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

FIFTH SECTION

DECISION

Application no. 8230/17
Gennadiy Yakovych BEREZOVSKYY
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 16 March 2023 as a Committee composed of:

Carlo Ranzoni*, President*,
Mattias Guyomar,
Mykola Gnatovskyy*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 8230/17) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 16 January 2017 by a Ukrainian national, Mr Gennadiy Yakovych Berezovskyy ("the applicant"), who was born in 1968 and, according to the most recent information, lives in Kyiv;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaint that Ukrainian border guards refused to allow him to bring his van from the Autonomous Republic of Crimea ("the ARC") into mainland Ukraine, in breach of Article 1 of Protocol No. 1.

2. On 30 December 2015 the applicant attempted to enter the Kherson Region from the ARC in his Ford Transit van. The van was stopped by the border guards and not allowed to proceed. This measure was taken on the basis of a decision by the Cabinet of Ministers of Ukraine of 23 November 2015 instructing the Administration of the State Border Guard Service ("the Service") to suspend cargo transport between the ARC and mainland Ukraine. In accordance with the rules enacted by the Service, vehicles were considered to fall under the suspension order in the event that they contained

more than eight passenger seats or if their technical documentation indicated that they were capable of transporting cargo. The border guards determined that the applicant's van met those criteria.

3. The administrative courts, in rejecting a claim lodged by the applicant against the Service, refused to declare the border guards' actions unlawful (with a final decision being given by the Higher Administrative Court on 18 July 2016). The courts found in particular that the border guards' actions had been based on the above-mentioned rules promulgated by the Cabinet of Ministers and the Service, those rules never having been declared unlawful. Moreover, the rules had been revoked on 8 February 2016 and ceased to apply.

THE COURT'S ASSESSMENT

4. The Court observes that the applicant did not submit copies of any of his domestic complaints or appeals (compare *Lyalyuk v. Ukraine* (dec.) [Committee], no. 38839/07, §§ 23-27, 10 June 2021). It is therefore unclear to what extent he relied on his rights under Article 1 of Protocol No. 1 in the domestic proceedings. The applicant also failed to provide any proof of his ownership of the van. While the domestic courts did not question his standing to challenge the actions of the border guards, there is no indication that they examined his claim specifically in his capacity as the vehicle's alleged owner.

5. Moreover, the applicant did not provide, in his application to the Court, any factual details as to the impact of the border guards' actions on his property rights. He mainly argued before the Court that the refusal to allow his van to enter mainland Ukraine had not been lawful since the relevant rules had not been made publicly accessible. However, he did not indicate, for example, the reason for which he had intended to move his van, where it had been registered, and for what purpose and where it had usually been operated.

6. In the circumstances of the case, and, in particular, considering the limited duration that the contested measure remained in place (about one month), the applicant, in order to lay a foundation for an arguable complaint under Article 1 of Protocol No. 1, should have provided more detailed information on those aspects of the situation.

7. Accordingly, the applicant has failed to show that he exhausted the available domestic remedies, that the measure complained of constituted an interference with his rights under Article 1 of Protocol No. 1 to the Convention or that he suffered a "significant disadvantage" within the meaning of Article 35 § 3 (b) of the Convention on that account.

8. It follows that the application does not meet the admissibility criteria set out in Article 35 §§ 1 and 3 and must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 April 2023.

Martina Keller Deputy Registrar	Carlo Ranzoni President