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

FIFTH SECTION

DECISION

Application no. 40066/18
Roman Ivanovych BREGEY
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 25 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. 40066/18) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 12 August 2018 by a Ukrainian national, Mr Roman Ivanovych Bregey ("the applicant"), who was born in 1978, lives in Kropyvnytskyi and was represented by Mr B. Fokiy, a lawyer practising in Chernivtsi;

the decision to give notice of the complaints under Article 6 § 1 and Articles 8 and 14 of the Convention to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, from the Ministry of Justice, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns court proceedings instituted by the applicant, a local court judge, following his failure to advance to the second stage of a recruitment competition for the new Supreme Court ("the SC"), which had been set up as a result of a major judicial reform undertaken in Ukraine in 2016.

2. On 12 May 2011 the applicant was elected by Parliament to the post of judge of the Kirovograd Circuit Administrative Court for an indefinite period. He sits as a judge of that court to this day.

3. On 2 June 2016 Parliament enacted a new Law on the judiciary and the status of judges (Law no. 1402), which came into effect on 30 September 2016. Chapter XII of that Law, entitled "Final and transitional provisions", provided, *inter alia*, that the SC would be established and that its judges would be appointed on the basis of the results of a competition (point 4); the existing Supreme Court of Ukraine ("the SCU") and three courts of cassation would operate within their powers defined by procedural law until the SC started functioning and the relevant procedural legislation governing the proceedings at the SC took effect (point 6); and the existing SCU and three courts of cassation would cease to operate and would be abolished in accordance with the procedure established by law (point 7) (see *Gumenyuk and Others v. Ukraine*, no. 11423/19, §§ 9 and 11, 22 July 2021).

4. On 7 November 2016 the High Qualification Commission of Judges ("the HQCJ") announced a competition for 120 judicial posts in the SC, including thirty positions in the Administrative Cassation Court ("the ACC"). A total of 846 candidates, including the applicant, participated in that competition. He applied for a judicial position at the ACC.

5. On 29 March 2017 the HQCJ decided to set the minimum admissible score for the first stage of the competition (an anonymous test and written practical assignment) at 127 points and admit to the second stage (an examination of each candidate's dossier and an interview) the candidates who had obtained that minimum score. The applicant, who had scored 119 points in the first stage of the competition, was not among those candidates and was not admitted to the second stage.

6. In April 2017 the applicant instituted proceedings in the High Administrative Court ("the HAC"), one of the three courts of cassation at that time, seeking to invalidate the HQCJ's decision of 29 March 2017 in part. Most notably, the applicant argued that, according to his calculations, the minimum admissible score should have been set at 157.5 points, equivalent to 75% of the maximum possible score (210 points), meaning that 299 of the candidates admitted to the second stage of the competition should have failed to progress. The applicant also stated that the HQCJ had not had the authority to establish another minimum admissible score for passing the first stage of the competition. On the basis of that argument, the applicant specifically challenged the admission to the second stage of the competition of all candidates who had not obtained the 157.5 points which he alleged should have been the minimum admissible score.

7. On 10 July 2017 the HAC considered the applicant's claim on the merits but dismissed it as unsubstantiated. He then appealed to the SCU against that judgment.

8. Following the competition, new judges were selected and appointed to the SC, which began to operate on 15 December 2017. Afterwards, the applicant's appeal was transmitted to the ACC for further examination.

9. In January 2018 the applicant applied for the recusal of all the ACC judges, alleging that they would not be interested in questioning the results of the competition in which all of them, together with the applicant, had participated. That application was rejected as ill-reasoned by a panel of three judges of the ACC.

10. On 26 February 2018 the ACC dismissed the applicant's appeal and upheld the HAC's judgment of 10 July 2017. The ACC noted that the legal basis of the special procedure by which candidates for judicial positions in the SC had been assessed had been different from that of the procedure to which the applicant referred (namely the procedure for the selection of candidates for judicial posts in local courts), meaning that the latter was inapplicable to his case. The ACC further observed that the legislation in question clearly vested the HQCJ with the authority to set a minimum admissible score for each stage of the competition. The ACC lastly emphasised that the applicant's claim did not relate to his participation in the competition, so his rights and interests had not been directly affected by the contested decision of the HQCJ.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 6 § 1 of the Convention

11. The applicant complained under Article 6 § 1 of the Convention that in the proceedings against the HQCJ (i) the courts had failed to ensure sufficient judicial review of the competition procedure; (ii) the courts had not provided adequate reasons for their decisions; and (iii) the principles of judicial impartiality and of a "tribunal established by law" had not been observed because the matter had been examined by judges of the SC who had participated in the same competition for the SC as the applicant.

12. The Government contended that the applicant had failed to exhaust effective domestic remedies, in that he had not challenged in the administrative courts the part of the HQCJ's decision of 29 March 2017 concerning his results in the first stage of the competition for the SC and his exclusion from that competition.

13. The applicant maintained his complaints, stating that there had been no need to complain about the relevant part of the HQCJ's decision in the courts since they had not had the competence to re-evaluate his results in the competition. Instead, it had been for the HQCJ to do so upon the applicant's request, which, however, had been disregarded.

14. The Court does not consider it necessary to examine the non-exhaustion objection raised by the Government because the applicant's complaints are in any event inadmissible for the reasons set out below.

15. The Court has emphasised on many occasions that for the civil limb of Article 6 § 1 to be applicable, there must be a dispute about a civil right which can be said, at least on arguable grounds, to be recognised under domestic law, irrespective of whether that right is protected under the Convention. The dispute must be genuine and serious, and the result of the proceedings must be directly decisive for the right in question, mere tenuous connections or remote consequences not being sufficient to bring Article 6 of the Convention into play (see, among many other authorities, *Grzęda v. Poland* [GC], no. 43572/18, § 257, 15 March 2022). In this connection, in its case-law concerning promotion procedures in the judiciary, the Court has held that relevant proceedings initiated by an unsuccessful candidate are decisive for the fairness of the judicial selection and appointment procedure in so far as they could lead to the annulment of the contested decision and the reconsideration of the applicant's application for the post (see *Gloveli v. Georgia*, no. 18952/18, § 42, 7 April 2022, with further references).

16. The Court has also stressed that the Convention and the Protocols thereto do not guarantee, as such, a right to a fair competition procedure or to recruitment, appointment and promotion for judges and judicial candidates (see, for instance, *Dzhidzheva-Trendafilova v. Bulgaria* (dec.), no. 12628/09, § 38, 9 October 2012). However, if domestic law recognises a right, at least arguably, the Court tends to accept it (see, among many other authorities, *Juričić v. Croatia*, no. 58222/09, § 52, 26 July 2011). This is particularly relevant where domestic courts have recognised the right and examined an applicant's complaint about its vindication (see *Dzhidzheva-Trendafilova*, cited above, § 43); where national law expressly regulates procedure and the procedural rights of individual applicants (see *Tsanova-Gecheva v. Bulgaria*, no. 43800/12, § 84, 15 September 2015); or where the national Constitution and its interpretation by the Constitutional Court provide for a right of equal access to public service appointments (see *Gloveli*, cited above, § 37).

17. Turning to the present case, the Court notes that it is questionable whether the applicant's right to challenge the part of the HQCJ's decision concerning other candidates' admission to the second stage of the competition was explicitly recognised in domestic law. Although the domestic courts examined his claim on the merits and dismissed it as unsubstantiated, they cast doubt on whether it had any relation to his participation in that competition and, accordingly, to his rights and interests (see paragraphs 6, 7 and 10 above). However, this is insufficient to remove the applicant's dispute from the ambit of Article 6 § 1 of the Convention because it cannot be said that his right to a lawful procedure and the equal

treatment of all the participants in the competition was not recognised under domestic law "at least arguably".

18. The Court further takes note of the fact that for the present case to engage the civil limb of Article 6 § 1, the dispute over the applicant's right, as recognised in domestic law, must be "genuine" and "serious", and the result of court proceedings must have been "directly decisive" in the determination of that right.

19. The Court observes that the dispute in the applicant's case was "genuine" and "serious", since it concerned the fairness of the competition for the SC – that is, the highest ordinary court in the Ukrainian judicial system. It thus remains to be established whether the outcome of that dispute could have been "directly decisive" for the applicant's domestic right.

20. The Court agrees with the domestic courts' findings that the applicant's claim, as lodged by him, did not directly concern his participation in the competition for the SC (see paragraphs 6, 7 and 10 above) or, in particular, the fact that his results in its first stage prevented him from being admitted to its second stage (see paragraph 5 above). Indeed, even if the applicant had succeeded in his challenge to prevent the candidates who had not obtained what he alleged to be the minimum admissible score at the first stage (157.5 points) from progressing to the second stage, this would not have had any bearing on his personal situation because he had obtained 119 points, which would have in any event led to his exclusion from the competition. The applicant's claim was thus too remote from his right to a fair competition procedure.

21. Given the foregoing considerations and the circumstances of the present case, the Court cannot but conclude that the proceedings initiated by the applicant were not "directly decisive" for his right as recognised under domestic law and were therefore insufficient to bring the civil limb of Article 6 § 1 of the Convention into play.

22. It follows that the applicant's complaints under Article 6 § 1 of the Convention must be rejected as incompatible *ratione materiae* with the provisions of the Convention pursuant to Article 35 §§ 3 (a) and 4.

B. Alleged violation of Articles 8 and 14 of the Convention

23. The applicant complained under Articles 8 and 14 of the Convention that his access to the judicial profession had been unlawfully restricted, in violation of his right to respect for his private life. In particular, the applicant alleged that the competition for the SC had been conducted in an unforeseeable manner in view of the unlawful and contradictory decisions by the HQCJ, which had failed to ensure neutrality and non-discrimination.

24. The Government maintained that Article 8 of the Convention was inapplicable to the present case, stating that the applicant's private life, including his reputation, had not been the reason for terminating his

participation in the competition and that any negative consequences of the decision complained of had not crossed the level of severity for Article 8 to be engaged. The Government also submitted that the applicant's complaint under Article 14 of the Convention had not been raised at the domestic level and that this complaint was in any event manifestly ill-founded.

25. The applicant maintained his complaints, disagreeing with the Government's admissibility objections. In particular, he alleged that the HQCJ's decision on his exclusion from the competition had seriously damaged his reputation and his social and professional links.

26. The Court reiterates that no right of access to the civil service or right to choose a particular profession can be derived from Article 8 of the Convention (see *Guliyev v. Azerbaijan*, no. 54588/13, § 40, 6 July 2023). However, in *Bigaeva v. Greece* (no. 26713/05, 28 May 2009) the Court held that the refusal to allow the applicant in that case, who had legally settled in Greece at the age of twenty-three, learned Greek and pursued university and postgraduate studies in law, to sit the bar examination after having completed a bar traineeship had affected her ability to pursue her professional activity and, therefore, her private life within the meaning of Article 8 of the Convention (ibid., §§ 22-25).

27. Turning to the present case, the Court notes that it should be distinguished from *Bigaeva* because the applicant's judicial career was not affected by the HQCJ's decision terminating his participation in the competition for the SC. The fact that the applicant failed to pass the first stage of that competition (see paragraph 5 above) had no impact on his continued ability to sit as a local court judge (see paragraph 2 above). Likewise, there is no indication that the impugned decision had a significantly detrimental effect on his professional and social reputation.

28. Accordingly, the Court cannot but conclude that certain negative consequences which the contested decision could have had on the applicant's private life did not cross the threshold of seriousness for Article 8 of the Convention to be engaged. This Article therefore does not apply to the present case.

29. As to the complaint under Article 14, the Court reiterates that this Article has no independent existence, since it has effect solely in relation to the rights and freedoms safeguarded by the other substantive provisions of the Convention and the Protocols thereto (see *Thlimmenos v. Greece* [GC], no. 34369/97, § 40, ECHR 2000-IV). Given that the complaint under Article 8 raised by the applicant has already been found inadmissible by the Court, Article 14 of the Convention is not applicable in relation to that complaint.

30. It follows that the applicant's complaints under Articles 8 and 14 of the Convention must be rejected as incompatible *ratione materiae* with the provisions of the Convention pursuant to Article 35 §§ 3 (a) and 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 23 October 2025.

Martina Keller Deputy Registrar	María Elósegui President