



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF KORCHEMKIN AND OTHERS v. RUSSIA

*(Applications nos. 59396/19 and 2 others –
see appended list)*

JUDGMENT

STRASBOURG

1 December 2022

This judgment is final but it may be subject to editorial revision.

In the case of Korchemkin and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Darian Pavli, *President*,

Ioannis Ktistakis,

Andreas Zünd, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 10 November 2022,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table

2. The Russian Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the lack of impartiality of the tribunal in view of the absence of the prosecuting party in administrative-offence proceedings. They also raised complaints under Article 11 of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

6. The applicants complained of the lack of impartiality of the tribunal in view of the absence of the prosecuting party in administrative-offence proceedings. They relied, expressly or in substance, on Article 6 § 1 of the Convention, which reads as follows:

Article 6 § 1

“In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law.”

7. The relevant principles of the Court's case-law concerning the requirement of impartiality under Article 6 § 1 of the Convention can be found in the leading case of *Karelin v. Russia* (no. 926/08, §§ 51-57, 20 September 2016, with further references). In that case the Court assessed the national rules of administrative procedure and concluded that the statutory requirements allowing for the national judicial authorities to consider an administrative offence case which falls within the ambit of Article 6 of the Convention under its criminal limb, in the absence of a prosecuting authority, was incompatible with the principle of objective impartiality set out in Article 6 of the Convention.

8. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility (including taking into account the three-month extension introduced by decision of the President of the Court in 2020 as a consequence of the lockdown imposed in France on account of the COVID-19 pandemic (see *Saakashvili v. Georgia* (dec.), nos. 6232/20 and 22394/20, §§ 46-59, 1 March 2022)) and merits of these complaints.

9. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

10. The applicants submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in *Frumkin v. Russia*, no. 74568/12, §§ 81-142, 5 January 2016, concerning disproportionate measures taken by the authorities against organisers and participants of public assemblies.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Kuratov and Others v. Russia* [Committee],

nos. 24377/15 and 2 others, 22 October 2019), the Court considers it reasonable to award the sums indicated in the appended table.

13. The Court further considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention concerning the lack of impartiality of the tribunal in view of the absence of the prosecuting party in administrative-offence proceedings;
4. *Holds* that there has been a violation of the Convention as regards the other complaints raised under well-established case-law of the Court (see appended table);
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 1 December 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Darian Pavli
President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention
(lack of impartiality of the tribunal in view of the absence of the prosecuting party in administrative-offence proceedings)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Penalty	Date of final domestic decision Name of court	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	59396/19 07/11/2019	Maksim Borisovich KORCHEMKIN 1996	Bushmakov Aleksey Vladimirovich Yekaterinburg	fine of RUB 10,000	16/07/2019, Sverdlovsk Regional Court	Art. 11 (1) - restrictions on location, time or manner of conduct of public events - Under Article 20.2 § 5 of CAO, the applicant was sentenced to the administrative fine of RUB 10,000 for participating in the demonstration by installing a headstone of President Putin in Yekaterinburg on 21/04/2019. Final decision - 16/07/2019, Sverdlovsk Regional Court.	3,900
2.	59404/19 07/11/2019	Mikhail Vladimirovich KLYUKIN 1980	Bushmakov Aleksey Vladimirovich Yekaterinburg	fine of RUB 10,000	16/07/2019, Sverdlovsk Regional Court	Art. 11 (1) - restrictions on location, time or manner of conduct of public events - Under Article 20.2 § 5 of CAO, the applicant was sentenced to the administrative fine of RUB 10,000 for participating in the demonstration by installing a headstone of President Putin in Yekaterinburg on 21/04/2019. Final decision - 16/07/2019, Sverdlovsk Regional Court.	3,900
3.	32203/20 15/06/2020	Valentin Alekseyevich KHOROSHENIN 2001	Olenichev Maksim Vladimirovich St Petersburg	fine of RUB 10,000	03/12/2019 St Petersburg City Court	Art. 11 (2) - disproportionate measures against organisers and participants of public assemblies - The applicant was subjected to administrative penalty following his participation in the manifestation against the pension reform on 09/09/2018 in St Petersburg under Article 20.2 (6.1) CAO, fine of RUB 10,000, final judgment of 03/12/2019, St Petersburg City Court.	3,900

¹ Plus any tax that may be chargeable to the applicants.