

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

FIFTH SECTION

CASE OF GURYANOVA v. UKRAINE

(Application no. 7738/14)

JUDGMENT

STRASBOURG

22 May 2025

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



In the case of Guryanova v. Ukraine,

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

Andreas Zünd*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 7738/14) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 24 November 2013 by a Ukrainian national, Ms Alevtina Fedorovna Guryanova ("the applicant"), who was born in 1957, detained in Kharkiv and represented by Mr O. I. Veremiyenko, a lawyer practising in Kyiv;

the decision to give notice of the complaint concerning the alleged violation of the principle of equality of arms in the criminal proceedings against the applicant to the Ukrainian Government ("the Government"), represented by their Agent, Mr Marharyta Sokorenko, and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 30 April 2025,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant's absence from the hearing of her appeal on points of law, in breach of the principle of equality of arms. She complained under Article 6 § 1 of the Convention.

2. On 8 June 2012 the Korostenskyi City District Court of the Zhytomyr Region convicted the applicant under Article 190 § 4 (large-scale fraud) of the Criminal Code and sentenced her to seven and a half years' imprisonment with confiscation of property.

3. On 27 November 2012 the Zhytomyr Regional Court of Appeal upheld the first-instance court's judgment in part and sentenced the applicant to five years' imprisonment with confiscation of property.

4. On 4 January 2013, while detained in Zhytomyr Prison no. 8 ("Prison no. 8"), the applicant appealed on points of law.

5. In February 2013 she was transferred from Prison no. 8 to Kachanivska Prison no. 54 ("Prison no. 54").

6. On 11 March 2013 the Higher Specialised Court for Civil and Commercial Matters ("the HSC") sent a summons for a hearing of the applicant's case to Prison no. 8.

7. On 4 April 2013 the HSC held the hearing in the absence of the applicant but in the presence of a prosecutor, who made submissions. It

dismissed the applicant's appeal on points of law and upheld the Court of Appeal's decision.

8. On 17 April 2013 the applicant, being held in Prison no. 54, received the summons to the hearing of 4 April 2013.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

9. The applicant complained under Article 6 § 1 of the Convention that she had received the summons to the cassation hearing of 4 April 2013, after the hearing having been held, so she could not attend it.

10. The Government acknowledged that the applicant had received the summons to the hearing of 4 April 2013 on 17 April 2013 but argued that the Convention did not require the domestic authorities to provide a perfectly functioning postal system. The authorities could only be responsible for a failure to send the relevant documents. In addition, the domestic courts had duly examined the applicant's arguments, including those she had raised in her appeal on points of law.

11. The Court notes that the application 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.

12. The general principles concerning the principle of equality of arms have been summarised in, among other authorities, *Zhuk v. Ukraine* (no. 45783/05, §§ 25-26, 21 October 2010), and *Korobov v. Ukraine* (no. 39598/03, § 89, 21 July 2011).

13. The Court observes at the outset that the applicant was under the full control of the State and that it was its duty to duly inform her of the date and time of the cassation hearing. However, the authorities failed to comply with this duty when they sent the summons to the wrong prison. On 11 March 2013 the HSC addressed the summons to Prison no. 8 (see paragraph 6 above) even though the applicant had already been transferred from Prison no. 8 to Prison no. 54 in February 2013 (see paragraph 5 above). Consequently, she did not receive the summons until 17 April 2013 (see paragraph 8 above) and was thus prevented from attending the hearing, presenting her arguments and rebutting the prosecutor's submissions. In a number of similar cases against Ukraine, where the prosecutors attended the hearings and made submissions while the applicants did not, the Court found violations and concluded that procedural fairness required that the applicants should also have been given an opportunity to make oral submissions in reply (see, for instance, *Gryb v. Ukraine* [Committee], no. 65078/10, §§ 37-39, 14 December 2017). The Court sees no reason to reach a different conclusion in the present case. It therefore finds that the principle of equality of arms was not respected.

14. Accordingly, there has been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. The applicant claimed 500,000 euros (EUR) in respect of pecuniary and EUR 1,000,000 in respect of non-pecuniary damage. She did not provide documents in support of her claim in respect of pecuniary damage.

16. The Government contested those claims as exorbitant and unsubstantiated.

17. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it awards the applicant EUR 900 in respect of non-pecuniary damage, plus any tax that may be chargeable to her.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 900 (nine hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, 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;

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

Done in English, and notified in writing on 22 May 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Andreas Zünd President