

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

FIFTH SECTION

CASE OF KOROL v. UKRAINE

(Application no. 15518/21)

JUDGMENT

STRASBOURG

29 September 2022

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



In the case of Korol v. Ukraine,

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

Stéphanie Mourou-Vikström*, President,*
Ivana Jelić*,*
Kateřina Šimáčková*, judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 8 September 2022,

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 9 March 2021.

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

THE FACTS

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

4. The applicant complained of the blanket ban on alienation of agricultural land.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1

5. The applicant complained that the legislative restrictions applicable to his land plot, owned by him since 13 February 2018, had breached his right to peaceful enjoyment of his possession, guaranteed by Article 1 of Protocol No. 1, which reads as follows:

Article 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

6. The Government submitted that on 31 March 2020 the Verkhovna Rada of Ukraine had adopted legislative amendments for the introduction of the

agricultural land market, providing the applicant with an opportunity to dispose of his land plot; these amendments entered into force on 1 July 2021.

7. The Court reiterates that not only must an interference with the right of property be lawful and pursue, on the facts as well as in principle, a "legitimate aim" in the "general interest", but there must also be a reasonable relationship of proportionality between the means employed and the aim sought to be realised by any measures applied by the State, including measures designed to control the use of the individual's property. That requirement is expressed by the notion of a "fair balance" that must be struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see *Hutten-Czapska v. Poland* [GC], no. 35014/97, § 167, ECHR 2006-VIII).

8. In the leading case of *Zelenchuk and Tsytsyura v. Ukraine* (nos. 846/16 and 1075/16, 22 May 2018), the Court already found a violation in respect of issues similar to those in the present case. The Court observed that Ukraine was the only Council of Europe member State with a general ban on sale or any other form of alienation of agricultural land. In view of the lack of consistent reasons for not adopting alternative solutions and the excessive burden imposed on the applicants, the Court concluded that the respondent State had overstepped its wide margin of appreciation in this area and had not struck a fair balance between the general interest of the community and the property rights of the applicants.

9. In the present application, having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case during the period of 13 February 2018 and 1 July 2021 the State failed to strike a fair balance between the general interest of the community and the property rights of the applicant.

10. These complaints are therefore admissible and disclose a breach of Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Zelenchuk and Tsytsyura,* cited above, §§ 150, 154-157 and 161), the Court considers that the finding of a violation constitutes in itself sufficient just satisfaction.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 1 of Protocol No. 1 concerning the blanket ban on alienation of agricultural land in respect of the period from 13 February 2018 to 1 July 2021;

3. *Holds* that that the finding of a violation constitutes in itself sufficient just satisfaction.

Done in English, and notified in writing on 29 September 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Stéphanie Mourou-Vikström President

APPENDIX

Application raising complaints under Article 1 of Protocol No. 1 of the Convention (blanket ban on alienation of agricultural land)

Application no. Date of introduction	Applicant's name Year of birth	Description of plot of land	Document as evidence of ownership of the plot of land
15518/21 09/03/2021	**Mykola Prokopovych KOROL** 1943	A plot of agricultural land of 3.4001 hectares in the Poltava Region	Excerpt from the State Register of Property Rights to Immovable Property of 13 April 2018