



Use of facial-recognition technology breached rights of Moscow underground protestor

In today's Chamber judgment¹ in the case of [Glukhin v. Russia](#) (application no. 11519/20) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private life) of the European Convention on Human Rights, and

a violation of Article 10 (freedom of expression) of the European Convention.

The case concerned the authorities' use of facial-recognition technology against Mr Glukhin following his holding a solo demonstration in the Moscow underground. He had been identified and later located by facial-recognition technology after travelling with a life-size cardboard figure of a protestor whose case had attracted widespread attention in the media, holding a banner that said, "I'm facing up to five years ... for peaceful protests".

The Court concluded that the processing of Mr Glukhin's personal data in the context of his peaceful demonstration, which had not caused any danger to public order or safety, had been particularly intrusive. The use of facial-recognition technology in his case had been incompatible with the ideals and values of a democratic society governed by the rule of law.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Nikolay Sergeyevich Glukhin, is a Russian national who was born in 1985 and lives in Moscow.

On 23 August 2019 Mr Glukhin travelled on the Moscow underground with a life-size cardboard figure of Konstanin Kotov, a protestor whose case had caused a public outcry and had attracted widespread attention in the media, holding a banner that said, "I'm facing up to five years ... for peaceful protests".

During routine monitoring of the Internet the police discovered photographs and a video of Mr Glukhin's demonstration in the underground uploaded on a public social-media site. According to Mr Glukhin, they must have used facial-recognition technology to identify him from screenshots of the social-media site, collected footage from closed-circuit television (CCTV) surveillance cameras installed in the stations of the Moscow underground through which he had transited on 23 August 2019, and, several days later, used live facial-recognition technology to locate and arrest him while he was travelling in the underground.

Mr Glukhin was subsequently convicted in administrative-offence proceedings for failure to notify the authorities of his solo demonstration using a "quickly (de)assembled object". He was fined 20,000 Russian roubles (about 283 euros). The screenshots of the social-media site and of the video-recordings from the CCTV surveillance cameras were used in evidence against him.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

On 30 October 2019 the Moscow City Court upheld his conviction on appeal, finding in particular that the peaceful nature of his demonstration was irrelevant and that the offence had been discovered and evidence had been collected in accordance with the Police Act.

Between 2017 and 2022 more than 220,000 CCTV cameras were installed in Moscow, including in the Moscow underground, after the entry into force of a decree on transport security (Decree 410 of 5 April 2017). They are all equipped with live facial-recognition technology.

Complaints, procedure and composition of the Court

The applicant complained that his administrative conviction and the use of facial-recognition technology in the processing of his personal data had breached his rights under Articles 8 (right to respect for private life) and 10 (freedom of expression).

In addition, relying on Article 6 (right to a fair trial), he complained that the proceedings against him had been unfair because there had been no prosecuting party.

The application was lodged with the European Court of Human Rights on 31 January 2020.

Article 19, a human-rights organisation, was granted leave to intervene as a third party.

The Court's procedure for processing of applications against Russia can be found [here](#).

Judgment was given by a Chamber of seven judges, composed as follows:

Pere Pastor Vilanova (Andorra), *President*,
Jolien Schukking (the Netherlands),
Yonko Grozev (Bulgaria),
Georgios A. Serghides (Cyprus),
Peeter Roosma (Estonia),
Andreas Zünd (Switzerland),
Oddný Mjöll Arnardóttir (Iceland),

and also Milan Blaško, *Section Registrar*.

Decision of the Court

The Court established that it had jurisdiction to deal with the case, as the facts giving rise to the alleged violations of the Convention had taken place before 16 September 2022, the date on which Russia ceased to be a Party to the European Convention.

Article 10

The Court considered that Mr Glukhin had sought to express his opinion on a matter of public interest, and that there was little scope for restricting that right under Article 10 of the Convention.

The authorities, however, had shown no tolerance towards his solo demonstration, which had indisputably been peaceful and had not caused any danger to public order or safety. Indeed, they had not assessed at all whether Mr Glukhin's use of a cardboard figure holding a banner had amounted to an expression of his views.

Thus, the courts had failed to provide "relevant or sufficient reasons" to justify escorting Mr Glukhin to the police station, arresting and convicting him, in breach of his right to freedom of expression under Article 10 of the Convention.

Article 8

The Court noted that it was difficult for Mr Glukhin to prove his allegation that facial-recognition technology had been used in his case. Russian legislation does not require the police to make a record of their use of such technology or to notify the person concerned. There was, however, no other explanation for the police having identified him so rapidly after the protest. Nor had the Government explicitly denied the use of facial-recognition technology or clarified how Mr Glukhin had been identified. The Court also took note of public information available regarding numerous cases involving the use of facial-recognition technology to identify participants in protests in Russia.

It therefore found that the processing of Mr Glukhin's personal data in the administrative-offence proceedings against him – including the use of facial-recognition technology to identify and later locate and arrest him – had interfered with his right to respect for his private life.

That interference had had a legal basis in the domestic law, in particular the Code of Administrative Offences, the Police Act and Decree No. 410. Both the CAO and the Police Act gave powers to the police to investigate administrative offences and to collect evidence, including evidence containing personal data, while Decree no. 410 provided for the installation of live facial recognition CCTV cameras in the Moscow underground which were accessible to the police.

The Court noted, on the other hand, the lack of detailed rules in the domestic law governing the scope and application of measures involving the use of facial-recognition technology as well as the absence of strong safeguards against the risk of abuse and arbitrariness.

It went on to note that the aim of the interference with Mr Glukhin's rights had been legitimate – to prevent crime.

It found, however, that the measures taken against Mr Glukhin had been particularly intrusive in the face of what had been a peaceful protest, which had not presented any danger to the public or transport safety. It had in fact only led to his prosecution for a minor offence.

The processing of the applicant's biometric personal data using facial-recognition technology in the framework of administrative-offence proceedings – firstly, to identify him from the photographs and the video published on the Internet and, secondly, to locate and arrest him while he was travelling on the Moscow underground – had not therefore corresponded to "a pressing social need" and could not be regarded as "necessary in a democratic society".

There had, accordingly, been a violation of Article 8 of the Convention.

Article 6

Given the findings under Articles 8 and 10, the Court considered that there was no need to give a separate ruling on Mr Glukhin's complaints under Article 6.

Article 41 (just satisfaction)

The Court held that Russia was to pay the applicant 9,800 euros (EUR) in respect of non-pecuniary damage, and EUR 6,400 in respect of costs and expenses.

The judgment is available only in English.

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Press contacts

echrpres@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.