1, Article 2 of Protocol No. 1 (right to education) and Article 3 of Protocol No. 1 (right to free elections) to the Convention.

In particular, the Government of Ukraine allege cases of disappearances of opposition activists and members of the Crimean Tatar community in Crimea. They further alleged that in the regions of Donetsk and Luhansk civilian and military deaths have occurred almost daily due to the use of force by armed groups controlled by Russia. Both in Crimea and in the Donetsk and Luhansk regions, Ukrainian civilians and military personnel have allegedly been tortured and ill-treated by armed groups controlled by Russia.

The applicant Government allege arbitrary arrests of Crimean Tatars and pro-Ukrainian activists, searches and seizures of churches and the abduction and detention of priests as hostages. The applicant Government state that Russia's control of Crimea means the operation of Ukrainian law-enforcement and judicial authorities there has been suspended, while some of the judicial personnel continue to work, applying Russian law. They also allege that in the Donetsk and Luhansk regions, Ukrainian TV channels can no longer operate, and the freedom of journalists is further restricted by compulsory registration of all media.

The Government of Ukraine also complain of misreporting and the use of derogatory expressions in respect of Ukraine, its representatives and population in the media both in Russia and the South-East of Ukraine, using in this context the expression "hate speech".

According to the submissions, there have been further measures of the unlawful expropriation of property, while in schools in Crimea and certain districts of the Donetsk and Luhansk regions there is no instruction in Ukrainian and the Crimean Tatar language. Finally, according to the applicant Government, in the areas at issue, citizens could not participate in the elections to the Ukrainian

Parliament, while the elections which took place in those areas did not meet Convention requirements.

Division of the case

As with the earlier application, the Court decided, on 25 November 2016, to split the case into two for ease of handling. Events in Crimea remained under the original application number, while those in Eastern Ukraine and Donbass were registered as *Ukraine v. Russia* (VI) (no. 70856/16).

Other cases before the ECHR

Ukraine v. Russia (II) (application no. 43800/14) was lodged on 13 June 2014. It concerns the alleged abduction of three groups of children in Eastern Ukraine and their temporary transfer to Russia on three occasions between June and August 2014. This case remains pending before a Chamber.

Ukraine v. Russia (III) (no. 49537/14) was struck out by the Court in September 2015 after the Government of Ukraine said it did not wish to pursue the application.

In addition, to the inter-State cases there are over 4,000 individual applications before the Court which are apparently related to the events in Crimea or the hostilities in Eastern Ukraine.

The Court declared one case, **Lisnyy and Others v. Ukraine and Russia (application nos. 5355/15, 44913/15 and 50853/15)**, inadmissible in July 2016. It concerned the shelling and damaging of the applicants' homes in eastern Ukraine, but the Court found the allegations had not been substantiated by any evidence. A further 1,170 similarly unsubstantiated cases were rejected in 2016.

The Court is still considering applications lodged by relatives of victims of the downing of Malaysian Airlines flight MH17 in July 2014 (**Ioppa v. Ukraine and 3 Other applications, no. 73776/14**) and the case of a Ukrainian Air Force servicewoman who was held by armed groups in eastern Ukraine and by Russia for almost two years (**Savchenko v. Russia, no. 50171/14**).

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.