

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

FIFTH SECTION

CASE OF GADASYUK v. UKRAINE

(Application no. 39366/23)

JUDGMENT

STRASBOURG

14 November 2024

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



In the case of Gadasyuk v. Ukraine,

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

Kateřina Šimáčková*, President*,
Mykola Gnatovskyy,
Artūrs Kučs*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 17 October 2024,

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

PROCEDURE

1. The case originated in an application against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 18 October 2023.

2. The applicant was represented by Ms L.V. Sharogradska, a lawyer practising in Bar.

3. The Ukrainian Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

THE LAW

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

5. The applicant complained of the lack of reasoning or inadequate reasoning in court decision. She relied, expressly or in substance, on Article 6 § 1 of the Convention.

6. The Court reiterates that, according to its long-standing and established case-law, it should not act as a court of fourth instance and will not therefore question under Article 6 § 1 of the Convention 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).

7. Article 6 § 1 obliges 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). Those principles were

applied in a number of Ukrainian cases (see, for example, *Benderskiy v. Ukraine*, no. 22750/02, §§ 42-47, 15 November 2007; *Pronina v. Ukraine*, no. 63566/00, § 25, 18 July 2006; and *Bogatova v. Ukraine*, no. 5231/04, §§ 18 and 19, 7 October 2010).

8. Reviewing the facts of the present case in the light of those principles, the Court considers that the domestic courts failed in their duty to provide reasons for their decisions and did not address pertinent and important arguments raised by the applicant. The specific procedural failings, indicated in the appended table, prompt the Court to conclude that the applicant was stripped of her right to a reasoned court decision.

9. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. Regard being had to the documents in its possession and to its case-law (see, in particular, *Pronina,* cited above, § 29), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 6 § 1 of the Convention concerning the lack of reasoning or inadequate reasoning in court decision;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 14 November 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Kateřina Šimáčková
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (lack of reasoning or inadequate reasoning in court decision)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Subject matter of the domestic proceedings	Key argument the court failed to address	Final domestic decision Date Name of the court	Amount awarded for non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
39366/23 18/10/2023	**Nina Grygorivna GADASYUK** 1954	Sharogradska Lidiya Viktorivna Bar	On 31/08/2020, in the course of the merger of two public schools, the applicant was dismissed from the position of the school director due to staff reduction. She subsequently lodged a reinstatement claim, arguing (i) the de-facto absence of a genuine staff reduction and (ii) the violation of the dismissal procedure, particularly the failure to offer the applicant alternative positions within the school. The first-instance court partially granted her claim on 08/12/2022, a decision that was upheld on appeal on 01/03/2023, citing both arguments. On 12/07/2023 the Supreme Court reversed this decision and dismissed the claim, concluding that there had indeed been a staff reduction.	The Supreme Court did not address whether the relevant procedural safeguards had been adhered to in this case, notably regarding whether the applicant had been offered other vacancies.	12/07/2023, Supreme Court	1,500	250

[1] Plus any tax that may be chargeable to the applicant.

[2] Plus any tax that may be chargeable to the applicant.