Ukraine became a member of the Council of Europe in 1995. Later on, on July 17, 1997 the Verkhovna Rada of Ukraine (the Ukrainian Parliament) ratified the European Convention of Human Rights and Fundamental Freedoms (ECHR) and the First Protocol and protocols number 2, 4, 7, and 11 of the Convention in accordance with the relevant Act, which opened the way for Ukrainians to the European Court of Human Rights and to its enforcement practice.

The most relevant contribution of ECHR is the inclusion into it of a provision which previewed a special possibility for the High Contracting Party to issue consent to the European Court of Human Rights (ECtHR) for monitoring cases where the initiator of the trial is an individual or legal entity, not a state.

The Law of Ukraine “On the enforcement and the application of the case-law of the European Court of Human Rights” came into force in February 2006 and regulates relations arising from the duty of the state to implement the decisions of the ECtHR on cases in respect of Ukraine. This article notes that Ukraine is among the top five countries against the highest number of complaints is filed by legal entities and natural persons to the European Court on the grounds of the violation of human rights. The main purpose of this work is the following: to determine the main problems of the implementation of the ECtHR practice in Ukraine. The problem is that, despite the introduction in the law enforcement procedures of the law of the ECtHR judgments, “On the enforcement and the application of the case-law of the European Court of Human Rights”, Ukraine has not taken any real steps to improve legislation with regard to the ECHR due to a number of objective and subjective reasons.

Tasks of the article are the following: to define a place of legislative and judicial bodies in the process of implementation ECtHR’s practice; to detect the ways of correction of the defects of the national legislation and improving the practice of Ukrainian courts at all levels.

Research methods used in the article include the analysis of literary sources, covering theoretical literature and research materials related to the subject of the paper; cases of the European Court of Human Rights, comparative analysis of judicial practice in Ukraine and Member States, statistical analysis.

Introduction of the right of individual complaint to the European Court of Human Rights answered an extraordinary need of the Ukrainian society, but led to its enormous overload. Today no one doubts that the future European system of protection of the rights laid down in the system itself and in its elements. More specifically, the European control is based on the principles of subsidiary of national legal systems, as well as on the ability of national systems to interact with the European Court, their willingness to accept the precedents of this Court and to use basic, but effective filters for it. So, taking into consideration the importance of correct application of the rules of the ECHR, and case-law of the ECtHR, having regard to the analysis of application of these rules, we make conclusions (conclusions of the article) with regard to the need of legislators to take into account “pilot judgments” of the ECtHR, to make necessary amendments to the law “On the enforcement and the application of the case-law of the European Court of Human Rights” and to determine the place of the practice of the ECtHR among other sources of the law of Ukraine.

Keywords: the European Convention on Human Rights and Fundamental Freedoms, the European Court of Human Rights, case-law, Ukrainian legislation, judicial practice.

Introduction

Jurisprudence of the European Court of Human Rights is an objective criterion for evaluating the legal system of each State - Party to the Convention on Human Rights and Fundamental Freedoms. Nevertheless, it is a unique tool in the implementation of national legislation, judicial and administrative practice of international human rights standards. In terms of jurisprudence, then despite the evident progress on the use of Ukrainian courts of the Convention and case-law of the European Court, the level and quality of the application is insufficient. Many studies on this topic show that often authors try to determine what role the case-law of the ECtHR has within the national legal system; the question has no single answer (Evintov (1998), Shevchuk (2006), Antoine Buyse (2011). The place of judgments of the European Court of Human Rights at national level is not clearly defined due to the different points of view. The intention of this paper is to define the place and significance of the ECtHR’s decisions and its entire body of practices in general among other sources of regulation of social relations in Ukraine.
The provisions of the art. 16 of the Law «On the enforcement and the application of the case-law of the European Court of Human Rights» that the courts use during the deliberations the ECHR and the case-law of the ECHR as a source of law, can not affect the provisions of Art. 9 of the Constitution of Ukraine. Obviously, compliance with various viewpoints on this issue can lead to significant differences in the practice of the Ukrainian courts. The purpose of this paper is to consider the effective use of court precedents at the national level so as to ensure adequate protection of rights guaranteed by the Convention within the framework of existing provisions. The tasks identified in this article are to define the role of legislative and judicial bodies in the process of implementation of ECHR’s practices; to detect the ways of correction of the defects in the national legislation and improving the practice of Ukrainian courts at all levels.

Research methods that are used in the article include the analysis of literary sources, covering theoretical literature and research materials related to the subject of the paper; cases of the ECHR, comparative analysis of judicial practice in Ukraine and Member States, statistical analysis.

Prospective results of the article: there will be presented particular approach to understanding practice of the ECHR; noting the need for the legislator to take into account «pilot decisions» of the ECHR; to make necessary amendments to the law “On the enforcement and the application of the case-law of the European Court of Human Rights” and to determine the place of the case-law of the ECHR among other sources of the law.

Implementation of the case-law of the European Court of Human Rights in Ukraine: problems and challenges

ECHR was signed on 4 November 1950 in Rome by ten European countries. Since then it has become the foundation of the international law of human rights and its legitimate interests and needs, the starting point on the path of civilized European states to implement universal values. Today 45 countries have ratified this Convention. The Parliament of Ukraine ratified it on July 17, 1997. On September 11, 1997 it entered into force for the country. Now anyone who is under the jurisdiction of Ukraine has not only the right but also the real opportunity to apply to the ECHR for protection of his rights and freedoms enshrined in the Convention and its protocols after the exhaustion of domestic remedies and within six months from the date of the final decision on the national level. The term «exhaustion of domestic remedies» means that the applicant had appealed to all courts of the State, including the Court of Cassation - the Supreme Court of Ukraine. In practical, part 4 of the art. 55 of the Constitution of Ukraine stated: “After exhausting all domestic legal instruments, everyone shall have the right to appeal for the protection of his rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant”.

Since 1997, about 12 million people lodged complaints concerning abuse of human rights and freedoms guaranteed by the ECHR in Ukraine to the ECHR. If in 1998 only 214 complaints came from Ukraine, in 1999 - 431, then as on April 30, 2011 there were 10,950 complaints. Sadly Ukraine takes position among the countries with the biggest number of applications to the European Court. For instance, from Poland, the state that is ranked just one position lower Ukraine, there have come less than 3,850 applications. Moreover, Ukraine has all chances to get ahead of such countries like Italy, which are in an even worse situation. If we take the number of applications per 10,000 people, Ukraine, which is currently on the fifth place, is significantly ahead of Italy and Turkey, which are the fourth and second places respectively on the list of the ECHR.

Today the Council of Europe, including the ECHR, actively works on reforms and conducts its special activities as efficient as possible in order to widely improve the protection of the human rights in it states. Nevertheless, Ukraine must consider and undertake serious measures to protect the human rights of its citizens’ by efforts of national courts, law-enforcement agencies and other public authorities. Let’s consider what problems exist in legislation doctrine and jurisprudence of national courts, which lead to above mentioned effects.

The first problem is the application of the ECHR by national authorities. At first glance, there should be no difficulties faced on this level. According to art. 9 of the Constitution of Ukraine the ECHR is “an integral part of the national legislation of Ukraine» and it should be applied everywhere in Ukraine without exception. However, when we say that the state should fix the violation of the Convention, we also mean that they must obey to the ECHR case-law and ensure that its judgments are carried out properly, in particular by taking general measures and correction of situations that arise as a result of these issues. One way to do so is to issue “pilot judgments” regarding systematic violations.

As Antoine Buyse notes, “the number of applications has been rising so sharply – partly due to the accession of a large number of new state parties to the ECHR – that the very work and survival of the Court seems to be at risk. It is precisely because of these high numbers that the Court has started to deal creatively with large-scale violations of human rights by way of so-called pilot judgments”. The concept of “pilot judgment” involves judgments in which it is reported that the defendant (State) has structural or systemic problems that caused the submission of a large number of similar judgments or could cause them in the future. Thus, a pilot judgment urges the State to introduce a mechanism, which helps to improve the situation and to ensure that applications that are pending or will be filed in the future are properly considered at the national level.

Two fundamental judgments were taken as pilot judgments in cases Ivanov v. Ukraine (40450/04) and Kharchenko v. Ukraine (40107/02). Among the problems identified there can be called unlawful decisions made by national courts, and the failure to ensure freedom (and shortcomings in the performance of judicial review), and prolonged non-execution of final domestic court decisions. Courts of general jurisdiction are of particular importance because they have jurisdiction to consider matters relating to the Convention.

On 21 February 2012 the European Court of Human Rights examined the state of the implementation of the pilot judgment in the above mentioned case of Yuriy Nikolayevich Ivanov v. Ukraine (no. 40450/04) concerning issues of prolonged non-enforcement of domestic decisions and the state of affairs in about 2,500 similar cases currently pending before the Court. The ECHR published a press release concerning these issues. It may be noted that Ukraine has not
adopted the required general measures to tackle the issues of non-enforcement at the domestic level. The Court further brought to attention that a number of cases have been struck out of the list of cases pending before the Court following either a settlement or a unilateral declaration. No settlement has been proposed so far in about 700 such cases which have been communicated to the Government, though. It was also noted that about 1,000 new similar applications have been lodged with the Court since 1 January 2011. In accordance with the pilot judgment (Yuriy Nikolayevich Ivanov, cited above, § 100), the Court decided to resume the examination of applications raising similar issues. The Court also expressed the hope that the Ukrainian authorities would continue cooperating with the Committee of Ministers in order to implement the pilot judgment without delay and, in doing so, would have due regard to the Committee of Ministers’ relevant recommendations, resolutions and decisions.

It should be mentioned that legislative reform is not always indispensable if the objection of the ECtHR concerns the approach used by the national courts. Moreover, courts may prefer to introduce provisions of the Convention to domestic law in a more rapid and flexible manner than legislator when it comes to canceling or amending laws that are incompatible with the ECHR. The Convention provides a condition of accepting applications the exhaustion of domestic remedies, and this means that national courts must consider complaints before they are submitted to the ECtHR.

National authorities will play crucial role in future human rights protection in Europe. Indeed, considerable emphasis was placed on their role in the Declaration and Plan of Action adopted in Interlaken. According to it, national authorities should play an active role, such as enforcement of the ECHR, including the aforementioned pilot judgments. A large number of irregularities concern three articles of the Convention, namely Art. 6 (right to a fair trial), Art. 13 (right to an effective remedy) and Art. 1 of Protocol No 1 (protection of property). These problems must be solved in future.

Another significant problem is the execution of national courts’ decisions. According to the Department of State Executive Service of the Ministry of Justice of Ukraine, currently only about 40% of decisions of national courts are executed. The European Court of Human Rights indicates the extreme urgency of this problem in every second decision in respect of Ukraine. That is what also caused issuing the pilot judgment «Yuriy Nikolayevich Ivanov v. Ukraine». The lion’s share of the court decisions that were not executed by the Ukrainian state authorities are so called “social decisions” (when citizens try to get proper social benefits). According to the Ministry of Social Policy, the total arrears of social benefits to citizens now exceed 130 billion USD. Of course, among these people there are potential applicants to the ECtHR. Position of the ECtHR with regard to this is rather clear: non-enforcement of domestic court cannot be justified by the lack of budget funds. This refers in particular to the European Court in the case «Shmalko v. Ukraine», made in July 2004 (about non-execution of a judgment given in favor of applicant).

A serious problem is the low execution and implementation of final decisions of the ECtHR by Ukraine. Currently 95% of such judgments in respect of Ukraine are not entirely fulfilled, as the Committee of Ministers has not adopted appropriate resolutions on the withdrawal of their control. Thus, 79% of judgments are under enhanced surveillance. This obliges the Government and the Parliament of Ukraine to examine carefully content of these judgments and to take necessary measures for unconditional execution of them.

Unfortunately, judgments of the European Court have not become a beacon for the domestic judiciary yet since the total number of appeals to judgments of the ECtHR is small in percentage. Such decisions taken by national courts often contain only references to the position of the ECtHR (not in that way as mentioned in the art. 18 of the Law of Ukraine “On the enforcement and the application of the case-law of the European Court of Human Rights”). For all confirmations of changes that are evident in the issue of implementation of ECtHR’s cases, national judges in their vast majority are not using of the ECtHR’s practice because of their ignorance, or seek to circumvent them.

Thereby the main question arises: why according to Law are national courts obliged to use the ECtHR and the ECtHR’s case-law as a legal source, but as it comes to practice, courts prefer to use their domestic legal sources?

Analysis of judicial practices shows that many representatives of national judges are not ready for practical implementation of the approaches and positions of the ECtHR for various reasons. In many cases, using the judgments of the ECtHR, the courts have no clear and unambiguous idea of what the legal status of this application is. Therefore, it is fairly common in the activities of domestic courts to use an abstract reference to the ECtHR’s judgments without specific indications on the decision of this body. Often there appears an opposite problem – national courts refer to a specific decision of the European Court in their judgments, but without specifying its correlation with national law and the circumstances of the implementation this case rules. Another problem is the lack of uniform criteria for application of ECtHR’s cases.

Vladimir Butkevich defines at least three approaches in the practice of Ukrainian courts. The first is the application to the ECHR and its interpretations by the European Court in indissoluble unity. In such cases, domestic courts cite a decision of the ECtHR, accompanying this citation by reference to the Convention. The second approach involves the use of the ECtHR’s cases as an additional argument that substantiates the based on the norms of national law position of the national court. In other cases, the judgments of the European Court are considered as the normative interpretation of the ECHR.

The ex-judge of the ECtHR Vladimir Butkevich pointed out a characteristic feature of those domestic judges, who accept and actively use the legal position of the ECtHR. Trying to find analogies directly in domestic law, they desire to justify the judgment by Ukrainian legislation in the context of the provisions of the ECHR.

Each year number of examples of using of the ECtHR’s cases by the national courts is increased. However, we have to return to the question of how a national court has to decide the case if there is a conflict between the provisions of the national law and the provisions of the ECtHR or the ECtHR’s judgment. In this case, one possible option for the national court is an appeal to the Constitutional Court of Ukraine (according to Article 83 of the Law of Ukraine «On Constitutional Courts: “if a dispute concerning the
constitutionality of a norm of the law applied by the court arises in the process of the general court proceedings, the examination of the case shall be suspended”) through the Supreme Court. The logic of this proposal is that most Convention rights are guaranteed by the Constitution of Ukraine, as well. In the appeal, the question of the unconstitutionality of certain provisions of the law may further be justified with a reference to provisions of the Convention and the ECHR’s practice. Moreover, the Constitutional Court has applied provisions of the Convention and the ECHR’s practice in the process of resolving cases. This approach will not solve all problems, and it cannot prevent violations of the Convention in all cases, but it can significantly improve the legal protection of rights and freedoms guaranteed by the Convention. It must not be forgotten that, the domestic court, despite its independence, is one of the branches of power, which means that its decisions are the actions of the state. As Lukashuk affirms, “the independence of the judicial authority is a principle of constitutional law, which determines its interaction with other branches of power”. In other words, it is a matter of the internal distribution of the competence. Under the principle of international responsibility, the state cannot invoke its internal law so as to avoid responsibility under international law. In international affairs, the state acts as a single entity and is responsible for all activities of its bodies. Thus, the independence of the judicial authority does not prevent the court from finding infringements of the Convention rights and other obligations of the State under the Convention. As with regard to the latter provision, it deals with the obligation of the state not to hinder in any way the effective exercise of right to appeal to ECtHR (Article 34 of the Convention) and its obligation to furnish all necessary facilities for effective implementation of court investigation of a case (Article 38 of the Convention).

Courts are given a key role in ensuring effective protection of Convention rights. Courts are usually effective guards of protection at the national level, to which individuals should apply according to the ECHR for protection of their rights before seeking support in the ECtHR. However, there are cases when even an appeal to the courts may not be effective due to the lack of court jurisdiction to restore effectively or to protect individual rights at the national level (case Voitenko v. Ukraine and Efimenko v. Ukraine), or when treatment to national courts do not give the desirable result and the European Court concludes that the applicant has taken sufficient measures to protect his rights at the national level, but in his particular situation proved ineffective.

Quite often there is a violation of the Convention by the presence or absence of certain provisions in the national legislation. To change the relevant law may only the Parliament of Ukraine and, therefore, it depends on it, that similar violations will not recur. Of course, the Constitutional Court can declare some legal provisions as unconstitutional, but even it is unable to make certain changes to the legislation, which are necessary for protection of the rights guaranteed by the ECHR.

So, obviously, we need to strengthen adequate scientific support and control of the drafting of the laws, it should be rapid and effective response to the general measures, which are mentioned in the decisions adopted in respect of Ukraine in order to avoid possible violations in future.

Unfortunately, not all regulations adopted by the Parliament of Ukraine meet the requirements of the ECHR of transparency and predictability of these rules. In this situation, a judge is often encountering situations when the law or its separate provisions are unfeasible. An example is the situation where the law cannot be applied due to the fact that it sets unrealistic provisions.

The ex-judge of the ECtHR Vladimir Butkevich accentuates unclear provisions of the law “On the enforcement and the application of the case-law of the European Court of Human Rights”. He points out that art. 4 of the law indicates that Ukrainian legislator puts the responsibility on the Office of the Government’s agent of Ukraine in Court for determination what have to be in the “summary of a Judgment” and what have to be translated in Ukrainian language. According to paragraph 3 (b) art.14 the Office of the Government’s agent «... shall prepare an analytical review for the Supreme Court of Ukraine which shall include: a) analysis of circumstances which caused the breach of the Convention; b) proposals on the bringing of national courts’ case-law in line with requirements of the Convention». Even if it is only a «proposal», the law actually provides for a direct interference with the jurisdiction of the ECtHR, as only it can make the conclusions regarding violations of the Convention.

Vladimir Butkevich soundly notes that it was a mistake to write in the art. 17 of the Law “On the enforcement and the application of the case-law of the European Court of Human Rights”: «courts shall apply the Convention and the case-law of the Court as a source of law». The author of the article completely support this point of view. Before this a legislator had to appeal to the Constitutional Court of Ukraine for an explanation because it does not provide by art. 9 of the Constitution of Ukraine. Firstly, the Constitution of Ukraine recognizes only the European Convention on Human Rights as part of domestic law and says nothing about the case-law. Secondly, the jurisprudence of the European Court, it’s all judgments and decisions for more than 50 years and even something which ECtHR subsequently refused. So, a legislator created by these rules problems for the courts and other law-enforcement bodies of Ukraine.

In the art. 18 noted the following: «3. In case of the absence of the translation of Judgment or decision of the Court or decision of the Commission, courts shall use their original texts. 4. If a linguistic discrepancy between the translation and the original text is found, courts shall use the original text. 5. If a linguistic discrepancy between the original texts is found and/or if need be to carry out a linguistic interpretation of the original text courts shall use the relevant case-law of the Court». These provisions require knowledge not only of Ukrainian, but also French and English languages as well as of over one hundred volumes published by the European Court and the European Commission of Human Rights. However, the Law of Ukraine «On the Judiciary and the Status of Judges» requires (art. 12) knowledge of the state language (sometimes also a regional language). Only about 10% of Judgments of the ECtHR are published, and usually the Court’s judgments published in the form of a summary, and it is extremely difficult to get the whole text of them.
Thus, having regard to above mentioned it could be concluded that current provisions of the Law of Ukraine “On the enforcement and the application of the case-law of the European Court of Human Rights” are not clear enough and rules of the art. 17 have to be changed.

Instead of this, in the opinion of the Head of the Supreme Court of Ukraine Vasily Onopenko, it is a problem that only decisions of ECtHR taken in respect of Ukraine are binding for the courts of Ukraine. In his opinion, the European Court follows its own practice, including decisions in cases in respect of other countries, while making its decisions in respect of Ukraine. This corresponds to the principle of legal certainty. According to the Supreme Court’s Head’s opinion, in applying the legal position of the European Court national courts must consider all its case-law. “Only this approach will help Ukraine avoid further violations of the Convention”, The author of the article do not share this opinion in consideration of above mentioned arguments.

Another problem is the observance of laws by the courts, when their imperfections are obvious to them in case of the absence of relevant European Court’s decisions. The Law of Ukraine «On the Implementation and the Application of the case-law of the European Court of Human Rights» requires «to enforce judgments of the European Court of Human Rights in cases against Ukraine; the necessity to eliminate reasons of violation by Ukraine of the Convention for the Protection of Human Rights and Fundamental Freedoms and protocols thereto; the need to implement European human rights standards into legal and administrative practice of Ukraine; and the necessity to create conditions to reduce the number of applications before the European Court of Human Rights against Ukraine” (art. 1).

As for the rest of «the case-law of the Court» it is, as it was said before, only declared «source of law» in Ukraine with some inconsistency with the Constitution of Ukraine. But so far Constitutional Court of Ukraine does not clearly expressed its opinion in this regard.

In practice, a legislator does not use all case-law of the ECtHR (judgments in cases in respect of other countries - member states and parties of the Convention). However, this situation is also common for many Member States, not only for Ukraine. As noted ex-Chairman of the ECtHR P. Jean-Paul Costa: “The decision of the Court with only the relative power of res judicata and not erga omnes as adopted by the Court decision is binding, at least from a legal perspective, only for those States that have been recognized as having violated the Convention. Sometimes some countries have the similar legislation in respect of which the state has been recognized as having violated the Convention. The state, which is not directly affected by that decision, are not required to respond to it. Once the Court found the state guilty of violating human rights and it subsequently amended its legislation and enforcement practices, in some countries - parties to the Convention, legislation reformed on the basis of case-law of the Court, and in others - it remains as before”. Of course, according to art. 17 of the Law of Ukraine “On the Implementation and the Application of the case-law of the European Court of Human Rights», Ukraine could more actively bring its legislation in line with court decisions. However, it should be noted that at least three factors which the state will meet this law enforcement practice and relevant legislative changes on the way.

As Jean-Paul Costa indicated: “First of all, the Court’s case-law does not form a uniform whole. It is made up not only of judgments finding either a violation or a non-violation of the Convention, but also of inadmissibility decisions, which are sometimes as important as a judgment. In a moment I shall refer to the inadmissibility decision delivered by the Grand Chamber of the Court in the case of von Maltzan and others v. Germany, which although not a judgment is none the less very important. My second preliminary observation is that the Court’s case-law is not laid down once and for all. In many areas it has evolved and indeed is constantly evolving (an example of this is the United Kingdom cases concerning transsexuals). In other words, while observing the force of precedents, our Court applies the “stare decisis rule flexibly; since its earliest judgments, moreover, it has treated the Convention as a living instrument which must be interpreted in the light of present-day conditions. Last, the Court is clearly not infallible. In addition, some of its judgments and decisions are not adopted unanimously, hence the value of the separate opinions of minority judges provided for in Article 45. They indicate the variety of possible approaches and unquestionably have a crucial role in informing legal opinion, even though, naturally, res judicata attaches to what was decided by the majority.

Conclusions

In order to summarize all theories and opinions on the issues raised in this article, it should be underlined that the potential for effective protection of human rights at the national level inscribed into the Convention is significant even for the existing legal system. However, the question is how full it is used today and will be used in the future depending on how the state authorities seek to protect human rights in Ukraine, discharging individuals of the need to seek protection in the European Court of Human Rights.

Summing up all the above mentioned, the following conclusions concerning the improvement of practice of application of the ECHR and the case-law of the ECtHR should be made:

- There should be insured the proper fulfillment of the «pilot judgments» of the ECtHR, especially by the Parliament of Ukraine, which contain instructions on the structural and systemic violations of human rights and freedoms. Moreover, the Ukrainian Parliament needs to introduce effective mechanisms to help improve the situation and to ensure proper consideration of individual applications at the national level or relevant regulations, which would rule out certain disorders.
- It is needed to strengthen adequate scientific support and control of the drafting of legislation; there should be as well provided rapid and effective response to the general measures, which are mentioned in the decisions adopted with respect to Ukraine in order to avoid possible violations in future.
- There should be established specific mechanisms that will help implementing decisions of national courts, which would eliminate the need for citizens to appeal to ECtHR concerning non-executions of decisions of national courts.
- Finally, it is needed to fix essential criteria for the application of the case-law of the ECtHR within legislation, including the Law.
«On the Implementation and the Application of the case-law of the European Court of Human Rights» and for the determination of the real place of the ECHR’s case-law among other sources of the Ukrainian law (judgments and decisions with respect to Ukraine and to other countries).

References

Butkevich, Vladimir (2011) Quality of the law and the effectiveness of application judgments of the European Court of Human Rights by the courts of Ukraine / The Law of Ukraine. - ISSN 0132–1331. – Kiev, no. 7, p. 48-64


Onopchenko, Vasilyi (2011) Quality of the law and the effectiveness of application judgments of the European Court of Human Rights by the courts of Ukraine / The Law of Ukraine. - ISSN 0132–1331. – Kiev, no. 7, p. 48-64


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