

Загалом, Суд визнає належно обґрунтованими більшість скарг про те, що тримання під вартою було свавільним, і що відповідно мали місце порушення статті 5 § 1 Конвенції. Стосовно одного заявника (пан Кадура), Суд встановив, що в порушення статті 5 § 3 не було надано відповідних та достатніх підстав для продовження його тримання під вартою.

Стаття 11

Суд вкотре наголосив, що право на свободу зібрань є основоположним у демократичних суспільствах.

Суд зазначив, що застосування надмірної та іноді брутальної сили до протестувальників Майдану порушило початково мирний характер проведення протестів і призвело до ескалації насилля, якщо не посилює її. Зіткнення між правоохоронцями та протестувальниками ставали дедалі все більш жорстокими, та загалом безпекова ситуація у центрі Києва суттєво погіршилась. Хоча матеріали, які були надані Суду, містили посилання на випадки насилля, вчиненого окремими протестувальниками по відношенню до правоохоронців під час деяких з подій, яких стосуються ці справи, не було інформації, яка б вказувала на те, що початкова мета чи підхід протестувальників, які були обструктивні але мирні, змінилися. Також не було доказів того, що під час участі у протестах заявники мали намір вдатись до насильницьких дій, або брали участь у таких діях, або чинили опір правоохоронцям.

Тому Суд дійшов висновку, що відповідні заявники були захищені статтею 11. Суд встановив, що втручання з боку владних органів було диспропорційним та невиправданим у демократичному суспільстві з огляду на надмірне застосування сили до більшості з них, необґрунтоване тримання під вартою одного з них та дедалі все більш жорстокі розгони протестів, що могло змусити протестувальників та громадянство утриматись від участі у протестах та, загалом, від участі у відкритій політичній дискусії.

Стаття 8

Суд встановив порушення прав пана Смалія з огляду на обшук та вилучення його телефону та документів, оскільки не було гарантій захисту від свавільного доступу владних органів до інформації, яка мала статус адвокатської таємниці.

Загальні висновки

Суд зауважив, що він встановив низку порушень декількох статей Конвенції внаслідок того, яким чином владні органи поводити себе протягом протестів Майдану, та того, що в Україні досі відсутній незалежний та ефективний механізм для розслідування злочинів, вчинених правоохоронцями та недержавними агентами. Ці рішення Суду вказують на існування цілеспрямованої стратегії владних органів перешкодити та припинити протести, проведення яких початково мало мирний характер, із шкідливим застосуванням надмірної сили, що призвело до ескалації насилля, якщо не посилює її.

Справедлива сатисфакція (стаття 41)

Суд постановив, що Україна має виплатити деяким заявникам різні суми в якості відшкодування майнової та немайнової шкоди, а також судових та інших витрат, як це визначено у відповідних рішеннях.

Рішення доступні лише англійською.

Цей прес-реліз є документом, який підготовлений Секретаріатом. Він не зобов'язує Суд. Ухвали, рішення та іншу інформацію про Суд можна знайти на сайті www.echr.coe.int. Щоб отримувати прес-релізи Суду, будь ласка, підпишіться тут: www.echr.coe.int/RSS/en або ж слідкуйте за нами у Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

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