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

FIFTH SECTION

DECISION

Application no. 44462/16
Vladyslav Vitaliyovych DYACHENKO
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 28 May 2025 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. 44462/16) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 19 July 2016 by a Ukrainian national, Mr Vladyslav Vitaliyovych Dyachenko, who was born in 1970 and lives in Enerhodar ("the applicant");

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged unfairness and excessive length of the domestic proceedings concerning the applicant's dismissal from public service. The applicant relied on Articles 6, 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention.

2. On 11 March 2008 the applicant was appointed deputy mayor of Enerhodar. The resolution on his appointment stated that he had been approved for that position for the duration of the mandate of the Executive Committee of the Enerhodar City Council ("the City Council") in its composition at the material time.

3. On 16 June 2010 the applicant was dismissed for an alleged breach of his obligations as a public official.

4. On 8 September 2010 the applicant instituted administrative proceedings against the City Council and its officials, seeking, *inter alia*, his

reinstatement and compensation in respect of both pecuniary and non-pecuniary damage. In the course of the proceedings, the court of first instance notified the public prosecutor's office of the applicant's claim and informed it of its right to intervene. Shortly thereafter, the prosecutor's office formally joined the proceedings on behalf of the State Treasury, arguing, with reference to section 36(1) of the Prosecutors Act of 1991 (see *Mukiy v. Ukraine* (dec.) [Committee], no. 12064/08, § 8, 21 October 2021), that the applicant's compensation claim, if successful, would involve public funds and therefore affect the interests of the State.

5. At the hearing before the court of first instance, the defendants contested the applicant's arguments and requested that his claim be dismissed. In contrast, the representative of the prosecutor's office expressed the view that the applicant's dismissal had indeed been unlawful, as he had been on certified sick leave at the relevant time. However, the prosecutor suggested that any retrospective reinstatement of the applicant should only last until 10 December 2010, the date on which the new Executive Committee of the City Council (in its new composition) had officially assumed office.

6. By a ruling of 10 April 2012, the Enerhodar City Court of the Zaporizhzhia Region allowed the applicant's claim in part. Relying on the grounds advanced by the prosecutor's office (see paragraph 5 above), the court acknowledged the unlawfulness of the applicant's dismissal and ordered his retrospective reinstatement from 16 June to 10 December 2010. It also awarded the applicant over 40,000 Ukrainian hryvnias (the equivalent of over 4,000 euros at the relevant time) in respect of pecuniary and non-pecuniary damage. The remainder of the applicant's claim was dismissed.

7. The applicant and the City Council appealed unsuccessfully against that decision. The applicant argued, in particular, that his reinstatement should not have been limited in time, as the position of deputy mayor was continuous in nature and did not depend on the mandate of the Executive Committee. He also alleged that the prosecutor's involvement in the proceedings had been unlawful because the first-instance court had not been authorised to invite the prosecutor's office to intervene, that no State interests had been at stake, and that the city prosecutor had harboured a personal bias against him.

8. On 30 July 2013 and 2 March 2016 respectively, the Dnipropetrovsk Administrative Court of Appeal and the Higher Administrative Court of Ukraine dismissed the appeals, upholding the relevant part of the ruling of the court of first instance and endorsing its findings.[1] Referring to the resolution on the applicant's appointment (see paragraph 2 above) and the domestic law governing public service in municipal authorities, the courts

[1] The Higher Administrative Court set aside the ruling of the first-instance court in the part that did not relate to the subject matter of the applicant's complaints before the Court.

confirmed that the applicant's term of office had been limited to the duration of the mandate of the Executive Committee of the City Council in its previous composition, which had ended on 10 December 2010 with the appointment of new Executive Committee members.

9. The applicant lodged an application for a review of his case by the Supreme Court of Ukraine on the grounds of an alleged divergence in the case-law. On 10 June 2016 his application was dismissed as unfounded.

THE COURT'S ASSESSMENT

10. The applicant complained under Article 6 of the Convention of an infringement of the principle of equality of arms as a result of the unjustified intervention of the public prosecutor in the administrative proceedings and the domestic courts' failure to address his key arguments.

11. The general principles concerning the role of prosecutors in proceedings outside the sphere of criminal law and the obligation of courts to give reasons for their decisions were summarised in *Batsanina v. Russia* (no. 3932/02, §§ 24-27, 26 May 2009) and *García Ruiz v. Spain* [GC] (no. 30544/96, § 26, ECHR 1999-I).

12. Assuming that Article 6 is applicable under its civil limb (see, for example, *Grzęda v. Poland* [GC], no. 43572/18, § 261, 15 March 2022), the Court observes that in the present case the applicant did not demonstrate that the prosecutor's intervention in the proceedings had been unlawful or unjustified (compare and contrast with *Korolev v. Russia (no. 2)*, no. 5447/03, § 37, 1 April 2010). The applicant's dispute with the City Council did indeed involve public funds and thus concerned identifiable State interests. The Court has previously found that the prosecutor's intervention to protect such interests in accordance with section 36(1) of the Prosecutors Act of 1991, as worded at the material time, could be regarded as having a sufficient legal basis (see *Mukiy*, cited above, § 8). It finds no reason to hold otherwise in the present case.

13. Moreover, there is no information indicating that the public prosecutor's intervention placed the applicant at any disadvantage *vis-à-vis* his opponents. On the contrary, the prosecutor disagreed with the arguments of the City Council and endorsed the applicant's claim, albeit only in part. As the prosecutor's submissions ultimately contributed to the finding that the applicant's dismissal had been unlawful and the award of compensation, it appears that the prosecutor's involvement even benefited the applicant to some extent. Furthermore, throughout the domestic proceedings, the applicant made written and oral submissions; he was given an effective opportunity to challenge the prosecutor's arguments on the merits, and his right to have knowledge of and comment on all evidence adduced or observations filed in the proceedings appears to have been fully respected. Thus, there is nothing except pure speculation unsupported by any specific

proof to demonstrate that the principle of equality of arms, requiring a fair balance between the parties, was not respected in the present case (see *Kramareva v. Russia*, no. 4418/18, § 44, 1 February 2022).

14. Equally, the Court cannot agree with the applicant's allegation of insufficient reasoning by the domestic courts in their decisions. While Article 6 requires that courts should adequately state the reasons on which their decisions are based, it does not oblige them to provide a detailed answer to every argument (see, among many other authorities, *Ruiz Torija v. Spain*, 9 December 1994, §§ 29-30, Series A no. 303-A). In the present case, the matters that were decisive for the outcome of the proceedings – the alleged unlawfulness of the applicant's dismissal and his alleged entitlement to retain his position after the formation of the new Executive Committee – were thoroughly examined. Although it would have been helpful if the domestic courts' decisions had responded to the applicant's objections to the prosecutor's intervention in the proceedings (see paragraph 7 above), in the circumstances of the present case their silence on this issue can reasonably be construed as an implied rejection (see, for example, *Čivinskaitė v. Lithuania*, no. 21218/12, § 143, 15 September 2020).

15. As to the applicant's disagreement with the domestic courts' interpretation of national law, namely their conclusion that his reinstatement should not extend beyond 10 December 2010, the Court reiterates that it should not act as a court of fourth instance and will not therefore question under Article 6 § 1 the judgment of the national courts, unless their findings can be regarded as arbitrary or manifestly unreasonable (see *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08, § 61, ECHR 2015, with further references). Regard being had to the reasons adduced by the domestic courts (see paragraphs 6 and 8 above), the Court considers that their findings in the present case do not meet that threshold.

16. The applicant also complained under Article 6 of the Convention that the length of the domestic proceedings had been excessive. In this connection, the Court observes that even assuming the applicability of Article 6 to the review by the Supreme Court of Ukraine (see paragraph 9 above), the proceedings in the applicant's case lasted for five years and nine months at most. The Court therefore concludes that the total length of those proceedings is not excessive given that the case has been examined by domestic courts at four instances (see *Gusev v. Ukraine*, no. 25531/12, § 37, 14 January 2021, and *Glazyrin v. Ukraine* (dec.) [Committee], no. 19300/12, § 23, 4 November 2021). It follows that the applicant's complaints under Article 6 are manifestly ill-founded.

17. The applicant also raised other complaints under Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention.

18. The Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set

out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

19. It follows that the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 June 2025.

Martina Keller Deputy Registrar	Andreas Zünd President