

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

FIFTH SECTION

CASE OF ARBUZOV v. UKRAINE

(Application no. 22737/16)

JUDGMENT

STRASBOURG

19 February 2026

This judgment is final but it may be subject to editorial revision.



In the case of Arbuzov v. Ukraine,

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

Kateřina Šimáčková*, President*,
María Elósegui,
Gilberto Felici*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 22737/16) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 14 April 2016 by a Ukrainian national, Mr Sergiy Genadiyovych Arbuzov ("the applicant"), who was born in 1976 and lives in Romashkovo, the Russian Federation, and was represented by Mr Y. Glotov, a lawyer practicing in Kyiv;

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

the parties' observations;

Having deliberated in private on 29 January 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the manner in which the domestic courts examined the applicant's civil defamation claim against the Security Service of Ukraine ("the SBU").

I. BACKGROUND TO THE CASE

2. During the presidency of Mr V. Yanukovych, the applicant held several senior positions in the Ukrainian government, most recently that of First Deputy Prime Minister. Following the Maidan protests and subsequent political changes (see *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, § 9, 21 January 2021), on 27 February 2014 he was dismissed.

3. Shortly thereafter, on 2 May 2014 major clashes between pro-Russian and pro-unity activists took place in Odesa. These clashes and a subsequent fire in the Trade Union Building resulted in the deaths of 48 people (for a detailed description of the relevant events, see *Vyacheslavova and Others v. Ukraine*, nos. 39553/16 and 6 others, §§ 34-74, 13 March 2025).

4. The applicant submitted that on 3 May 2014 the SBU published on its website (http://www.sbu.gov.ua) a press release entitled "As to the provocations that took place on 2 May in Odesa", in which the applicant, together with another former official, O.K., were named as persons

implicated in sponsoring the above-mentioned events. Relevant excerpts from the press release stated as follows:

> "The provocations that took place on 2 May in the city of Odesa, which led to clashes and mass casualties, occurred as a result of external interference and were financed by former high-ranking officials of the Yanukovych government who are currently in hiding in a neighbouring State – S. Arbuzov and [O.K.]
>
> ...
>
> ... the sabotage in the Ukrainian city of Odesa, financed by former high-ranking officials, was aimed at undermining stability in southern Ukraine and, according to the organisers' intent, was meant to serve as the starting-point for large-scale destabilisation in other southern regions of our country."

II. DEFAMATION PROCEEDINGS BROUGHT BY O.K.

5. In May 2014 O.K. instituted defamation proceedings against the SBU in connection with the above-cited publication and the information disseminated in relation to him during the SBU briefing on the same day.

6. On 6 August 2014 the Shevchenkivskyi District Court of Kyiv found, *inter alia*, that the SBU had published the impugned press release on its website, declared the relevant information in relation to O.K. defamatory and ordered its retraction.

7. According to the court's decision, in the course of the proceedings the SBU acknowledged the dissemination of the disputed publication on its website but argued that it constituted a value judgment.

8. The decision of the court of first instance was upheld on 3 November 2014 and 15 April 2015 by the Kyiv City Court of Appeal and the Higher Specialised Court for Civil and Criminal Matters ("the Higher Specialised Court") respectively.

III. DEFAMATION PROCEEDINGS BROUGHT BY THE APPLICANT

9. In June 2014 the applicant brought a similar civil action for defamation against the SBU, arguing, *inter alia*, that the impugned press release had been republished by a large number of media outlets in Ukraine. Claiming that the accusations concerning him were false and damaging to his reputation, he requested the courts to declare the publication defamatory and to order its retraction. The applicant also claimed 1 Ukrainian hryvnia (equivalent to approximately 0.06 euros at the relevant time) as compensation for non-pecuniary damage.

10. The SBU objected to the claim, arguing that the applicant had failed to show that it had published the information in question. It neither confirmed nor denied that the information had been published.

11. Following an initial dismissal of the applicant's claim for lack of proof that the SBU had posted the impugned press release, the applicant appealed.

Together with his appeal, he submitted an expert report confirming that the press release had been published on the official website of the SBU. The report also contained a CD-ROM which held a digital copy of the impugned publication, a textual reproduction of the publication as it had appeared on the day of its examination by the expert and technical information indicating that the SBU was the owner of the relevant domain name. The report further stated that normally only the website's administrator could upload such content.

12. On 1 December 2014 the Kyiv City Court of Appeal allowed the applicant's appeal, found the statements defamatory and ordered their retraction.

13. On 8 July 2015 the Higher Specialised Court quashed that decision, holding that the court of appeal had not examined whether a court-appointed expert was needed to prove that the impugned press release had been published by the SBU.

14. In the course of the second round of the appeal proceedings, the applicant relied on the decisions in the parallel defamation proceedings concerning O.K., which by that time had become final (see paragraphs 5-8 above), arguing that the fact of the dissemination of the disputed publication by the SBU had already been judicially established.

15. On 13 October 2015 the Kyiv City Court of Appeal found against the applicant, holding that there was no proof that the disputed press release had been published by the SBU.

16. The court held, in particular, that it was not possible to verify whether the impugned statements had indeed been disseminated, given that they were no longer accessible online and that the SBU had stated in its official response that it did not retain physical records of its past publications. The court also noted that the applicant had failed to request a court-appointed forensic examination to prove that the information had been published.

With regard to the decisions in the defamation proceedings concerning O.K., the court refused to admit them into evidence, holding that they had no binding effect on the applicant's claim, as they had concerned O.K. and not the applicant.

As for the expert's conclusion that, as a rule, only the website administrator could have uploaded the publication in question, the court found such arguments speculative.

17. The applicant lodged an appeal on points of law in which he reiterated his previous submissions and argued that the court's refusal to take into account the decisions in the defamation proceedings concerning O.K. had been contrary to Article 61 § 3 of the Code of Civil Procedure, which, as worded at the relevant time, had dispensed a party to a civil case from a duty to prove facts which had already been established in a final decision in another civil case involving the same parties or a party in respect of which those facts had been established. His appeal on points of law was dismissed

by the Higher Specialised Court on 16 December 2015 as unsubstantiated. The court stated in a general way that there had been no evidence of a breach of material or procedural law.

18. On 11 February 2016 the Supreme Court of Ukraine dismissed as unfounded an application lodged by the applicant for a review on grounds of alleged case-law divergence.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

19. The applicant complained under Article 6 § 1 of the Convention that the proceedings in his defamation case had been unfair because the domestic courts had unlawfully disregarded available evidence.

A. Admissibility

20. The Government submitted that the applicant had not exhausted domestic remedies. In their view, he should have asked the domestic courts to appoint an expert in order to verify if the disputed statements had indeed been published by the defendant. Nor had the applicant lodged separate defamation claims against the media outlets that had republished the disputed statements.

21. The applicant did not make any comment in that regard.

22. The Court considers that the arguments put forward by the Government in relation to the alleged failure to exhaust domestic remedies (see paragraph 20 above) are closely linked to the substance of the applicant's complaint under Article 6. It therefore joins their examination to the merits.

23. It further 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

24. The Government submitted that the applicant's complaint was of a "fourth instance" nature. In their view, the dismissal of the applicant's claim had been the result of his failure to properly substantiate it with admissible evidence. They also asserted that the facts established within the defamation proceedings in relation to O.K. had concerned only that person and therefore had been irrelevant to the applicant's claim.

25. The Court reiterates that it should not act as a court of fourth instance and will not therefore question under Article 6 § 1 the judgment of the national courts, unless their findings can be regarded as arbitrary or manifestly unreasonable (see *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08,

§ 61, ECHR 2015, with further references). It also reiterates that Article 6 § 1 obliges the domestic courts to give reasons for their judgments. This duty cannot be understood as requiring a detailed answer to every argument, and the question of compliance with that duty can only be determined in the light of the circumstances of the case (see *Ruiz Torija v. Spain*, 9 December 1994, § 29, Series A no. 303-A, and *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I).

26. In the present case, the Court acknowledges that the question whether the disputed publication had appeared on the defendant's website presented certain evidentiary challenges. By the time of the second round of appeal proceedings, when the case was re-examined on the merits, the disputed content was no longer available online and the defendant, a State law-enforcement agency, which was arguably best placed to clarify the situation, neither confirmed nor denied that the publication had taken place, asserting that it kept no records of its past publications (see paragraph 16 above).

27. In these circumstances, the expert report submitted by the applicant, which established that the impugned publication had indeed appeared on the defendant's official webpage, might have been decisive for the outcome of his claim. As such, the applicant's arguments based on this report required a specific and express reply from the domestic courts (see *Ruiz Torija*, cited above, § 30).

28. However, the Kyiv City Court of Appeal did not properly address them. While it questioned the expert's ancillary finding regarding the possibility of uploading the impugned content without the involvement of the website's administrator (see paragraph 16 above), it provided no response to the expert's conclusion as to the very fact of the dissemination of the disputed publication on the defendant's website. Similarly, no assessment was made of the website's digital copy and domain ownership data adduced to the expert report. In such circumstances, the Court considers it impossible to ascertain whether the domestic court failed to examine this body of evidence at all, or whether it assessed and dismissed it and, if so, what were the reasons for so deciding (see *Farzaliyev v. Azerbaijan*, no. 29620/07, § 39, 28 May 2020). The Higher Specialised Court also did not remedy this shortcoming.

29. The Court further notes that in the parallel defamation proceedings concerning O.K., the same defendant admitted publishing the impugned press release and this fact had already been judicially established (see paragraphs 5-8 above). In the present case, however, those findings were dismissed in general terms and on purely formalistic grounds (see paragraphs 15-17 above). It appears that no judicial response was given either to the applicant's argument that both sets of proceedings had concerned the same publication or to his reference to Article 61 § 3 of the Code of Civil Procedure, which, as worded at the relevant time, had dispensed plaintiffs

from proving a fact already established in proceedings against the same defendant (see paragraph 17 above).

30. In this connection, the Court is not persuaded by the Government's argument that the applicant should have additionally sought an opinion of a court-appointed expert. Even if the applicant had made such a request, this would not have remedied the above-mentioned deficiencies in the manner in which the courts had examined his arguments, which lies at the very heart of the applicant's complaint. Neither could those deficiencies be offset by the applicant's instituting separate defamation proceedings against each media outlet that had republished the defendant's alleged statements. It therefore rejects the Government's objection concerning the non-exhaustion of domestic remedies previously joined to the merits (see paragraphs 20 and 22 above)

31. In view of the facts above, the Court considers that the domestic courts fell short of their obligation to examine and comment on the submissions which were decisive for the outcome of the applicant's case.

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

II. OTHER COMPLAINTS

33. Invoking Article 13 of the Convention and, in substance, Article 8 of the Convention, the applicant also complained, without providing any further details, about the domestic courts' failure to protect his honour and reputation. Moreover, he did not pursue any of these complaints after the communication of the application to the respondent Government.

34. Therefore, the Court finds that this part of the application is manifestly ill-founded and rejects it in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

35. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage. He also claimed EUR 5,100 in respect of costs and expenses incurred before the domestic courts and EUR 5,000 for those incurred before the Court.

36. The Government contested those claims.

37. As regards non-pecuniary damage, the Court considers that the finding of a violation of Article 6 § 1 constitutes in itself sufficient just satisfaction in the present case.

38. As to costs and expenses, the Court finds that the documents submitted by the applicant in support of his claim are not sufficiently itemised (see, for example, *Arvanitis and Philelefthеros Public Company Limited v. Cyprus*, no. 49917/22, § 51, 3 July 2025). In particular, they contain only

lump-sum figures charged by the applicant's representative for specific procedural steps without any details as to the number of hours worked, the applicable hourly rate or the complexity of each task. Moreover, they were not signed by the applicant. In these circumstances, the Court is unable to determine if these costs and expenses were actually incurred at the rates claimed and whether the amounts claimed are reasonable as to quantum. It follows that the claim must be rejected.

FOR THESE REASONS, THE COURT, UNANIMOUSLY

1. *Decides* to join to the merits the Government's objection concerning non-exhaustion of domestic remedies in respect of the applicant's complaint under Article 6 § 1 of the Convention and *rejects* it;

2. *Declares* the complaint under Article 6 § 1 of the Convention admissible and the remainder of the application inadmissible;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 19 February 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Kateřina Šimáčková President