

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

FIFTH SECTION

CASE OF BONDAR v. UKRAINE

(Applications nos. 29184/15 and 44078/16)

JUDGMENT

STRASBOURG

9 May 2025

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



In the case of Bondar v. Ukraine,

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

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

Having regard to:

the applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Ukrainian nationals, Anatoliy Grygorovych Bondar ("the first applicant") and Nadiya Volodymyrivna Bondar ("the second applicant"; together "the applicants"), on 8 June 2015 and 6 July 2016 respectively;

the decision to give notice of the applicants' complaints under Article 1 of Protocol No. 1 to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, and to declare the remainder of the applications inadmissible;

the parties' observations;

Having deliberated in private on 3 April 2025,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicants' deprivation of their plots of land following an action brought by a prosecutor. The applicants relied on Article 1 of Protocol No. 1 to the Convention.

2. In September 2009 the Lebedyn District State Administration of the Sumy Region ("the Lebedyn DSA") granted permission for the transfer of four plots of land into the applicants' private ownership and to draw up technical documentation for that purpose.

3. In August 2010 the Lebedyn DSA allocated each applicant two plots of land measuring 2 ha and 0.12 ha, for gardening. The decision mentioned that the plots were "agricultural land". In December 2010 the applicants obtained ownership documents for their plots of land.

4. According to the parties' submissions, in 2013 a local forestry enterprise, which had allegedly been the lawful user of the land in question, felled the trees on the second applicant's plot of land. A criminal investigation was opened into those actions but was discontinued in 2015 on account of the lack of a crime.

5. On 28 February 2014 a local prosecutor brought two actions in the interests of the State seeking to have the Lebedyn DSA's 2010 decision set aside and the applicants' title to the land invalidated. The prosecutor argued

that the land was forestry land (which could only be transferred into private ownership by the Cabinet of Ministers of Ukraine) and had been allocated to a local forestry enterprise for permanent use.

6. The prosecutor's claims were allowed in full by the courts at three levels of jurisdiction; the Lebedyn DSA's decision of August 2010 was set aside and the applicants' title to the plots of land invalidated. The applicants' arguments that the local forestry enterprise had no formalised documents to prove its right to the permanent use of the land and, therefore, no valid claim to the land were rejected. The courts found, on the basis of documents and certificates provided by the authorities, that the land in question had been transferred to the local forestry enterprise in 2000 and that, in accordance with the transitional provisions of the Forestry Code, the documents confirming that transfer were sufficient to confirm property or permanent use rights until formalised documents were obtained.

7. The final judgments in the applicants' cases were delivered by the Higher Specialised Civil and Criminal Court on 17 December 2014 and 21 October 2015 respectively.

THE COURT'S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

8. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. THE FIRST APPLICANT'S *LOCUS STANDI*

9. The Court notes that the second applicant died on 11 September 2023, after lodging the present application, and the first applicant, her husband, expressed his wish to continue the proceedings before the Court in her stead. The Government disputed the first applicant's right to pursue the application in the name of the second applicant as "he [had] not indicate[d] that he was the only heir [of the second applicant]".

10. The Court notes that in various cases in which an applicant has died during Convention proceedings, it has taken into account statements made by the applicant's heirs or close family members expressing the wish to pursue the proceedings before the Court. In view of the above and having regard to the circumstances of the present case, the Court accepts that the first applicant has a legitimate interest in pursuing the application in his late wife's stead. However, for reasons of convenience, the text of this judgment will continue to refer to Ms Nadiya Volodymyrivna Bondar as "the second applicant" (see, for example, *Tagiyev and Huseynov v. Azerbaijan*, no. 13274/08, §§ 23-24, 5 December 2019, with further references, and, recently, *Vasylevska v. Ukraine* (dec.), no. 37919/15, §§ 11-12, 4 July 2024).

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

11. The applicants complained that the deprivation of property that they had been subjected to had been unlawful and disproportionate.

12. With regard to admissibility, the Government argued that the applicants could have claimed compensation for the unlawful actions and decisions of the State authorities as provided for in Article 1173 of the Civil Code, or could have claimed the reimbursement under Article 390 of the Civil Code of expenses associated with the maintenance and preservation of the land or for investments made in the property. They provided references to the relevant practice of the domestic courts. The applicants disputed the effectiveness of those remedies.

13. The Court has already examined similar arguments made by the Government regarding the possibility of obtaining the above-mentioned types of compensation and has rejected them (see *Drozdyk and Mikula v. Ukraine*, nos. 27849/15 and 33358/15, §§ 26-33, 24 October 2024). There is nothing in the present case to lead the Court to reach a different conclusion. Therefore, the Government's preliminary objection must be dismissed.

14. The Court notes that the applications are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

15. The general principles regarding interference with the peaceful enjoyment of possessions have been summarised in, for example, *Kryvenkyy v. Ukraine* (no. 43768/07, § 42, 16 February 2017). In particular, the Court must assess whether the interference 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.

16. The Court considers that the crux of the present case falls under the proportionality head of the above-mentioned test, in particular whether the applicants had the opportunity to obtain compensation, or any other form of reparation, for being deprived of their property. In *Drozdyk and Mikula* (cited above), which concerned deprivation of property in similar circumstances, the Court found that no convincing arguments had been presented by the Government to show that there existed any clear domestic regulation that would allow for monetary or any other form of compensation for any damage whatsoever (ibid., § 49). In this connection the Court reiterates that the taking of property without payment of an amount reasonably related to its value will normally constitute a disproportionate interference, and a total lack of compensation can be considered justifiable under Article 1 of Protocol No. 1 only in exceptional circumstances (ibid., § 48, with further references).

17. In the present case the applicants obtained no compensation for the plots of land they had been deprived of and no attempt was made to offer

them any such compensation or any other form of reparation. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

18. The first applicant claimed a total of 6,409 euros (EUR) in respect of pecuniary damage, comprising the value of his plots of land (126,964 Ukrainian hryvnias (UAH), equivalent to approximately EUR 12,339 as of 2012, according to the applicant's calculations) and the cost of the registration of his title to them. The second applicant claimed EUR 34,202 in respect of pecuniary damage, comprising the value of her plots of land (apparently the same as for the first applicant) and the cost of the trees felled on them (see paragraph 4 above) in the amount of UAH 296,000 (equivalent to EUR 27,793 as of 2015, according to the applicant's calculations). Both applicants further claimed UAH 300,000 (around EUR 7,270) in respect of non-pecuniary damage. Lastly, the applicants claimed approximately EUR 110 in respect of costs and expenses incurred before the domestic courts (court fees) and before the Court (translation of the applicants' observations and postal expenses).

19. The Government contested those claims.

20. Having regard to its above finding of a violation of the applicants' property rights and the approach applied in *Drozdyk and Mikula* (cited above, §§ 60-62), the Court considers that the applicants would be put as far as possible in a situation equivalent to the one in which they would have been had there not been a breach of Article 1 of Protocol No. 1 to the Convention if the respondent State restored their title to the property in issue and returned it to them (including by way of reopening the domestic proceedings, if applicable). In the alternative, the respondent State should provide monetary compensation to the applicants (calculated in accordance with the domestic requirements on the valuation of property and the Court's practice), or provide them with comparable property.

21. The Court also awards the applicants EUR 1,500 each in respect of non-pecuniary damage.

22. Having regard to the documents in its possession, the Court considers it reasonable to award the applicants EUR 110 as claimed, covering costs under all heads.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

4. *Holds*
   (a) that the respondent State is to ensure, by appropriate means and within a reasonable time, full restitution of the applicants' title to the plots of land in issue, or the provision of monetary compensation or of comparable property to the applicants;
   (b) that the respondent State is to pay, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 1,500 (one thousand five hundred euros) to each applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 110 (one hundred and ten euros) to the applicants jointly, plus any tax that may be chargeable to them, in respect of costs and expenses;
   (c) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts 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 applicants' claims for just satisfaction.

Done in English, and notified in writing on 9 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	María Elósegui President