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

arti

FIFTH SECTION

DECISION

Application no. 66917/16
Tetyana Oleksiyivna BESHTYNARSKA
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 18 September 2025 as a Committee composed of:

María Elósegui*, President*,
Andreas Zünd,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 66917/16) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 10 November 2016 by a Ukrainian national, Ms Tetyana Oleksiyivna Beshtynarska ("the applicant"), who was born in 1968, lives in Antopil (Rivne Region), and was represented by Mr L. Voloshyn, a lawyer practising in Rivne;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, from the Ministry of Justice;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the reversal of the binding and enforceable court decisions in the applicant's favour as a result of the review by the Supreme Court of Ukraine ("the SCU") on the basis of a different case-law adopted after those decisions were delivered, allegedly in breach of the principle of legal certainty stemming from Article 6 § 1 of the Convention. This allegedly led to the situation where the applicant was unlawfully deprived of her possessions, in breach of Article 1 of Protocol No. 1 to the Convention.

2. In March 2013 the applicant's mortgaged property, comprising a plot of land with a house on it, was sold at a public auction to D. in order to repay her debt to a bank. She instituted civil proceedings seeking to have the auction declared invalid and D.'s title to her property annulled. The applicant complained that there had been a breach of procedure, relying on a by-law – the Temporary Regulations on the procedure for conducting public auctions for the sale of seized real estate, approved by Order no. 68/5 of the Ministry of Justice of 27 October 1999 ("the Temporary Regulations").

3. On 31 January 2014 the Rivne City Court dismissed the applicant's claim, finding that the auction had been carried out in accordance with the applicable legislation, in particular the Law on Mortgages, which took precedence over the by-law she referred to.

4. On 7 April 2014 the Rivne Regional Court of Appeal quashed the above-mentioned judgment and found for the applicant. On 25 March 2015 the Higher Specialised Court in Civil and Criminal Matters ("the HSC") upheld the Court of Appeal's decision. The higher courts stated that the applicant's property had been put up for auction with only one potential buyer, which was contrary to the Temporary Regulations.

5. On 15 December 2015 D. applied to the SCU seeking a review of the HSC's decision of 25 March 2015 on the grounds of an alleged difference in the application of the same provisions of substantive law in similar cases, most notably by the SCU in its resolutions of 18 November 2015.

6. On 22 December 2015 the SCU opened review proceedings in the case and ordered that copies of its ruling and D.'s application for review be sent to the parties, including the applicant.

7. On 30 March 2016 the SCU examined the case in the applicant's absence but in the presence of D.'s representative. Referring to the SCU's resolutions of 18 November 2015 as evidence of a difference in the application of the same provisions of substantive law in similar legal matters, it granted D.'s application for review, set aside the decisions of the appellate and cassation courts of 7 April 2014 and 25 March 2015, and upheld the judgment of the first-instance court of 31 January 2014 finding against the applicant. The SCU pointed out that the Law on Mortgages did not prohibit the conduct of auctions with only one buyer and took precedence over the Temporary Regulations. The SCU's resolution of 30 March 2016 constituted a final court decision in the applicant's case.

8. The full text of the final decision was published in the Unified State Register of Court Decisions (the online publicly accessible judicial portal) on 8 April 2016, and a copy was posted to the applicant on 18 April 2016 and was allegedly received by her on 19 May 2016. As proof of the date of receipt, the applicant provided a written statement of a witness, Zh., dated 5 November 2016.

THE COURT'S ASSESSMENT

9. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 that the quashing of binding and enforceable judicial decisions in her favour, as a result of the review by the SCU on the grounds of an alleged difference in the application of the substantive law in subsequent similar cases by the SCU, had breached the principle of legal certainty and had led to a situation where she had been unlawfully deprived of her possessions. The applicant also raised other complaints under Article 6 § 1, Article 8 and Article 13 of the Convention.

10. The Government submitted, *inter alia*, that the applicant had failed to lodge her application within the six-month time-limit for applying to the Court. They cast doubt on the credibility of the evidence provided by the applicant in support of the late receipt of the final decision, stating that Zh. had been the applicant's representative at the domestic level. Zh.'s statement was handwritten and dated 5 November 2016, that is, almost six months after the alleged date of receipt and five days before the submission of the application to the Court. The Government concluded that the application had been lodged with the Court on 10 November 2016, that was, more than seven months after the SCU's resolution of 30 March 2016.

11. The applicant did not comment on the admissibility objections raised by the Government.

12. The Court reiterates that the six-month period, as applicable before the entry into force of Article 4 of Protocol No. 15 to the Convention, starts running from the date on which the applicant and/or his or her representative has sufficient knowledge of the final domestic decision. Where an applicant is entitled to be served automatically with a copy of the final domestic decision, the object and purpose of Article 35 § 1 of the Convention are best served by counting the six-month period as running from the date of service of the copy of that decision (see *Saakashvili v. Georgia* (dec.), nos. 6232/20 and 22394/20, §§ 46 and 47, 1 March 2022). However, those rules should not be interpreted in an excessively rigid manner.

13. The Court notes first of all that it has been established in the present case that the final decision was given on 30 March 2016, the full text became available to the public on 8 April 2016 and a copy was sent to the applicant on 18 April 2016. The applicant alleged that she did not receive the copy of the decision until 19 May 2016. In support of that allegation, she provided only a written witness statement. She did not submit any other proof of delivery of the final decision, such as a postal receipt.

14. The Court observes that the Government did not submit any information as to when the applicant had actually received a copy of the final decision in her case, although it is for the State, when relying on a failure to comply with the six-month time-limit, to establish the date on which the applicant became aware of the final domestic decision (see *Belozorov*

v. Russia and Ukraine, no. 43611/02, §§ 93-97, 15 October 2015). The Government nevertheless called into question the credibility of the evidence provided by the applicant, essentially arguing that it had been created artificially. The applicant did not reply.

15. While it cannot be ruled out that it could have taken a month for the SCU's letter sent on 18 April 2016, enclosing a copy of its resolution of 30 March 2016, to reach the applicant, in the absence of any other evidence apart from the witness statement or of any further explanation from the applicant in that regard, the Court cannot conclude that the six-month period for the purposes of Article 35 § 1 of the Convention was complied with in the present case.

16. In the light of the foregoing, the Court finds that the application was lodged out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 16 October 2025.

Martina Keller
Deputy Registrar

María Elósegui
President