

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

FIFTH SECTION

CASE OF LEVCHENKO v. UKRAINE

(Application no. 58785/15)

JUDGMENT

STRASBOURG

30 April 2026

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



In the case of Levchenko v. Ukraine,

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

Georgios A. Serghides*, President*,
Gilberto Felici,
Diana Sârcu*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 58785/15) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 18 November 2015 by a Ukrainian national, Mr Viktor Mykolayovych Levchenko ("the applicant"), who was born in 1961 and lives in Khrystynivka, and was represented by Mr M. Aleksyeyenko, a lawyer practising in Khrystynivka;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko;

the parties' observations;

Having deliberated in private on 2 April 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the seizure of the applicant's car within criminal proceedings in respect of third parties, allegedly in breach of Article 1 of Protocol No. 1 to the Convention.

2. On 4 April 2014 the applicant bought a used car. It was later established that it had been sold to him on the basis of a forged authority form.

3. In December 2014 a criminal investigation was launched into fraudulent property appropriation in that regard.

4. On 28 May 2015, while the applicant was driving the car in question, the Uman traffic police stopped him and withheld the car as being wanted by the police. It was taken to the local traffic police pound.

5. On 25 June 2015 the investigator applied to the Zhytomyr Bohunskyi District Court ("the Bohunskyi Court") for seizure of the car.

6. On 30 June 2015 the Bohunskyi Court allowed the above-mentioned application in a hearing attended by the prosecutor but without the applicant having been notified thereof.

7. The applicant challenged the above-mentioned ruling on appeal, once he had discovered its existence. He referred, in particular, to Article 171 § 5 of the Code of Criminal Procedure, which provided that, if an investigator did not apply for seizure of property within one day of its being temporarily withheld, it was to be immediately returned to the person from whom it had been withheld. In the applicant's case the investigator had, however, applied

for the car seizure around one month after its withholding. The applicant also argued that the measure had been disproportionate.

8. On 5 August 2015 the Zhytomyr Regional Court of Appeal rejected the above-mentioned appeal as unfounded. It noted, in general terms, that the Bohunskyi Court had complied with the applicable legal provisions and that the legitimate owner of the car had yet to be established.

9. On 25 March 2016 the applicant was granted the procedural status of victim in the ongoing criminal proceedings.

10. He applied for the lifting of the seizure on many occasions.

11. On 1 December 2016 the Bohunskyi Court allowed one of those applications in part. Although the court upheld the ban on the disposal or encumbrance of the car, the judge ruled that it should be transferred to the applicant for safekeeping. It was noted that the applicant had the procedural status of victim, the car did not show any traces of having been involved in an offence and its continued storage in an open outdoor space in the police pound from 28 May 2015 meant that it would deteriorate.

12. On 4 November 2019 the same court lifted the seizure altogether. It noted that not a single investigative measure had been carried out within the criminal investigation in question since September 2016 and that no suspicion had been announced in that regard. The judge also referred to the fact that the applicant's *bona fide* ownership of the car had never been questioned.

13. On 17 June 2020 the criminal investigation was discontinued, since it was found to be impossible to identify any suspects.

THE COURT'S ASSESSMENT

14. The applicant complained that the seizure of his car had been arbitrary and disproportionate and thus in breach of Article 1 of Protocol No. 1. Although he additionally relied on Article 6 § 1 of the Convention, his grievance falls to be examined under Article 1 of Protocol No. 1 only (see, for example, *Dimitrovi v. Bulgaria*, no. 12655/09, § 30, 3 March 2015; *Piras v. San Marino* (dec.), no. 27803/16, §§ 45-47, 27 June 2017; and, *mutatis mutandis*, *G.I.E.M. S.R.L. and Others v. Italy* [GC], nos. 1828/06 and 2 others, § 302, 28 June 2018, with numerous further case-law references).

I. ADMISSIBILITY

15. The Government argued that the applicant had not exhausted the domestic remedies, given that he had not claimed compensation in respect of non-pecuniary damage caused by the unlawful seizure of his property after the discontinuation of the criminal proceedings. To illustrate the effectiveness of that remedy, the Government cited four final rulings of the Supreme Court (delivered in 2018 and 2020), allowing claims for compensation in respect of

non-pecuniary damage caused by the unlawful actions of pre-trial investigating and prosecuting authorities, which had been lodged by former criminal suspects after the charges against them had been dropped (in one of the cited cases the claimant had been acquitted). In addition, the Government cited a ruling delivered by the Supreme Court in 2021, by which it had remitted for fresh examination in the appellate court a case concerning a claim for compensation in respect of pecuniary damage related to the allegedly inadequate management of the property seized within criminal proceedings.

16. The applicant submitted that he had had no grounds for lodging a compensation claim at the domestic level. He also considered the domestic case-law cited by the Government to be irrelevant to the present case.

17. The relevant general principles as regards the exhaustion of domestic remedies are set out in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014). As regards the burden of proof, it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, available in theory and in practice at the relevant time (ibid., § 77).

18. The Court notes that, as confirmed by the domestic case-law cited by the Government (only the final rulings of the Supreme Court being taken into consideration – see paragraph 15 above), there indeed existed legal mechanisms for former criminal suspects or accused persons to claim compensation in respect of non-pecuniary damage after the charges against them had been dropped or after their acquittal, which was clearly not the applicant's situation. In other words, the Government did not show that the remedy in question could have been effective for him and had therefore had to be pursued.

19. The Court therefore rejects the Government's objection. It further notes that the application is neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. It must therefore be declared admissible.

II. MERITS

20. The applicant complained that the seizure of his car had been arbitrary, given, in particular, the authorities' failure to comply with the applicable procedural safeguards. He also alleged that that measure had been unjustified and disproportionate.

21. The Government accepted that there had been an interference with the applicant's right to the peaceful enjoyment of his possessions. They argued, however, that it had been in compliance with the requirements of Article 1 of Protocol No. 1.

22. The Court reiterates that various forms of seizure of property for legal proceedings normally relate to control of the use of property, which falls

within the ambit of the second paragraph of Article 1 of Protocol No. 1. Such a measure must be provided for by domestic law, pursue a legitimate aim and be proportionate to the aim pursued (see, among other authorities, *Akshin Garayev v. Azerbaijan*, no. 30352/11, §§ 53 and 54, 2 February 2023).

23. Turning to the present case, the Court notes that the domestic courts appeared to give no consideration to the applicant's argument regarding the failure of the prosecution authorities to comply with the applicable safeguards under Article 171 § 5 of the Code of Criminal Procedure, which required either the seeking of a judicial order for the seizure of the withheld property within one day of its being withheld or its immediate return to the applicant (see paragraphs 7 and 8 above). In such circumstances, he indeed had reasons for questioning the compliance of that measure with the procedural rules.

24. Nevertheless, bearing in mind its limited power to assess the facts and review compliance with domestic law (see *Beyeler v. Italy* [GC], no. 33202/96, § 108, ECHR 2000-I), the Court leaves this question open and will proceed with the assessment of the legitimate aim and the proportionality of the interference in question, which is the central issue in the present case (see *Krayeva v. Ukraine*, no. 72858/13, § 27, 13 January 2022).

25. The Court accepts that the seizure pursued the legitimate aim of ensuring the proper functioning of justice and that it was therefore in the "general interest" of the community (see *Georgi Atanasov v. Bulgaria*, no. 5359/04, § 30, 7 October 2010; *Lachikhina v. Russia*, no. 38783/07, § 60, 10 October 2017; and *Călin v. Romania*, no. 54491/14, § 73, 5 April 2022).

26. The Court has held that, in order to determine the proportionality of the measure in question, it is necessary to take into account its duration, as well as its necessity in view of the progress of the criminal proceedings, the consequences of its application for the person concerned and the decisions taken by the authorities in that regard (see *Akshin Garayev*, cited above, § 56, with further references).

27. In the present case the interference with the applicant's right to the peaceful enjoyment of his possessions lasted for more than four years and five months: during the initial one year and six months, his car was held in the police pound and he did not have any access to it, whereas for the remaining period of about two years and 11 months, he was able to use his car but could not dispose of it (see paragraphs 4-12 above). Although the vehicle was obviously depreciating and losing market value, the necessity for the continued interference remained questionable, especially in the context of the absolute stagnation of the investigation over a period of more than three years (see, in particular, paragraph 12 above).

28. The Court finds the above-mentioned considerations sufficient for concluding that the contested measure was disproportionate.

29. There has, therefore, been a violation of Article 1 of Protocol No. 1.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

30. The applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,348 in respect of costs and expenses.

31. The Government contested those claims.

32. The Court awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

33. Having regard to the documents in its possession, the Court also considers it reasonable to award the applicant the full amount claimed, EUR 2,348, for costs and expenses, plus any tax that may be chargeable to him.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

3. *Holds*
   (a) that the respondent State is to pay the applicant, 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 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,348 (two thousand three hundred and forty-eight euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (b) 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;

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

Done in English, and notified in writing on 30 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Georgios A. Serghides President