

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

FIFTH SECTION

CASE OF MOSHIN v. UKRAINE

(Application no. 42928/17)

JUDGMENT

STRASBOURG

9 October 2025

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



In the case of Moshin v. Ukraine,

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

Andreas Zünd*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 42928/17) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 10 June 2017 by a Ukrainian national, Mr Ruslan Viktorovych Moshin ("the applicant"), who was born in 1972, lives in Kyiv and was represented by Mr I.V. Borovyk, a lawyer practising in Kyiv;

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 11 September 2025,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the demolition of commercial premises owned by the applicant.

2. In July 2013, together with another person, the applicant bought a commercial building from a certain Zh. It had been used as a glass collection and recycling point for years and the applicant continued to use it for that purpose.

3. The contract of sale stated that the total area of the building was 60.9 square metres and that it was located at 35A Heroiv Dnipra Street in Kyiv. The applicant paid 74,850 Ukrainian hryvnias (UAH; approximately 7,000 euros (EUR) at the time). The contract also stated that the building had belonged to Zh. on the basis of decisions delivered by the Dniprovskyy Local Court of Kyiv on 31 October 2007 and 29 September 2011 in case no. 2-1880/07, as well as a friendly settlement of 20 September 2011.

4. As is apparent from the case file, the applicant's title was registered in the State Register of Real Property Rights by the private notary who certified the sale.

5. The applicant also provided the Court with a copy of the building's "technical passport" dated 12 July 2011 and prepared by the Kyiv City Technical Inventory Bureau, apparently at the request of Zh. The passport stated that the premises in question consisted of a one-storey piece of "real estate" erected in 1989. It had concrete foundations and metal walls.

6. In 2014 and 2015 a large-scale campaign took place in Kyiv with the aim of removing temporary constructions and "small architectural structures" (*малі архітектурні форми, МАФи*) such as commercial stalls, kiosks and pavilions from the streets. Most of those structures had been erected without permission and were not in compliance with health and building regulations. According to the Government, some 12,000 unlawful constructions were dismantled during the campaign.

7. On 7 October 2015 the local authorities issued a warning to the applicant, instructing him to demolish the "pavilion" at his own expense. That warning was apparently left on the door of the building, the applicant being absent.

8. According to the applicant, he saw the warning on 9 October 2015 and immediately tried to resolve the matter with the authorities. He went to the premises of the local administration but was not let in, instead having to leave his complaint in the letterbox.

9. On 12 October 2015 a demolition order was issued by the authorities in respect of several unauthorised constructions, including the applicant's building.

10. On 16 October 2015 the applicant submitted a formal written complaint to the local administration contesting the demolition order. He argued that the authorities did not have the right to request the demolition of real estate within the framework of the procedure for the demolition of temporary constructions. The applicant requested that urgent measures be taken to prevent irreparable harm to his property, attaching a copy of his title certificate to his request. It appears that he received no reply.

11. On 19 October 2015 the building was demolished by the authorities. The relevant report on the completed demolition stated that "the property had been dismantled and had been loaded intact onto a vehicle ... and transported to a place of storage". The applicant did not comment on that report.

12. The applicant initiated court proceedings to challenge the authorities' actions and obtain compensation in respect of the value of his share in the building (which he estimated at around UAH 1,700,000). His claims were rejected by the courts at three levels of jurisdiction, with the final judgment of the Higher Administrative Court delivered on 11 January 2017.

13. The domestic courts analysed the applicable legislation in order to establish whether the building in question had indeed been "real estate" or a temporary construction. They established that the building had been built using light materials (its walls were made of metal sheets and fibreglass) and that its foundations had not been deep enough for it to qualify as real estate. Furthermore, the authorities had never allocated it an address. Lastly, the courts noted that the applicant had failed to show that he had also acquired any rights to the land under and around the building when purchasing it, whereas the relevant legislation required that anyone purchasing real estate also had to obtain rights to the land occupied by the building, which had to

be specified in the contract of sale. The courts therefore concluded that the building in question had been a temporary construction and, moreover, an unlawful one as the applicant had had no permit for its erection and use. Thus, a simple administrative decision had provided a sufficient basis for demolishing the building. In the light of that conclusion, the applicant's compensation claim was also rejected. The courts provided no separate analysis of the applicant's argument that he had had a duly formalised title classifying the building as real estate which had never been challenged by the authorities.

THE COURT'S ASSESSMENT

I. PRELIMINARY ISSUE

14. The applicant complained under Article 1 of Protocol No. 1 to the Convention that the demolition of his property had been unlawful, and that no compensation had been awarded in that respect. He further complained under Article 6 of the Convention that the courts had disregarded his pertinent arguments.

15. The Court, being the master of the characterisation to be given in law to the facts of the case, considers that the above-mentioned complaints fall to be examined under Article 1 of Protocol No. 1 to the Convention only (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 126, 20 March 2018).

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

16. As to admissibility, the Government argued that the disputed building could not constitute the applicant's "possession" within the meaning of Article 1 of Protocol No. 1 as there had been discrepancies between different documents in the description of the building's characteristics (for example, its surface area). They also asserted that the building in question had not been a capital construction (that is, not real estate) and that the applicant had failed to prove that he had had the necessary permits for the building's location. They argued that the applicant's complaint was therefore manifestly ill-founded.

17. On the merits, the Government contended that the demolition of the building in question had been lawful as the local authorities' right to demolish temporary constructions erected without special permission had been provided for in the legislation of Ukraine in force at the time, which had been accessible, clear and foreseeable in its application. The demolition had also pursued the legitimate aim of enforcing building and urban-planning regulations. The Government noted in that connection that in 2016 the area

in which the applicant's building had stood had been granted park status. Lastly, the Government submitted that the interference complained of had struck a fair balance between the applicant's interest in keeping his property intact and the general interest, as the disputed building had been erected without the relevant permits and its demolition had been intended to put things back in the position in which they would have been had the applicant not disregarded the requirements of the law. The demolition had also been intended to deter other potential lawbreakers, an aim which should not be underestimated in view of the scale of the problem of unlawful commercial constructions at that time (see paragraph 6 above).

18. The applicant submitted no observations but informed the Court that he maintained his claims and wished his application to be examined.

19. The Court considers that the Government's preliminary objections are closely related to the merits of the case and decides, therefore, to join their examination to its examination of the merits.

20. It further 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.

21. The Court notes at the outset that the applicant (as well as the previous owner) had been an officially registered owner of the building in question, which had been classified as real estate; his title was not challenged, invalidated or otherwise put into doubt by the authorities until the courts were called to decide *ex post facto* on the lawfulness of the building's demolition. The Court is mindful that the building in question had specific features and that the applicant would have needed to exercise special diligence and caution when acquiring it as "real estate". However, at no point did the registration authorities question the classification of the building or refuse to register it. The demolition of the building therefore constituted an interference with the applicant's possessions within the meaning of the Convention. Whether the interference is regarded as deprivation or control of the use of property, the applicable principles remain the same (see *Ünsped Paket Servisi SaN. Ve TiC. A.Ş. v. Bulgaria*, no. 3503/08, §§ 39-40, 13 October 2015, and, for example, *Kryvenkyy v. Ukraine*, no. 43768/07, §§ 41-42 and 45, 16 February 2017). The Court will therefore consider whether the interference was lawful, pursued the public interest and was proportionate.

22. The Court takes due account of the Government's arguments regarding the need to resolve the problem of unlawful commercial constructions and to improve the condition of the capital's streets by making them safe and comfortable for inhabitants and visitors. That aim could well fall under the notion of public interest.

23. The Court reiterates, nevertheless, that where an issue in the general interest is at stake, in particular when the matter affects fundamental human rights such as those involving property, the public authorities must act in good time and in an appropriate and above all consistent manner. In that

connection, the principle of "good governance" is of particular importance. It should not, as a general rule, prevent the authorities from correcting occasional mistakes, even those resulting from their own negligence. However, the need to correct an old "wrong" should not disproportionately interfere with a new right which has been acquired by an individual relying on the legitimacy of the public authority's action in good faith. In other words, State authorities which fail to put in place or adhere to their own procedures should not be allowed to profit from their wrongdoing or to escape their obligations. The risk of any mistake made by the State authority must be borne by the State itself and the errors must not be remedied at the expense of the individuals concerned (see *Maksymenko and Gerasymenko v. Ukraine*, no. 49317/07, §§ 63-64, 16 May 2013, with further references).

24. The Court notes that once the applicant learned that his building was subject to a demolition order, he tried to inform the authorities that they did not have the right to demolish it within the framework of the essentially administrative procedure envisaged for the demolition of temporary constructions. The documents available in the case file suggest that by 16 October 2015 at the very latest – that is, when the applicant lodged an official written complaint with the local administration – the authorities must have been aware that there might be a problem of encroaching on real estate registered as private property. They nevertheless proceeded with the demolition three days later, and there is no explanation as to why the demolition was not suspended until the issue regarding the status of the property and the applicant's title had been resolved.

25. The Court notes in that respect that the need to ensure an expeditious and efficient campaign of removing unlawful constructions from the streets does not justify dispensing with the requirements of the rule of law. This conclusion is not altered by the fact that, in the proceedings initiated by the applicant following the demolition of his property, the domestic courts unanimously concluded that the disputed building, on account of its characteristics, had not been "real estate" but a temporary construction.

26. The Court therefore concludes that the demolition was not lawful. This finding makes it unnecessary for the Court to decide whether the interference was proportionate in the circumstances of the present case.

27. Accordingly, the Court rejects the Government's preliminary objections and, ruling on the merits, finds that there has been a violation of Article 1 of Protocol No. 1 to the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

28. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join to the merits the Government's preliminary objections and, having examined them, *dismisses* them;

2. *Declares* the application admissible;

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

Done in English, and notified in writing on 9 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Andreas Zünd President