

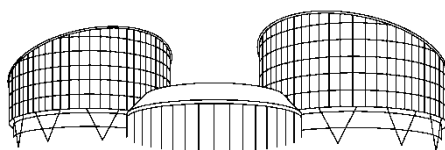
La CEDU sulla violazione del diritto a un equo processo, secondo l'articolo 6 della Convenzione.

(CEDU, sez. V, sent. 16 gennaio 2025, ric. n. 15830/16)

Il caso sottoposto all'attenzione della Corte riguarda la presunta violazione dell'art. 6 della Convenzione Edu e dell'art. 1 del Protocollo n. 1 alla Convenzione. La ricorrente, a seguito della privazione del suo titolo di proprietà su un appezzamento di terreno per effetto dell'azione promossa dal pubblico ministero, lamentava, da un lato, la lesione del suo diritto a un equo processo e, dall'altro, un'ingiustificata e illegittima ingerenza nel suo diritto di proprietà.

Nel caso in esame, i giudici di Strasburgo hanno ritenuto fondata la questione relativa alla violazione del diritto a un equo processo, in quanto i tribunali nazionali non avevano garantito che la ricorrente fosse informata del procedimento in corso, privandola pertanto dell'opportunità di presentare le proprie argomentazioni in giudizio. Né tale inadempimento può dirsi essere stato sanato durante il procedimento in Cassazione.

Quanto al secondo punto, la Corte ha ritenuto che non vi fosse stata la violazione dell'art. 1 del Protocollo n.1 alla Convenzione poiché, innanzitutto, l'ingerenza nel diritto di proprietà della ricorrente appariva necessaria per tutelare l'interesse pubblico, quale interesse del comune e dei propri abitanti. Inoltre, la ricorrente aveva ottenuto con successo il risarcimento, dimostrando che, nella controversia in questione, era stato raggiunto un giusto equilibrio tra gli interessi confliggenti.



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

FIFTH SECTION

CASE OF XXX v. UKRAINE

(Application no. 15830/16)

JUDGMENT
STRASBOURG

16 January 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of XXX v. Ukraine,

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

Mattias Guyomar, *President*,

María Elósegui,

Gilberto Felici,

Andreas Zünd,

Diana Sârcu,

Kateřina Šimáčková,

Mykola Gnatovskyy, *judges*,

and Victor Soloveytchik, *Section Registrar*,

Having regard to:

the application (no. 15830/16) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Ukrainian national, Ms XXX (“the applicant”), on 12 March 2016;

the decision to give notice to the Ukrainian Government (“the Government”) of the applicant’s complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention;

the parties’ observations;

Having deliberated in private on 26 November 2024,

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

INTRODUCTION

1. The application concerns the applicant’s deprivation of her title to a plot of land as a result of the prosecutor’s action to have that land returned to the State, and the alleged unfairness of the relevant proceedings on account of the applicant’s not having been informed of those proceedings. The applicant referred to Article 6 of the Convention and Article 1 of Protocol No.1 to the Convention.

THE FACTS

2. The applicant was born in 1965 and lives in Kyiv.

3. The Government were represented by their Agent, Ms M. Sokorenko.

4. The facts of the case may be summarised as follows.

5. In 2011 the Brovary District State Administration allocated to D. a plot of land measuring 1.8 ha for individual farming. D. subsequently divided the land into two parts (of 1.62 ha and 0.18 ha) and changed its purpose to “gardening”.

6. In November 2013 the applicant bought the smaller of the two plots of land from D. According to the sales contract, the value of the land was “147,600 Ukrainian hryvnias [UAH, equal to] 18,000 United States dollars [USD] on the day the contract was signed, the amount having been received [in the latter currency] by [D.]”.

7. In June 2014 a local prosecutor applied to the local court seeking the invalidation of the decision allocating the disputed land to D. and his title to it, as well as of the contract between D. and the applicant and the applicant’s title. The prosecutor argued that the land at issue was located within

Bohdanivka village and so could not have been disposed of by the Brovary District State Administration.

8. The prosecutor's claims were rejected by the local court but were granted on appeal by a judgment of the Kyiv Region Court of Appeal of 14 May 2015. The appellate court referred to another set of proceedings regarding the initial big plot of land (but between different parties) in which it had been established, based on – among other things – the conclusions of a forensic technical expert assessment, that the land at issue was located within the boundaries of Bohdanivka village. The court invalidated the applicant's title and restored the land to the village's ownership.

9. According to the applicant, she had not been informed of the proceedings by either the local court or the court of appeal. In particular, she submitted that all of the relevant summonses had been sent by the courts to an allegedly non-existent address at 6 Krasovskyy Street in the village of Brovary, when she in fact resided at an address in Kyiv. The applicant stated that she had found out about the proceedings in May 2015, after the appellate court had given judgment. It had been at that point that her representative had familiarised himself with the case file. The applicant had then submitted a cassation appeal in which she had raised her complaints, stating that the courts' failure to notify her of the proceedings had been a gross violation of procedural law. In her cassation appeal she had pointed out that in the sales contract of 2013, which had been available to, and relied upon by the prosecutor, it was indicated that her address was in Kyiv. The applicant had also listed the letters and summonses available in the case file – all of which had been sent to the wrong address. Moreover, the letters that had been sent by registered post had been returned to the courts as undelivered. Lastly, the applicant had argued that the lower courts had applied the relevant land legislation erroneously and disregarded certain pieces of evidence related to the factual basis of the case. D. also submitted a cassation appeal.

10. On 16 September 2015 the Higher Specialized Court for Civil and Criminal Cases upheld the findings of the appellate court. It noted that the appellate court had comprehensively established the facts of the case based on the evidence before it and duly applied domestic law. It also stated that the "other [arguments presented in the] cassation appeal [had] not been borne out by the case file materials".

11. In their observations the Government informed the Court that the applicant had initiated proceedings against D. to have the money she had paid him for the land returned to her. By a judgment of the Brovary Local Court of Kyiv Region of 10 December 2019 her claims had been upheld based on the provisions of Article 216 of the Civil Code of Ukraine (Legal consequences of an invalid deed), which provides, *inter alia*, that if a deed is found to be invalid each party is obliged to return in kind everything that was received for the execution of that deed to the other party. The applicant had been awarded UAH 426,393.20 (USD 18,000 at the exchange rate when the judgment was given), as well as damages in the amount of UAH 4,037 (approximately 154 euros (EUR) at the time) covering the notary fees for concluding the sales contract and land tax. On 4 June 2020 that judgment was upheld on appeal and became final and enforceable.

12. As can be seen from the documents submitted by the applicant, enforcement proceedings were initiated against D. in July 2022. The applicant alleged that the judgment had remained unenforced but did not provide any details about the reasons why the judgment could not be enforced or state whether she had ever challenged the bailiffs' actions in the framework of those enforcement proceedings.

13. Lastly, as is apparent from the documents provided by the applicant, in 2021 she obtained permission from the local authorities to prepare technical documentation to obtain a plot of land of 0.18 ha for individual farming in the village of Bohdanivka. The applicant did not, however,

provide any information as to whether that procedure had been finalised and whether she had obtained the title to that plot of land.

RELEVANT LEGAL FRAMEWORK

I. CIVIL CODE (2003)

14. The relevant provisions of the Civil Code of Ukraine as regards property disputes are summarised in, for example, *Kanevska v. Ukraine*, no. 73944/11, §§ 27-29, 17 November 2020.

15. Furthermore, Article 661 of the Code provides that if goods that have been sold are seized from the buyer in favour of a third party upon a court decision on grounds that arose before the sale of the goods, the buyer is entitled to receive compensation for damage from the seller, provided that the buyer did not know or could not have known about the existence of those grounds.

II. CODE OF CIVIL PROCEDURE (2004)

16. Article 74 of the Code of Civil Procedure, as in force at the material time, set out the rules for the notification of parties to proceedings. In particular, it provided that court summons (together with copies of the relevant documents, where applicable) should be sent by registered post or by a courier service to the address specified by the party or other person participating in the case. If the parties to the proceedings did not provide their addresses, court summons should be sent to their registered place of residence (for private persons). In that case the summons is considered to have been duly served on them, whether or not they were actually living at that address.

The parties to the proceedings could be notified of proceedings or summoned to court by sending a telegram, a fax or by other means of communication that ensure the recording of the message. If the person concerned did not reside at the address notified to the court, the summons could be sent to his or her place of work.

Lastly, a defendant whose registered place of residence or place of work was unknown should be summoned to the court by means of the publication of an announcement in the media.

17. Under Article 324 of the Code the grounds for a cassation appeal include the incorrect application of substantive or procedural law. In the framework of a cassation review the court should verify, within the scope of the cassation appeal, the correctness of the application of the provisions of substantive or procedural law by the court of first or appellate instance and cannot establish or consider as established any circumstances that had not been established by the lower courts or that had been rejected by them; nor can it resolve an issue of the reliability or unreliability of a particular piece of evidence or the relative reliability of one piece of evidence *vis-à-vis* the others (Article 335). Under Article 338, in the event that there has been a violation of the norms of procedural law that makes it impossible to establish factual circumstances which are important for the correct examination of the case, the judgments of the local and/or appellate courts can be quashed, and the case remitted to the lower courts for re-examination.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

18. The applicant complained that the lower courts had failed to duly inform her of the relevant proceedings, which in turn had precluded her from presenting her case and rendered the proceedings unfair. She referred to Article 6 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

A. Admissibility

19. The Government raised no objections as to admissibility of the above-mentioned complaint.
20. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

21. The applicant argued that the proceedings in her case, which had resulted in her losing title to the land at issue, were unfair as she had not been informed of them by the lower courts. All letters and summonses had been sent by the courts to a “non-existent” address in Brovary, even though her registered address was in Kyiv. She also noted that although the domestic courts had clearly been aware that none of their letters had been delivered to her, they had not acted on that information.
22. The Government stated in their observations, in general terms, that the proceedings had been fair and the domestic judgments duly reasoned and that the applicant had not indicated how her absence had affected the examination of the case.
23. The Court reiterates that the possibility for the parties to take part in proceedings flows from the object and purpose of Article 6 of the Convention, taken as a whole. Moreover, the principles of an adversarial hearing and equality of arms are hardly conceivable without the participation of the parties to proceedings and require that the person against whom proceedings have been initiated should be informed of this fact (see *Dilipak and Karakaya v. Turkey*, nos. 7942/05 and 24838/05, §§ 76 and 77, 4 March 2014). If court documents are not duly served on a litigant, then he or she might be prevented from defending him or herself in the proceedings (see *Zavodnik v. Slovenia*, no. 53723/13, § 70, 21 May 2015, with further references). Furthermore, the principle of equality of arms requires that each party should be afforded a reasonable opportunity to present his or her case under conditions that do not place him or her at a substantial disadvantage *vis-à-vis* his or her opponent (see *Dombo Beheer B.V. v. the Netherlands*, 27 October 1993, § 33, Series A no. 274, and *Avotiņš v. Latvia* [GC], no. 17502/07, § 119, 23 May 2016) and must be given the opportunity to have knowledge of and comment on the observations filed or evidence adduced by the other party, including appeals by other the party. What is at stake is the litigants’ confidence in the workings of justice, which is based on, *inter alia*, the knowledge that they have had the opportunity to express their views on every document in the file (see *Beer v. Austria*, no. 30428/96, §§ 17-18, 6 February 2001).
24. As can be seen from the procedural documents available to the Court, namely court judgments and the submissions of the parties, the applicant’s address was mentioned as 6 Krasovskyy Street, Brovary, Kyiv Region. Although the Court has not been provided by either of the parties to the present case with copies of the letters and summonses sent by the domestic courts, it has no reason to doubt that that address was the one used by the domestic courts when corresponding with the applicant. The Court notes the fact that, contrary to the applicant’s assertions, the abovementioned address did exist at the relevant time (although the street has been renamed); it is also true, however, that the building at that address is a block of flats, meaning that the number of the flat would have been required in order for the letter or summons to have been delivered. In any event, the applicant submitted that her registered address was in Kyiv, and although she did not provide any documents to that effect to the Court, that address in Kyiv was indeed mentioned in the sales contract with D. upon which the prosecutor relied in the proceedings. The Government did not

provide any information or documents to explain the use of an incorrect address, or any explanation as to why the courts, seeing that their letters and summonses had not been delivered, did not try any other means of notification to inform the applicant of the proceedings, although such possibilities were not only open to them, but required of them (see paragraph 16 above and, for example, *Lazarenko and Others v. Ukraine*, nos. 70329/12 and 5 others, § 40, 27 June 2017).

25. In this connection the Court is struck by the fact that the court of cassation provided no clearly stated reply to the applicant's detailed and pertinent arguments on this matter or, indeed, to her arguments on the merits of the case – raised for the first time during those proceedings – as to, *inter alia*, the allegation that the lower courts had erroneously applied the law and disregarded some evidence that was relevant to the facts of the case (see paragraph 9 above). In the latter respect the Court observes that, in accordance with Article 338 of the Code of Civil Procedure as in force at the material time, in the event of a violation of the norms of procedural law making it impossible to establish factual circumstances that are important for the correct examination of the case, the judgments of the local and/or appellate courts could be quashed and the case remitted for re-examination (see paragraph 16 above).

26. Lastly, with regard to the Government's argument that the applicant had not indicated how her absence had affected the examination of the case, the Court reiterates that, from the Convention standpoint, an applicant does not need to show that his or her absence from a hearing resulted in actual prejudice or affected the outcome of the proceedings because such a requirement would deprive the guarantees of Article 6 of their substance (see, *P., C. and S. v. the United Kingdom*, no. 56547/00, § 96, ECHR 2002-VI and, for example, *Lopushansky v. Ukraine* (Committee), no. 27793/08, § 64, 2 February 2017).

27. In view of the above, the Court concludes that domestic courts failed to ensure that the applicant was notified of the proceedings in the instant case and that she was therefore deprived of the opportunity to present her arguments during the examination of the case before the lower courts. That failure cannot be said to have been remedied during the cassation proceedings.

28. The Court considers therefore that there has been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

29. Referring to Article 6 of the Convention and to Article 1 of Protocol No. 1 to the Convention the applicant complained that she had been deprived of her property as a result of mistakes by the authorities for which she should not bear any responsibility and that the domestic courts had decided her case unfairly. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), considers that these complaints fall to be examined solely under Article 1 of Protocol No. 1, which reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

A. Admissibility

30. The Government argued that the applicant could not, or could no longer, claim to be a victim of the alleged violation of Article 1 of Protocol No. 1 as she had been awarded compensation of the

costs she had paid for the land. They further contended that the applicant had abused her right of application by not informing the Court about the compensation proceedings she had initiated against D. or of the resulting award, both of which were crucial pieces of information for the examination of the present application. Lastly, the Government submitted that the applicant's complaint was manifestly ill-founded as "she had no legitimate right in respect of the disputed land "having obtained the right of ownership on the basis of a deed which had been found invalid by the decisions of the [domestic] courts".

31. The applicant disagreed. She underlined the fact that the compensation awarded to her had been a result of her own efforts and that the State, although it had been the main actor responsible for her loss of property, had not helped her to obtain that compensation or otherwise remedied the situation. She concluded that, in any case, the compensation awarded remained unpaid.

32. As to the Government's argument concerning the abuse of the right of application, the Court reiterates that the submission of incomplete and thus misleading information may amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. However, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references).

33. It is undisputed that the applicant did not herself inform the Court about the compensation proceedings she had initiated against D. or of their outcome. That information, which is indeed important for the examination of the present case, became known to the Court from the Government's observations and was afterwards confirmed by the applicant in her own observations. The Court, however, notes the applicant's explanations and her reference to the State's responsibility (see paragraphs 29 and 31 above). The Court considers the justification provided by the applicant can be seen as a legitimate explanation of the fact that she – who, moreover, had not benefited from legal counsel in the proceedings before the Court, having represented herself – did not inform the Court of the proceedings against D. The Court therefore cannot establish with the required degree of certainty that by not making such submissions the applicant intended to mislead the Court. It thus cannot find that she has abused the right of application.

34. As to the Government's argument regarding the applicant's victim status, the Court reiterates that a decision or measure favourable to an applicant is not in principle sufficient to deprive him or her of his or her status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 180, ECHR 2006-V). The Court has accepted that applicants can still claim to be victims of the alleged violations even where they received some compensation or where other solutions to remedy their situations were applied but needed to be assessed by the Court in the light of the guarantees of Article 1 of Protocol No. 1 (see, for example, *Paplauskienė v. Lithuania*, no. 31102/06, §§ 27-31 and 52, 14 October 2014). In the present case it is precisely the question whether the applicant suffered a disproportionate burden on account of the situation in which she finds herself that the Court is called upon to assess.

35. In the light of the above, the Court rejects the Government's preliminary objections. It further notes that this complaint is neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

36. The applicant contended that she had acquired ownership of the land in good faith and could not be held responsible for the authorities' mistakes.

37. The Government did not contest that the invalidation of the applicant's title had constituted an interference with her right to property. They argued, however, that it had been lawful as there were clear and accessible legal provisions allowing the State to regain possession of property in case of its illegal alienation. As to legitimate aim, they noted that the interference served to protect the interests of the State and the municipality as well as its citizens. Lastly, as regards proportionality, the Government stated that the applicant, having been awarded the full price of the land to be returned by D., had been compensated for her losses.

38. The Court agrees that the annulment of the applicant's title to the land constituted an interference with her right to property which must be considered a deprivation of possessions. Accordingly, the second rule of Article 1 of Protocol No. 1 to the Convention applies (see *Ibrahimbeyov and Others v. Azerbaijan*, no. 32380/13, § 45, 16 February 2023, with further references). It must, therefore, be ascertained whether in the present case the deprivation of possessions was lawful and effected in the public interest and whether it pursued a legitimate aim by means reasonably proportionate to the aim sought to be realised.

39. As regards lawfulness, the Court notes that it was established during the domestic proceedings that the disputed plot of land was located within Bohdanivka village and therefore could not have been disposed of by the Brovary District State Administration. In so ruling the appellate court relied on the facts established in another set of proceedings related to the initial plot of land which, in turn, had relied on a forensic technical expert assessment confirming that the land at stake belonged to Bohdanivka village. Thus, the land had to be returned to its lawful owner. The Court has no reason to doubt that conclusion.

40. The Court can also accept that the interference with the applicant's property rights was aimed at securing the interests of the municipality and its inhabitants and was thus in the public interest (see *Ibrahimbeyov and Others*, cited above, § 48).

41. As to proportionality, the Court reiterates that Article 1 of Protocol No. 1 requires of any interference that there should be a reasonable relationship of proportionality between the means employed and the aim pursued. This fair balance will be upset if the person concerned has to bear an individual and excessive burden. In this context, the Court has on many occasions emphasised the particular importance of the principle of "good governance". This principle should not, as a general rule, prevent the authorities from correcting occasional mistakes, even those resulting from their own negligence. However, the need to correct an old "wrong" should not disproportionately interfere with a new right which has been acquired by an individual relying in good faith on the legitimacy of the public authority's action. The risk of any mistake made by the State authority must be borne by the State itself and the errors must not be remedied at the expense of the individuals concerned. In the context of revoking ownership of a property that has been transferred erroneously, the good governance principle may not only impose on the authorities an obligation to act promptly in correcting their mistake but may also necessitate the payment of adequate compensation or some other type of appropriate reparation to its former bona fide holder. In making its assessment as to whether adequate compensation was available to an applicant, the Court must have regard to the particular circumstances of each case, including the amounts received and losses incurred and, as the case may be, the availability of compensation and the practical realities in which the applicant found him or herself (see, for example, *Maksymenko and Gerasymenko v. Ukraine*, no. 49317/07, § 64, 16 May 2013, with case-law cited therein). In that context, the Court has previously taken account of, *inter alia*, the possibility for applicants to claim compensation, obtain alternative property or make use of other forms of redress (see, for example, *Bērziņš and Others v. Latvia*, no. 73105/12, §§ 99-106, 21 September 2021).

42. Turning to the present case, the Court observes that the initial plot of land, of which the applicant's land formed the smaller part, had been allocated to D. by the Brovary District State Administration. His title, the division of the land and the change of its purpose and, eventually, its sale in 2013 and the applicant's title, were all duly formalised by the authorities. They apparently did not detect the irregularities that were later established by the courts concerning the location and the right of disposal of the land in question although it was for them, through the existing procedures, to ensure effective protection of the State's interests. Furthermore, at no point in time during the proceedings was it argued that the applicant had acted in bad faith or without due diligence (see, *Bērziņš and Others*, cited above, § 94). The Court therefore considers that the mistake that led to the invalidation of the applicant's title was attributable to the State or public authorities (see *Ibrahimbeyov and Others*, cited above, § 52, with further references).

43. At the same time the Court notes that the above defect in the land disposal procedure was of fundamental importance entailing thus the nullity of both the initial allocation and all further transactions with this land. Such nullity of ownership titles is a normal consequence of invalidation of a deed.

44. The Court further notes that the applicant was not awarded any compensation in the proceedings initiated by the prosecutor. At the same time, it observes that the applicant acquired the disputed land under a sales contract with a private person rather than directly from the State. It was thus open to her, following the invalidation of the initial allocation of land to D., to claim compensation from him, which she did successfully (compare *Ibrahimbeyov and Others*, §§ 56-59 and *Kanevska*, § 49, both cited above). By the judgment of 10 December 2019, the applicant was awarded the full amount that she had paid to D. adjusted according to the exchange rate when the judgment was given (see paragraph 11 above). The Court notes that such an approach is largely commensurate with its own approach to the calculation of pecuniary awards in similar situations (see, *mutatis mutandis*, *Guiso-Gallisay v. Italy* (just satisfaction) [GC], no. 58858/00, § 105, 22 December 2009).

45. While the applicant alleged that the award had not been paid to her and that the enforcement proceedings, initiated in July 2022, were pending, she failed to provide any detailed explanations in that respect. Nor did she raise any separate complaints before the Court as to non-enforcement of that judgment, which possibility is still open to her. In that connection the Court reiterates that the State's responsibility for the enforcement of debts between private parties extends no further than the involvement of State bodies in the enforcement proceedings (see *Kukta v. Ukraine* (dec.), no. 19443/03, 22 November 2005).

46. In that connection, the Court wishes to note that the present situation should be distinguished from those cases in which a requirement to bring separate compensation proceedings against former owners was considered to have been too formalistic and an excessive a burden on the applicants (contrast, for example, *Gladysheva v. Russia*, no. 7097/10, § 81, 6 December 2011, and see *Osipkovs and Others v. Latvia*, no. 39210/07, § 87-89, 4 May 2017) or where the compensation mechanism was found to have been devoid of effectiveness (see, *mutatis mutandis*, *B.K.M. Lojistik Tasimacilik Ticaret Limited Sirketi v. Slovenia*, no. 42079/12, § 50, 17 January 2017, and *Eka Mikeladze and Others v. Georgia* [Committee], nos. 29385/11 and 3 others, § 60, 25 November 2021).

47. The Court further notes that no information is available as to how the applicant used the plot of land in question, if at all, considering the rather short period of time between her acquiring the land and its being reclaimed by the State (two years in total, with the proceedings concerning the ownership starting some seven months after the acquisition of land by the applicant). In this connection, the Court also notes the information that in 2021 the applicant initiated a procedure to obtain, free of charge, another plot of land in the same area. While the applicant did not provide any details about that fact, she did not contest it either (see paragraph 13 above).

48. In view of the above and despite the fact that the reasons underlying the invalidation of the applicant's title to the disputed plot of land were attributable to the State authorities, the Court, given the circumstances of the present case, finds that the interference with the applicant's rights under Article 1 of Protocol No. 1 did not breach the requirement that a fair balance be struck between the individual's Convention rights and the public interest (see *Ibrahimbeyov and Others*, cited above, § 60).

49. It follows that there has been no violation of Article 1 of Protocol No.1 to the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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.”

51. The applicant claimed 100,000 euros (EUR) as just satisfaction for the “unlawfully reclaimed property and unfair proceedings”. The applicant also stated that it would be fair if the Government were to pay to her the debt that D. owed her under the judgment of the Brovary Local Court of Kyiv Region of 10 December 2019. She did not raise any other claims.

52. The Government contested that claim as exorbitant and reiterated their position that the applicant's complaints were ill-founded.

53. Considering that it has not found a violation of Article 1 of Protocol No.1 in the present case the Court finds that there are no grounds for any award in respect of pecuniary damage.

54. On the other hand, the Court considers that the breach of Article 6 as established above must have caused the applicant moral suffering. It thus awards her EUR 3,600 in respect of non-pecuniary damage.

55. As the applicant did not claim any reimbursement of costs and expenses, there is no call to make any award under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 of the Convention;
3. *Holds* that there has been no violation of Article 1 of Protocol No. 1 to the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 3,600 (three thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 16 January 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar

Mattias Guyomar President