

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

FIFTH SECTION

CASE OF MAMEDOV v. UKRAINE

(Application no. 43548/18)

JUDGMENT

STRASBOURG

9 April 2026

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Mamedov v. Ukraine,

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

Gilberto Felici*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 43548/18) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 31 August 2018 by a Ukrainian national, Mr Sakhraddin Ali-ogly Mamedov ("the applicant"), who was born in 1961 and lives in Kherson, and was represented by Mr O.M. Salivonskyy, a lawyer practising in Kherson;

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 19 March 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns a dispute between private parties over the rights to land.

2. In June 2009 the applicant bought a house in the village of Antonivka, Kherson Region. The house had been built in 1985 on a plot of land allocated to the initial owner in 1963. The sale agreement did not contain any provisions regarding the transfer of rights to the land.

3. In the following years, disputes between the applicant and his neighbour regarding the use of their adjacent plots of land and real estate were on numerous occasions brought before the courts. However, it appears that only one set of proceedings was terminated by the delivery of a final judgment, all the others being terminated for procedural reasons without any judgment on the merits. The case which resulted in a judgment (no. 2-2644/11) concerned the issue of construction by the applicant of an extension to his house. In that case, the courts established that the extension had been unauthorised and that one of its walls had been built on the neighbour's fence. The applicant was ordered to demolish that unauthorised extension but apparently failed to do so.

4. In 2013 the applicant instituted court proceedings seeking to have the local authorities' decision regarding his neighbour's land and his title to it (obtained in 2003) declared null and void. The applicant argued that his house was standing on a plot of land measuring 500 square metres which had been allocated to the initial owner in 1963; that owner had had her right to the land

registered in the village's special land register (*земельно-шнурова книга*). He submitted to the courts an excerpt from that register as well as a certificate that the plot of land had in 1993 been listed by the village council as "provided for use". He contended that although the Land Code of Ukraine of 2001 had introduced a new way of registering rights to land, its transitional provisions also provided that land rights that had been created and registered in the manner existing previously (that is, in his case, under Soviet legislation) remained valid.

5. The applicant also provided to the courts a number of letters and certificates from various authorities which confirmed that the house he had bought was "accompanied" by a plot of land measuring 500 square metres. The Antonivka Village Council also confirmed in court that it supported the applicant's claim.

6. The applicant further argued that when his neighbour had been formalising his title in 2003, he had contracted a specialised organisation to prepare the necessary technical documentation, which had erred in its measurements and delineations. In particular, the documents stated that one of the borders of his neighbour's land was established as "a virtual prolongation of the existing fences and buildings". The applicant submitted to the courts a letter from the local land management authority confirming that that had been an error and that the technical documentation was thus incorrect.

7. A forensic technical expert assessment was also conducted in the case. In his conclusion, prepared in April 2016, the expert stated that pursuant to Soviet legislation, the allocation of land into use in the villages (no private ownership of land existed at the time) was to be registered in special land registers (*земельно-шнурові книги*); entries into those registers could only be made after the plot of land had been delimited on site. Considering that there existed an entry in the register confirming the allocation of a plot of land measuring 500 square metres in 1963, it could be inferred that the land had been duly delimited. It was further established that the adjacent plot of land had, until 2003, measured 700 square metres, but in 2003 the applicant's neighbour had somehow obtained title to a plot of land measuring 770 square metres, with part of the newly added land being that on which the applicant's house stood. The expert further stated that the unauthorised constructions that the applicant had built had no relevance to the case, as it was the "main" house, built in 1985, that the erroneous establishment of boundaries between the plots of land had concerned.

8. The domestic courts, after one re-examination of the case, ultimately rejected the applicant's claim. The courts acknowledged that under Article 120 of the Land Code, in the event of purchase of real estate, the new owner also obtained rights to the land on which that real estate was located and which was necessary for the maintenance of that real estate. At the same time, they established that neither the applicant nor the previous owners had

had their titles to the plot of land in question duly formalised as required by the Land Code. They found that the evidence relied on by the applicant in that respect was "inadequate and unacceptable". Furthermore, the allocation of land to the applicant's neighbour and his registration of title to it in 2003 could not have violated the applicant's rights, as he had not yet been the owner of the house at that time.

9. The courts did not address the question that the boundaries of the neighbour's land overstepped the applicant's real estate and did not mention the 2016 expert conclusion in their judgments. Neither did the courts mention any previous proceedings, particularly those regarding the unauthorised construction (see paragraph 3 above).

10. The final judgment was delivered by the Supreme Court on 3 May 2018.

THE COURT'S ASSESSMENT

I. PRELIMINARY ISSUE

11. The applicant complained under Article 6 of the Convention that the courts had disregarded his pertinent arguments and the evidence submitted. He also complained under Article 1 of Protocol No. 1 to the Convention that the approach applied by the domestic courts had essentially deprived him of the possibility of freely enjoying his property in that his neighbour could at any moment request demolition of part of his house.

12. Being the master of characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018), the Court considers that the applicant's complaint falls to be examined under Article 6 § 1 of the Convention.

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

13. The Government argued that the applicant's case had been duly examined by the courts, which had established all the relevant facts and provided a detailed analysis of the applicable legislation. In particular, the courts had found that neither the applicant nor the previous owners of the house had had a duly formalised title to the land in question as required by the Land Code and that the applicant could not therefore complain that his neighbour's property surpassed the boundary of his land. The Government provided references to relevant domestic courts' judgments on the issue of transfer of rights to land when acquiring real estate (delivered between December 2018 and 2022), which suggested that to be able to obtain such rights, they had to be registered in the manner prescribed by law. They also provided examples of domestic case-law on the issue of annulment of local authorities' decisions on the allocation of land on the claims of the owners

who had acquired their rights subsequently, as well as on the question of the burden of proof. The Government emphasised in that regard that it was not the Court's task to question the conclusions of the domestic courts and to substitute their interpretation of domestic law with its own.

14. They also pointed out that during the proceedings the applicant had been able to present his case without hindrance and had made ample use of his procedural rights, including to challenge the decisions taken.

15. Lastly, the Government asserted that the applicant's case did not concern the seizure of his household or plot of land, nor was his right to register his ownership of the land in dispute. The applicant had also not provided any evidence that the neighbour had attempted to actually demolish part of his house. They emphasised in that respect that in fact it had been the applicant who had built an unauthorised construction and had refused to comply with a court decision to demolish it. The Government further argued that, overall, the applicant had failed to prove that the disputed court decisions had somehow affected his property or legitimate expectations or that he had suffered any damage to his property.

16. The Government therefore contended that the applicant's complaints were either manifestly ill-founded or did not contain any signs of violations of the Convention provisions.

17. The applicant emphasised that he had submitted to the courts a number of documents that confirmed that the boundary of his neighbour's land as defined in his title documents passed through the applicant's house. He alleged that that had also been confirmed in court by the representative of the same organisation which had prepared the technical documentation, who had essentially acknowledged their mistake. In that connection the applicant also contended that the part of the house which was concerned by that problem had not been the unauthorised construction which had been the subject of case no. 2-2644/11 (see paragraph 3 above), but the part of the house which had been built in 1985. He argued in that regard that the Government's submissions had thus been intended to discredit him. Lastly, he asserted that his neighbours could at any moment take actions to have their plot of land vacated and thus require that part of the applicant's house be demolished.

18. The Court considers that the Government's arguments relate closely to the merits of the applicant's complaints and it will, therefore, examine them in the framework of its analysis of the merits of this case below. It further notes that the complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

19. The general principles of the Court's case-law regarding the requirement on the domestic courts to adequately state the reasons on which their decisions are based have been summarised in *Ramos Nunes de Carvalho*

e Sá v. Portugal ([GC], nos. 55391/13 and 2 others, §§ 185 and 186, 6 November 2018, with further references).

20. Turning to the present case, the Court observes that the domestic courts faced two main issues: (i) whether the applicant had a right to a plot of land measuring 500 square metres and how that right had to be confirmed and (ii) whether the boundary of the neighbour's plot of land, as established in his documents, indeed overstepped the land on which the applicant's house stood.

21. In respect of the first issue, the domestic courts examined it rather in detail, both as regards factual developments since 1963 and applicable legislation. Nevertheless, it does not appear from their judgments that they addressed the applicant's key argument that the right to use a plot of land measuring 500 square metres had been duly acquired – and registered in accordance with the previous legislation – by the initial owner and had thus been transferred to him when he had bought the house standing on that land. The domestic judgments do not contain any analysis of whether the special land register held by the village authorities (*земельно-шнурова книга*) could serve as due basis to confirm acquisition of any rights to land and whether those rights could be considered valid after the new Land Code entered into force. In that connection it is also observed that the domestic case-law on the question of the legal fate of land in the event of acquisition of real estate, as referred to by the Government (see paragraph 13 above), concerned periods post-dating the final judgment in the applicant's case and none of the cases referenced concerned situations involving such special land registers.

22. The Court is mindful of its subsidiary role and that it is not its task to take the place of the domestic courts and that it is primarily for them to resolve problems of interpretation of domestic legislation (see *Ramos Nunes de Carvalho e Sá,* cited above, § 186). It notes, however, that, even if the issues mentioned above may be seen as falling outside its scrutiny, the second key question of the case – whether the boundary of the applicant's neighbour's land allegedly passed through the applicant's house – clearly required a detailed examination and answer from the domestic courts. The Court observes that the applicant's title to the house, constructed several decades ago, was not in dispute during the proceedings. The Court does not overlook the fact that extensions to the house were constructed by the applicant and that the parties disagreed on their status: the Government argued that it was an unauthorised extension, as recognised in case no. 2-2644/11, that had been built on the neighbour's land, and the applicant asserted that the boundary passed through the "initial" house. The same opinion is also reflected in the expert conclusion of April 2016 (see paragraph 7 above).

23. The Court is not in a position to give its own reply as to that matter. It considers that once it had become known to the domestic courts that there might have been a potential interference with the applicant's rights to the house, they should have established, with due regard to all the relevant

evidence, including expert conclusions, findings in any relevant previous proceedings and any other evidence that there might be, whether that was indeed the case. In particular, it was for them to establish which part of the house was concerned – the initial building or subsequent constructions. In the absence of any analysis in that connection, any doubts that there might have been as regards the applicant's own actions in terms of unauthorised construction remain speculation. Overall, the question of the possible impact that the situation complained of might have had on the applicant's property rights to the house remained without an answer. It follows that the domestic courts' judgments cannot be said to have been duly reasoned.

24. There has accordingly been a violation of Article 6 § 1 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. The applicant claimed 100,000 Ukrainian hryvnias (UAH – equivalent to approximately 2,000 euros (EUR) at the time of the submission of just satisfaction claims) in respect of non-pecuniary damage. He also claimed a total of UAH 11,000 in respect of pecuniary damage, which comprised (i) UAH 1,000 for a geodesic survey commissioned in 2017; (ii) UAH 3,000 and UAH 4,000 for the forensic expert conclusions ordered during the proceedings in case no. 2-2644/11 and in the 2013 proceedings respectively; and (iii) UAH 3,000 for the airtime on the media to cover his case. The applicant submitted proof a payment only for the first amount claimed but no explanation why it had been commissioned.

26. The applicant further clamed a total of UAH 34,000 for legal services provided to him during the domestic proceedings, including the proceedings in case no. 2-2644/11, and during the proceedings before the Court (UAH 12,000 – equivalent to approximately EUR 250 at the time of the submission of just satisfaction claims). He provided copies of the relevant legal aid contracts, including for the representation before the Court, but no proof of payment under any of the contracts or detailed explanation of the services provided and time spent. Some of the earlier contracts (dated between 2013 and 2018) were signed by a certain M.O. and the applicant failed to provide any explanation in that regard.

27. The Government contested the applicant's claims as excessive or not duly supported with documents.

28. Considering its finding of a violation of Article 6 § 1 of the Convention in the present case, the Court awards the applicant EUR 1,800 in respect of non-pecuniary damage, plus any tax that may be chargeable. On the basis of the information and documents available, the Court also considers it equitable to award the applicant EUR 250 in respect of costs and expenses for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

29. The Court also notes that domestic law provides for a possibility of reopening of proceedings following the Court's judgment, which could allow the applicant to have his case reconsidered.

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, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 1,800 (one thousand eight hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 250 (two hundred and fifty 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 9 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Gilberto Felici President