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

FIFTH SECTION

DECISION

Application no. 14793/14
Viktor Alekseyevich LOBKO
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 5 December 2024 as a Committee composed of:

María Elósegui*, President*,
Gilberto Felici,
Kateřina Šimáčková*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 14793/14) 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 March 2014 by a Russian national, Mr Viktor Alekseyevich Lobko ("the applicant"), who was born in 1957 and lives in Monchegorsk; the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Agent, Ms Marharyta Sokorenko;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the deprivation of the applicant's plot of land without compensation on the grounds that, as a foreign national, he had failed to alienate it within the statutory one-year time-limit following inheritance. The applicant relied on Article 1 of Protocol No. 1 to the Convention.

2. In 2010 the applicant inherited 5.85 hectares of agricultural land in the Luhansk Region from his mother. Subsequently, he leased the land to a local farmer.

3. In January 2012 the Topolivske Village Council brought civil proceedings against the applicant, seeking to have the title to his plot of land transferred to it.

4. On 12 March 2012 the Troyitskyi District Court of the Luhansk Region allowed the village council's claim and transferred the title to the land to the village council. It held that the applicant, a foreign national, had failed to alienate his plot of land within the statutory time-limit under Article 81 § 4 of the Land Code, which provided that a foreign national, who inherited a plot of agricultural land, was required to alienate it within one year of that inheritance. The court further relied on Article 145 § 2 of the Land Code, which stated that where a foreign national did not alienate a plot of land within the defined time-limit, the alienation was to be enforced by a court decision.

5. The applicant appealed, arguing in general terms that he had not been compensated for the deprivation of his plot of land.

6. On 17 October 2013 the Luhansk Regional Court of Appeal upheld the first-instance judgment, reiterating the District Court's reasoning and adding a reference to Article 143 (d) of the Land Code, which stated that failure by a foreign national to alienate his or her plot of land within the statutory time-limit would be grounds for courts to enforce the alienation of that land. The appellate court did not comment on the issue of compensation.

7. The applicant appealed on points of law and argued that his property should not have been alienated until such time as he had been paid compensation equal to its value, without specifying it.

8. On 2 December 2013 the Higher Specialised Civil and Criminal Court dismissed the applicant's appeal on points of law as unsubstantiated.

RELEVANT DOMESTIC LAW AND PRACTICE

9. Letter to the heads of the regional courts of appeal, the cities of Kyiv and Sevastopol, the Court of Appeal of the Autonomous Republic of Crimea no. 10-71/0/4-13 of 16 January 2013 issued by the Higher Specialised Civil and Criminal Court, published on the site of the Parliament of Ukraine, attempted to reconcile three provisions of the Land Code: Article 81, which obliged the foreign nationals who inherited agricultural land to alienate it within one year of inheritance; Article 143 (d), which permitted the courts to annul a title to land, owned by foreign nationals, that had not been alienated within the statutory time-limit; and Part X of Article 15 of the Transitional Provisions of the Land Code, which forbade the sale of agricultural land. The Letter stated that the ban on the sale of agricultural land had not applied to the situations set out in Article 81, in which sale of the relevant plots of land was mandatory.

THE COURT'S ASSESSMENT

10. The applicant complained under Article 1 of Protocol No. 1 to the Convention that the State had deprived him of his property without providing any compensation.

11. The general principles concerning the deprivation of possessions have been summarised in *Kryvenkyy v. Ukraine* (no. 43768/07, §§ 41-42 and 45, 16 February 2017).

12. The Government did not dispute that the national courts had deprived the applicant of his property within the meaning of Article 1 of Protocol No. 1. They maintained, however, that the interference with the applicant's property rights was not disproportionate.

13. The Court must therefore assess whether that deprivation was lawful, whether it was in the public interest and pursued a legitimate aim by means reasonably proportionate to the aim sought to be realised.

14. The domestic courts relied on Article 81 § 4, Article 143 (d) and Article 145 § 2 of the Land Code in deciding to transfer the title to the plot of land to the village council (see paragraphs 4 and 6 above). Thus, the transfer of the title had a basis in domestic law. Furthermore, the Court accepts the Government's argument that the policy of alienating agricultural land owned by foreign nationals had been introduced in the public interest, aiming to preserve the country's national land, which, according to Article 14 of the Constitution of Ukraine, is the fundamental national wealth, and is under special State protection.

15. It remains to be examined whether the deprivation of property at issue struck the requisite fair balance between the demands of the general interest of the public and the requirements of the protection of the individual's fundamental rights. In that connection the Court reiterates that a person deprived of his or her property must in principle obtain compensation "reasonably related to its value", even though "legitimate objectives of 'public interest' may call for less than reimbursement of the full market value". It follows that the balance mentioned above is generally achieved where the compensation paid to the person whose property has been taken is reasonably related to its "market" value, as determined at the time of the expropriation (see *Pincová and Pinc v. the Czech Republic*, no. 36548/97, § 53, ECHR 2002-VIII).

16. The Court acknowledges that the legal regime applied in the present case may be problematic as regards proportionality, because it allows property to be seized without compensation. It reiterates, at the same time, that the Convention does not provide for the institution of an *actio popularis* and that its task is not normally to review the relevant law and practice *in abstracto* but to determine whether the manner in which they were applied to, or affected, the applicants gave rise to a violation of the Convention (see, for example, *Roman Zakharov v. Russia* [GC], no. 47143/06, § 164,

ECHR 2015). The Court must thus assess whether, taking into account the individual circumstances of the applicant, the deprivation without compensation of the land which he had inherited from his mother struck a fair balance between the general interest of the community and the applicant's property rights; such a balance would not be struck if the applicant had to bear an excessive burden.

17. The Court notes that, having acquired the land in question in 2010, the applicant was aware of the relevant legal regime, which required him to alienate the land within one year of accepting the inheritance (see paragraphs 2 and 4 above). However, he chose to lease the land to the local farmer until at least January 2012, when the Topolivske Village Council applied to the court under the same legal regime to have the title to the land transferred to it (see paragraphs 2 and 3 above).

18. In this connection, the Court does not lose sight of the fact that, at the time the applicant inherited the land from his mother, the moratorium on the sale and other transfer of agricultural land was in force pursuant to Article 15 of the Transitional Provisions of the Land Act (see *Zelenchuk and Tsytsyura v. Ukraine*, nos. 846/16 and 1075/16, §§ 16-22, 22 May 2018). However, the applicant did not claim before the national courts that the moratorium would have prevented him from alienating the land, nor does it now make that argument before the Court. In addition, as the Higher Specialised Civil and Criminal Court subsequently made clear in its letter of 16 January 2013, the moratorium did not apply to the applicant's situation (see paragraph 9 above).

19. The Court therefore considers that the applicant did not show that he had been prevented from alienating the land, as required by the applicable provisions of the national law. Moreover, he has formulated his complaint concerning the lack of compensation for the property taken by the State, which is an inherent part of the proportionality assessment of an interference under Article 1 of Protocol No. 1, only in general terms, without giving further specifications and supporting his complaint by any documentary evidence.

20. Having regard to all the foregoing considerations, the Court cannot conclude that the applicant bore an individual and excessive burden as a result of the State's policy put in place aiming to preserve the country's national land. Accordingly, in the specific circumstances of the present case, the balance between the interests of the community and those of the applicant was not upset.

21. It follows that this application must be rejected as manifestly ill-founded, in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 9 January 2025.

Martina Keller Deputy Registrar	María Elósegui President