



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

FIFTH SECTION

CASE OF SHEVCHENKO AND OTHERS v. UKRAINE

(Application no. 48646/13)

JUDGMENT

STRASBOURG

22 October 2026

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

In the case of Shevchenko and Others v. Ukraine,

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

María Elósegui, *President*,

Andreas Zünd,

Mykola Gnatovskyy, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 48646/13) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 15 July 2013 by five Ukrainian nationals, whose relevant details are listed in the appended table (“the applicants”), and who were represented by Ms Y. Zakrevska and Ms Y. Naumenko, lawyers practising in Kyiv;

the decision to give notice of the application to the Ukrainian Government (“the Government”), represented by their Agent, Ms M. Sokorenko, of the Ministry of Justice;

the decision not to have the name of the third applicant (Y.K.) disclosed;
the parties’ observations;

Having deliberated in private on 1 October 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the dispersal of a demonstration organised by the applicants and various issues arising from it.

I. DEMONSTRATION ORGANISED BY THE APPLICANTS AND THEIR SUBSEQUENT DETENTION

2. On 2 October 2012 the Ukrainian Parliament approved legislation prohibiting “propaganda of homosexuality” at the first reading.

3. The applicants informed the Kyiv State Administration that they planned to hold a demonstration on Maidan Nezalezhnosti, the main square in Kyiv, on 8 December 2012, to mark the upcoming International Human Rights Day and to express their disagreement with the new legislation.

4. On 7 December 2012 the Kyiv District Administrative Court prohibited the applicants from holding the demonstration on Maidan Nezalezhnosti. On 28 March 2013 the Kyiv Administrative Court of Appeal rejected an appeal lodged by the applicants. On 7 November 2013 the Higher Administrative Court rejected the appeal in cassation lodged by the first applicant.

5. On 7 December 2012 the first applicant informed the Kyiv State Administration that the applicants would hold the demonstration, but in a different location on 8 December 2012 from 1 p.m. to 3 p.m.

6. At 1 p.m. on 8 December 2012 the applicants arrived at the intended location and saw that the police were already there. The applicants started their demonstration. The police formed a circle around the applicants, which, according to the applicants, prevented the general public from seeing or joining them.

7. At around 2.10 p.m. two people forced their way through the police circle and started spraying tear gas and attacking the demonstrators. In particular, one of them started moving in the direction of the third applicant, swinging her hands. The third applicant backed away from the attacker, trying to shield himself with his hands. The attacker grabbed the third applicant's hand and pulled it. At that moment the police apprehended the second, third, fourth, and fifth applicants and took them to a police station under Article 260 of the Code on Administrative Offences which envisaged that law enforcement bodies could detain a person committing an administrative offence in order to draw a report on the offence.

8. At the police station the police checked the applicants' identity papers and discovered that the third applicant, who looked and identified as male, was female according to his identity papers. According to the applicants, the police "mocked and insulted" the third applicant after this discovery and also mocked the other applicants by asking them about their sexual orientation. According to the applicants, they were released in about three hours.

II. ADMINISTRATIVE OFFENCE PROCEEDINGS BROUGHT AGAINST THE APPLICANTS

9. By two separate decisions of 10 December 2012, the Shevchenkivskyy District Court of Kyiv found the second and fifth applicants guilty of administrative offences under Article 173 (petty hooliganism)¹ of the Code of Administrative Offences ("the CAO") for having "pushed other citizens in a crowd". On 17 and 21 January 2013 respectively, the Kyiv Court of Appeal quashed both decisions of 10 December 2012, having found no *corpus delicti* in the actions of the second and fifth applicants. The decisions of the Kyiv Court of Appeal became final.

10. By another decision of 10 December 2012, the Shevchenkivskyy District Court also found the fifth applicant guilty of disobeying a lawful order of a law-enforcement officer under Article 185 of the CAO and ordered

¹ "Petty hooliganism – that is, swearing in public, offensive behaviour or other similar actions which amount to a breach of the peace or disturb public order – shall be punishable with a fine ranging from three to seven times the non-taxable minimum income, or correctional labour for one to two months, with retention of twenty per cent of the earnings. Where in the circumstances of a particular case the above measures are deemed insufficient having regard to the character of the perpetrator, the penalty shall be administrative detention for up to fifteen days."

him to pay a fine of 136 Ukrainian hryvnias (UAH)². On 16 January 2013 the Kyiv Court of Appeal quashed that decision, having found no *corpus delicti* in the fifth applicant's actions.

11. Nevertheless, still on 10 December 2012 the Shevchenkivskyy District Court found the first applicant guilty of infringing the procedure for organising or conducting public events (Article 185-1 § 2 of the CAO) and ordered her to pay a fine of UAH 850³. On 18 January 2013 that decision was upheld on appeal and became final.

12. On 17 December 2012 the Shevchenkivskyy District Court closed the administrative proceedings against the fourth applicant under Article 173 of the CAO. That decision was not appealed against and became final. The court found that, during the demonstration, a certain G. had tried to attack the third applicant, and the fourth applicant had placed himself between G. and the third applicant. The whole incident had lasted for about fifteen seconds.

13. On 18 December 2012 the Shevchenkivskyy District Court found the third applicant guilty under Article 173 of the CAO of breaching public order on 8 December 2012. According to the court, Y.K. had "pushed other citizens in a public place" and had thus disrupted public order. The court found that the actions of the third applicant constituted an administrative offence under Article 173. However, as the violation had been of a minor nature, the court exempted the third applicant from administrative liability. On 1 February 2013 that decision was upheld on appeal and became final.

III. PROCEEDINGS INSTITUTED BY THE APPLICANTS

14. On 13 June 2013 the second, fourth and fifth applicants instituted judicial proceedings under the Code of Administrative Justice challenging their detention at the police station on 8 December 2012 and the disruption of their demonstration by the police. They asked the court to establish that their detention had been unlawful and claimed compensation for non-pecuniary damage under Article 1176 of the Code of Civil Procedure. They submitted that they had felt frustrated and had suffered psychological distress on account of the unfairness of the situation. They had felt helpless and had lost their trust in law-enforcement officials. They stated that, following their detention, it had been difficult for them to attend other public events for fear that they might be unlawfully detained again. They further stated that during their detention they and the other applicants had been mocked and insulted by the police because they had participated in an event held in support of the LGBTI community. In particular, the police officers had mockingly asked them about their sexual orientation.

² Approximately 13 euros (EUR)

³ Approximately EUR 81

15. On 18 September 2013 the Shevchenkivskyy District Court decided not to examine the fifth applicant's complaint in view of his repeated failure to appear in court. That decision became final.

16. On 25 November 2013 the Kyiv Administrative Court of Appeal ruled that the second applicant's detention had been unlawful, but refused to award him compensation for non-pecuniary damage, there being no evidence that he had sustained any such damage. That decision was upheld by the Higher Administrative Court on 15 January 2014.

17. On 30 July 2014 the Shevchenkivskyy District Court found that the fourth applicant's arrest and detention had been unlawful but refused to award him any compensation in respect of non-pecuniary damage reasoning that he had not provided any evidence that he had actually sustained any non-pecuniary damage. By a final decision of the Higher Administrative Court of 9 April 2015, an appeal lodged by the fourth applicant was dismissed.

18. On 16 March 2018 the third applicant's legal gender was changed on his birth certificate. His legal name and surname were also changed to reflect his male gender.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

19. The applicants complained that they had been prevented from expressing their views during the demonstration because the police had formed a circle around them so that other people could not see them and because their demonstration had been disrupted by apprehension of some of the demonstrators. The applicants further complained that they had been prohibited from carrying out their demonstration on Maidan Nezalezhnosti as they had initially planned. They also complained that the administrative sanctions imposed on them had amounted to a punishment for conducting a demonstration and for supporting LGBTI rights.

20. The Court, which is the master of the characterisation to be given in law to the facts of the case, considers that the complaints which the applicants lodged under Articles 10 and 11 of the Convention fall to be examined solely under Article 11 of the Convention. In particular, in the Court's opinion, in the circumstances of the present case, Article 10 is to be regarded as a *lex generalis* in relation to Article 11, a *lex specialis* (see *Ezelin v. France*, 26 April 1991, § 35, Series A no. 202, and *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, § 91, ECHR 2015). The Court will thus examine the applicants' complaints under Article 11, interpreted where appropriate in the light of Article 10 (see *Lashmankin and Others v. Russia*, nos. 57818/09 and 14 others, §§ 363-65, 7 February 2017).

A. Admissibility

21. The Government submitted that under the decision of 7 December 2012 the applicants had been prohibited from holding a demonstration in a specific location to prevent clashes between different groups and to ensure public order. They had not been prohibited from holding demonstrations in other locations and, for that reason, their application was manifestly ill-founded. The Government further submitted that the applicants should have lodged their application with the Court within six months after the events of 8 December 2012 (see paragraphs 6-8 above). As they had failed to do so, their complaints should be declared inadmissible as having been lodged out of time.

22. The Court observes that the third applicant did not institute any proceedings against the police for preventing him from participating in the demonstration by detaining him. The Court also notes that the dispersal of the demonstration took place on 8 December 2012, more than six months before the application was lodged with the Court. As regards the fifth applicant, the Court notes that he did bring a complaint against the police (see paragraph 14 above) but the proceedings were terminated because he had apparently lost interest in pursuing his complaint (see paragraph 15 above). It follows that the third and fifth applicants' complaint under Article 11 must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

23. The Court further observes that the second and fourth applicants instituted proceedings in the national courts challenging the actions of the police (see paragraph 14 above). Final decisions in those proceedings were delivered on 15 January 2014 (the second applicant) and 9 April 2015 (the fourth applicant), after their applications had been lodged with the Court (see paragraphs 16 and 17 above). The Court accepts, however, that the last stage of domestic remedies may be reached after the application has been lodged but before its admissibility has been determined (see *Molla Sali v. Greece* [GC], no. 20452/14, § 90, 19 December 2018). The Government's submission that the second and fourth applicants had not observed the six-month time-limit must therefore be rejected.

24. As regards the first applicant, the Court notes that the final decision upholding her conviction under Article 185-1 § 2 of the Code of Administrative Offences was delivered on 18 January 2013, less than six months before her application was lodged with the Court.

25. The Court considers that the remainder of the Government's arguments relate closely to the substance of the first, second and fourth applicants' complaints under Article 11 of the Convention and it will, therefore, examine them in the framework of its analysis of the merits of these complaints below.

26. The Court concludes that the complaints of the first, second and fourth applicants are not manifestly ill-founded within the meaning of

Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The first applicant

27. The Court reiterates that it has previously found that Article 185-1 § 2 of the CAO does not meet the Convention requirements of quality of the law (see *Cheremskyy v. Ukraine*, no. 20981/13, §§ 29-40, 7 December 2023). This is sufficient for the Court to find that the first applicant's conviction on the basis of that provision was contrary to Article 11 of the Convention. There has accordingly been a violation of Article 11 in respect of the first applicant.

2. The second and fourth applicants

28. The Court notes that the second and fourth applicants were acquitted for lack of *corpus delicti* of disturbing public order during the demonstration. Moreover, the national courts established that the arrest of those two applicants during the demonstration had been unlawful (see paragraphs 16 and 17 above).

29. This is sufficient for the Court to conclude that the actions of the police on 8 December 2012, in particular, the second and fourth applicants' detention, which prevented them from continuing their demonstration, did not have a legal basis in domestic law. There has accordingly been a violation of Article 11 of the Convention in respect of the second and fourth applicants.

II. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

30. All the applicants, with the exception of the first applicant, complained under Article 5 § 1 of the Convention that their arrest and detention at the police station had been groundless because they had not committed any offence.

A. Admissibility

31. The Government submitted that the third applicant had not challenged the lawfulness of his detention before the courts and that the fifth applicant had lost interest in pursuing his complaint. Accordingly, those two applicants had not exhausted domestic remedies.

32. The Government further submitted that the second and fourth applicants had not provided the courts with documentary evidence in support of their claims for compensation in respect of non-pecuniary damage caused by their unlawful detention. They also could have lodged separate claims for compensation before civil courts, however they had not availed themselves

of this possibility. Accordingly, they had not exhausted domestic remedies with regard to their claim for compensation in respect of their unlawful detention.

33. The Government finally argued that since the national courts had acknowledged that the second and fourth applicants had been unlawfully detained, they had lost their victim status.

34. Like the Government, the Court considers that the third and fifth applicants cannot be said to have exhausted domestic remedies. Their complaints must therefore be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

35. As regards the second and fourth applicants' complaints, the Court considers that the Government's arguments relate closely to the substance of these applicants' complaints and it will, therefore, examine them in the framework of its analysis of the merits of these complaints below.

36. The Court concludes that the complaints brought by the second and fourth applicants under Article 5 are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

37. The Government did not submit any observations on the merits of this complaint.

38. The Court observes that the national courts acknowledged that the police had unlawfully detained the second and fourth applicants but refused to award them any compensation (see paragraphs 16 and 17 above). Relevant court decisions had apparently been based on the underlying proposition that non-pecuniary damage could only be established by formal and objective evidence such as, for example, witness testimony or medical certificates. The courts considered that the applicants' detention, together with the statements they had made, could not serve as proof that they had endured mental anguish and suffering as a result of a violation of their right to liberty and their right to freedom of assembly. Instead, it appears that the courts required separate proof of the non-pecuniary damage sustained by the applicants. Bearing in mind the subject of the applicants' claim, that approach seems to be unduly formalistic and would cover a large number of cases, including that of the applicants, where the facts do not lend themselves to the provision of such proof and the associated claims in respect of non-pecuniary damage would have to be dismissed as unsubstantiated (see *Danev v. Bulgaria*, no. 9411/05, § 34, 2 September 2010).

39. In the light of the foregoing, it cannot be considered that, as the Government suggested, the second and fourth applicants have lost their victim status or have failed to exhaust domestic remedies in relation to their complaint under Article 5 of the Convention.

40. The Court reiterates that the domestic courts established that the second and fourth applicants' arrest and detention had been unlawful. It sees no reason to depart from that finding. There has accordingly been a violation of Article 5 of the Convention in so far as the second and fourth applicants are concerned.

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

41. The third applicant complained under Article 8 of the Convention that, during the checking of his documents at the police station and during the court proceedings against him, the gender indicated in his identity papers had become known to all those involved in those proceedings. He also complained that the police had "mocked and insulted" him. The Government submitted that the third applicant had not raised his complaint under Article 8 before the domestic courts and, for that reason, had failed to exhaust domestic remedies.

42. The Court observes that there is no evidence in the case file that the third applicant had raised his complaint concerning disclosing of his gender before the domestic authorities prior to including it in the present application. Moreover, on the basis of the third applicant's description, the Court is unable to conclude that the alleged mocking at the police station attained the level of severity necessary for Article 8 to apply.

43. It follows that the present complaint must be rejected pursuant to Article 35 § 4 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION

44. The applicants alleged, relying on Article 14 of the Convention, that their rights under Articles 10 and 11 had been violated (as described in paragraph 19 above) because the demonstration had supported LGBTI rights.

45. In view of the above considerations (see paragraph 22 above), the complaints of the third and the fifth applicants under Article 14 are inadmissible (see *Carson and Others v. the United Kingdom* [GC], no. 42184/05, § 63, ECHR 2010).

46. As regards the first, second and fourth applicants, they did not submit any evidence that the courts dealing with their cases were prejudiced against the LGBTI community. The Court cannot speculate on the existence of motives other than those expressly articulated in the court decisions. There is also no evidence to support the applicants' allegations that they had been mocked by the law enforcement officers.

47. It follows that the applicants' complaints must be rejected under Article 35 § 4 of the Convention.

V. OTHER COMPLAINTS

48. The applicants complained under Article 13 in conjunction with Article 11 of the Convention that they had not been able to have their appeal against the decision of 7 December 2012 examined before the planned date of the demonstration (8 December 2012). All the applicants, with the exception of the first applicant, complained under Article 13 that they did not have an effective domestic remedy in respect of their complaint under Article 5 § 1 of the Convention. The third applicant complained under Article 13 that he did not have an effective domestic remedy in respect of his complaint under Article 8 of the Convention.

49. The Court, having declared the complaints of the third and fifth applicants under Articles 5, 8 and 11 of the Convention inadmissible (see paragraphs 22, 34 and 43 above), considers that these applicants have no arguable claim for the purposes of Article 13 of the Convention. It follows that their complaints under Article 13 must be rejected as being incompatible *ratione materiae* with the provisions of the Convention, pursuant to Article 35 §§ 3 (a) and 4.

50. Finally, in respect of the first, second and fourth applicants, the Court, having regard to the facts of the case, the submissions of the parties, and its findings under Articles 5 and 11 of the Convention (see paragraphs 29 and 40 above), considers that it has examined the main legal questions raised in the present application, and that there is no need to give a separate ruling on the admissibility and merits of these applicants' complaint under Article 13 of the Convention (see, for example, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. Each of the applicants claimed 20,000 euros (EUR) in respect of non-pecuniary damage.

52. The Government contested those claims.

53. Ruling on an equitable basis, the Court awards the first applicant EUR 3,000, and the second and fourth applicants EUR 5,000 each, in respect of non-pecuniary damage, plus any tax that may be chargeable.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints of the first applicant under Article 11 of the Convention and the complaints of the second and fourth applicants under Articles 5 and 11 of the Convention admissible, and the complaints of the third and fifth applicants under Articles 5, 11 and 13 of the Convention, the complaint of the third applicant under Articles 8 and 13 of the

Convention and the complaints of all the applicants under Article 14 of the Convention inadmissible;

2. *Holds* that there has been a violation of Article 11 of the Convention in respect of the first, second and fourth applicants;
3. *Holds* that there has been a violation of Article 5 of the Convention in respect of the second and fourth applicants;
4. *Holds* that it is not necessary to examine the admissibility and merits of the complaints under Article 13 of the Convention of the first, second and fourth applicants;
5. *Holds*
 - (a) that the respondent State is to pay within three months the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, to the first applicant (Ms Shevchenko) in respect of non-pecuniary damage;
 - (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable, each to the second and fourth applicants (Mr Karpus and Mr Lysenko) in respect of non-pecuniary damage;
 - (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;
6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 22 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

María Elósegui
President

APPENDIX

List of applicants:

No.	Applicant's name	Year of birth	Nationality	Place of residence
1.	Olena Olegivna SHEVCHENKO	1982	Ukrainian	Kyiv
2.	Bogdan Tarasovych KARPUS	1991	Ukrainian	Kyiv
3.	Y.K.	1989	Ukrainian	Dnipro
4.	Tymur Valeriyovych LYSENKO	1986	Ukrainian	Kyiv
5.	Sergiy Anatoliyovych MOVCHAN	1985	Ukrainian	Kyiv