

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

FIFTH SECTION

CASE OF GUMINSKYY v. UKRAINE

(Application no. 7210/15)

JUDGMENT

STRASBOURG

11 September 2025

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



In the case of Guminskyy 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. 7210/15) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 9 April 2015 by a Ukrainian national, Mr Illya Mykhaylovych Guminskyy ("the applicant"), who was born in 1989 and lives in Rivne;

the decision to give notice of the applicant's complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 10 July 2025,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaints that he had been deprived of property in violation of Article 1 of Protocol No. 1 to the Convention and that the domestic civil proceedings had been conducted in breach of the requirements of Article 6 of the Convention, as the domestic courts had upheld an allegedly time-barred court action brought by the prosecutor.

2. In November 2008 K. borrowed from the applicant's father, V., 2 million Ukrainian hryvnias (UAH; approximately 270,000 euros (EUR)). Later that month K. purchased, at a public auction, certain premises from the local branch of the *Viysktorgservis* (an entity under the Ministry of Defence with the authority to, *inter alia*, dispose of State property), for which he paid UAH 1,439,069 (approximately EUR 133,000 at the material time). A contract of sale was signed in January 2009 and the premises were transferred to K. in February 2009.

3. In April 2009 the applicant and V. entered into a contract on the reassignment of claims, under which the applicant obtained the rights to claim from K. the loan the latter had obtained from V.

4. On 3 July 2009 K. borrowed UAH 300,000 (approximately EUR 28,700) from the applicant.

5. On 6 July 2009 the applicant and K. entered into an agreement, under which K. transferred to the applicant the premises in question by way of repayment of the loan due to the applicant. It appears that the agreement concerned the last loan received by K.; in particular, it was stipulated that "upon the parties' agreement, the value of the property being transferred constitute[d] UAH 300,000".

6. On the basis of the above-mentioned agreement, the applicant formalised his title to the premises. It is unclear whether or how he made use of them.

7. In May 2013 a local prosecutor lodged a claim against K., seeking to invalidate the initial contract of sale on the grounds that the property had been unlawfully alienated by the *Viysktorgservis*. The applicant was not involved in those proceedings.

8. On 3 July 2013 the Rivne City Court allowed the prosecutor's claim, finding that the *Viysktorgservis* had overstepped its powers when selling the disputed premises because an official involved in the sale had not been vested with powers for any such transactions since 2005 and no permission from the State Property Fund had been obtained. The court also established that the prosecutor had complied with the three-year limitation period when submitting his claims, as it was only in January 2013 that he had received a letter from the regional prosecutor's office informing him of the possible irregularities regarding the disposal of property by the *Viysktorgservis*. The court also awarded K. the reimbursement of the amount he had paid for the premises. It referred in that respect to Article 216 of the Civil Code setting out the consequences of an invalidity of a deed, in particular that if a deed is found to be invalid each party is obliged to return in kind everything that was received for the execution of that deed to the other party. That judgment was upheld on appeal on 29 August 2013 and became final.

9. On the basis of the above, in May 2014 the prosecutor submitted a claim against the applicant to reclaim property from him. Throughout the proceedings the applicant argued that the prosecutor had failed to comply with the three-year statutory limitation period as he must have been aware of the alleged violation of the Ministry of Defence's rights long before 2013-14.

10. On 23 September 2014 the Rivne City Court dismissed the prosecutor's claim. It analysed the issue of compliance with the limitation period in detail: referring to a number of documents – including the material from the prosecutor's enquiries from 2009-12, State audit authorities' reports for the years 2007-09 and the Ministry of Defence's internal inquiry of 2009, as well as to another set of proceedings involving the *Viysktorgservis* and publications in the media – the court found that the Ministry of Defence or the prosecutor's office, "had they performed their duties diligently", should have learned of the possible violations in February 2009 at the latest. It is unclear which party submitted the above-mentioned materials to the court.

11. On 13 November 2014 the Rivne Region Court of Appeal reversed that decision and granted the prosecutor's claims. It did not examine the issue of compliance with the limitation period in detail as the local court had done, but noted that that issue had already been decided in the proceedings against K. and that that finding had a prejudicial effect on the proceedings against the applicant. The court further agreed with the prosecutor's claims regarding the reclaiming of the premises from the applicant, referring to Article 388 of the Civil Code, which provides that if a property has been purchased for a price from a person who had no right to dispose of it, and the purchaser was unaware and could not have been aware of that (a bona fide purchaser), the owner is entitled to recover that property from the purchaser only if it had been lost by or stolen from the owner, or the owner had ceased to be in its possession in any other way, in the absence of intention on his or her part to divest himself or herself of it.

12. On 8 December 2014 the Higher Specialised Court of Ukraine for Civil and Criminal Cases refused to open cassation proceedings following a cassation appeal by the applicant, having found that there were no signs of unlawfulness in the lower court's conclusions.

13. In February 2015 the applicant transferred the disputed premises back to the *Viysktorgservis*.

14. According to information provided by the Government in their observations, in 2018 the disputed premises were leased to a local concrete production plant.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

15. The applicant complained that the higher courts had disregarded his pertinent arguments regarding the expiry of the limitation period in which the prosecutor had been entitled to bring his action and had ruled unfairly to his detriment. He argued that the prosecutor had first applied to the courts more than four years after the property had been transferred from the owner's possession (if calculated from the time of the proceedings against K. – see paragraph 7 above) and more than five years if calculated from the time of the proceedings against the applicant himself (see paragraph 9 above).

16. The Government argued that the applicant's complaint was manifestly ill-founded. They submitted that under Article 261 of the Civil Code, the general limitation period of three years started to run as of the date the person learned or ought to have learned of the violation of his or her rights or who was responsible for that violation. In the proceedings at issue, the prosecutor's right to lodge a claim against the applicant to reclaim property from him had arisen from the moment the initial sale had been declared invalid, that is, after the termination of the proceedings against K. in August

2013. Accordingly, they submitted that the present case was different from *Baroul Partner-A v. Moldova* (no. 39815/07, 16 July 2009), in which the Court had found that the upholding of the Prosecutor General's action after the expiry of the general time-limit, in the absence of any compelling reasons, was incompatible with the principle of legal certainty.

17. The Court considers that the Government's argument goes to the merits of the applicant's complaint and will examine it under that head. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

18. The general principles concerning the principle of legal certainty in civil proceedings have been summarised in *Baroul Partner-A* (cited above, §§ 36-37) and *Sanofi Pasteur v. France* (no. 25137/16, §§ 50-52, 13 February 2020).

19. In the present case it is not disputed that the limitation period constitutes three years; the key point is rather what should count as the starting date. The Court notes a considerable discrepancy between the domestic authorities' conclusions on that point. In the proceedings against K. the courts relied on the date when the prosecutor learned, from a letter by a higher prosecutor's office, of the irregularities relating to the transfer of the property by the *Viysktorgservis*. In the proceedings against the applicant himself, the local court provided a detailed analysis of various sources in establishing when the prosecutor "ought to have learned of the violation", concluding that it must have been in 2009 (at the time of the sale of the premises) at the latest. The appellate court, in turn, concentrated on the fact that the prosecutor's compliance with the limitation period had already been established in the proceedings against K. The court of cassation provided no analysis of its own, instead agreeing, in general, with the appellate court's conclusions. Lastly, in their observations the Government advanced yet another argument, namely that the prosecutor's right to lodge a claim against the applicant to reclaim property from him had arisen from the moment the initial sale had been declared invalid, implying that it was at that moment that the prosecutor had "learned" of the violation and of who was responsible.

20. In connection with the appellate court's approach, as upheld in the cassation proceedings, the Court also observes that it was based on the prejudicial effect of the facts surrounding the compliance with the limitation period established in the proceedings against K., notwithstanding that those proceedings related to a different legal issue and involved other parties. Given that the applicant had not been involved in those proceedings, the appellate court's approach essentially denied him the opportunity to raise the issue of the application of the limitation period in his own case and to have his arguments examined.

21. The Court is also not convinced that the State authorities were unaware of the possible problems surrounding the disposal of property by the

Viysktorgservis before 2013. As observed by the Rivne City Court in its judgment of 3 July 2013, as early as in 2005 the official involved in the disposal had no longer had the necessary powers to conclude any transactions. As is apparent from the same court's judgment of 23 September 2014, in the years up to 2013 there appear to have been numerous enquiries at different levels and by different entities into those matters. In this connection the Court notes that, even accepting that the prosecutor himself might not have learned of this until much later, there is nothing to show that the *Viysktorgservis* or the Ministry of Defence were precluded from taking action on their own initiative (see *Baroul Partner-A*, cited above, § 40, and *Ouş v. the Republic of Moldova* [Committee], no. 1836/16, § 14, 17 January 2023).

22. Mindful that it is not the Court's task to take the place of the domestic courts in interpreting domestic legislation, it nevertheless considers that the approach adopted by the domestic courts in the present case was not compatible with the principle of legal certainty as guaranteed by Article 6.

23. There has, accordingly, been a violation of Article 6 of the Convention under its legal certainty head.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

24. The applicant complained under Article 1 of Protocol No. 1 that he had been deprived of property he had acquired in good faith without any compensation. The Government argued that that complaint was inadmissible because the applicant had failed to exhaust domestic remedies, as he had not lodged any claims for compensation at the domestic level, including specifically against K., who owed him money under the loan agreements.

25. The Court notes at the outset that its findings under Article 6 of the Convention do not, of themselves, mean that the subsequent examination of the merits of the prosecutor's action was deficient or unlawful (see, *mutatis mutandis*, *Ukraine-Tyumen v. Ukraine*, no. 22603/02, § 52, 22 November 2007; *Industrial Financial Consortium Investment Metallurgical Union v. Ukraine*, no. 10640/05, § 198, 26 June 2018; *Sabadash v. Ukraine* [Committee], no. 28052/13, § 41, 23 July 2019; and *Skvyrasilrybgosp, VAT v. Ukraine* [Committee], no. 27128/11, § 11, 30 November 2023).

26. The Court observes that the applicant's complaint is limited essentially to the lack of compensation for the value of the property reclaimed from him. Admittedly, the applicant submitted that that compensation should have corresponded to the amounts K. owed to him under both loan agreements (UAH 2,300,000) as opposed to the actual price of the premises according to the contract of sale (UAH 1,439,069) or, indeed, to the parties' agreement in the contract of 6 July 2009 that the premises were valued at UAH 300,000 (see paragraphs 2-5 above).

27. The Court notes that the applicant acquired the disputed premises not from the State, but in the form of a mortgage from a private person, namely because K. was unable to repay his debt. Having invalidated the initial sale of the disputed premises to K., the courts awarded him the reimbursement by the State of the price he had paid for that property (see paragraph 8 above). Accordingly, it should be open to the applicant to claim his money back from K. as his counterpart in civil relations, and it is for the domestic courts to decide which amount is due to the applicant. It appears, however, that the applicant has not initiated any proceedings to do so, and he has not argued that such compensation was impossible for any reason (see *Ibrahimbeyov and Others v. Azerbaijan*, no. 32380/13, §§ 56-60, 16 February 2023 and, *mutatis mutandis*, *Tverdokhlebova v Ukraine*, no. 15830/16, §§ 11 and 44-46, 16 January 2025). The applicant has not raised any claims regarding any other expenses he might have incurred that would have been incumbent on the Government.

28. The Court does not consider, in the circumstances of the present case, that the applicant was made to bear an excessive burden. It follows that this part of the application must be rejected as manifestly ill-founded in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

29. In his observations, the applicant submitted that the Court should grant him "fair compensation for the seized property, [as] specified in the application form". In his application form the applicant mentioned, in the description of his complaint under Article 1 of Protocol No. 1, that his expenses had amounted to 295,209 euros (EUR). It appears that that amount comprised both loans given to K. (2,000,000 Ukrainian hryvnias (UAH) and UAH 300,000), converted into euros as at the date of signing the respective loan agreements (according to the applicant's calculations).

30. The Government contested those claims, reiterating their arguments that the applicant's complaints were ill-founded and stating that he had failed to provide any documents confirming the value of the premises.

31. Considering that it found the applicant's complaint under Article 1 of Protocol No. 1 manifestly ill-founded, the Court considers that no award under pecuniary damage head shall be made.

32. The applicant has not raised any other claims for just satisfaction; therefore, the Court considers that there is no call to make any award.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

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

2. *Holds* that there has been a violation of Article 6 of the Convention;

3. *Dismisses* the applicant's claim for just satisfaction.

Done in English, and notified in writing on 11 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Kateřina Šimáčková President