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

FOURTH SECTION

DECISION

Application no. 54680/15
Zhanna Sagitovna RYASHENTSEVA and Others against Ukraine
and 3 other applications
(see list appended)

The European Court of Human Rights (Fourth Section), sitting on 9 September 2025 as a Chamber composed of:

Lado Chanturia*, President*,
Faris Vehabović,
Tim Eicke,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Mykola Gnatovskyy,
Sebastian Răduleţu*, judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having deliberated, decides as follows:

THE FACTS

1. The case originated in four applications (nos. 54680/15, 56648/18, 43132/19 and 29721/20) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by eleven Ukrainian nationals ("the applicants") on various dates (see the appendix).

2. A list of the applicants and the lawyers who represented them before the Court is set out in the appendix. These lawyers were from Klishin and Partners, a law firm based in Moscow.

The circumstances of the case

1. Background

3. At the time of the introduction of their applications and in so far as the Court has not been informed otherwise, the applicants were and are still living in various areas of the Donetsk and Luhansk regions of eastern Ukraine where, from early April 2014, there has been a rapid escalation of violence. As the Court has already found, in April 2014 the so-called "Donetsk People's Republic" ("DPR") and the "Luhansk People's Republic" ("LPR") were declared in Donetsk and Luhansk by groups of separatists and as of 11 May 2014 all areas in the hands of separatists from that date were areas under "DPR" and "LPR" control and remained under the effective control of the Russian Federation (see *Ukraine and the Netherlands v. Russia* (dec.) [GC], nos. 8019/16 and 2 others, § 690-95, 25 January 2023; see also the judgment in *Ukraine and the Netherlands v. Russia* [GC], nos. 8019/16 and 3 others, § 331, 9 July 2025). A chronology of the conflict in the relevant parts of eastern Ukraine can be found in paragraphs 35-63 of the above-mentioned judgment.

2. The applicants' submissions

4. The facts of the cases, as submitted by the applicants, may be summarised as follows.

5. In application no. 54680/15 the applicants alleged that their flat, situated in Donetsk, Donetsk Region, had been rendered uninhabitable owing to its destruction by shelling carried out on 7 June 2015.

6. In application no. 56648/18 the applicants complained that their house, situated in Horlivka, Donetsk Region, had sustained damage as a result of shelling carried out on 28 July 2015 and 8 May 2018.

7. In application no. 43132/19 the applicant alleged that his daughter, Valeriya Aleksandrovna Rasskazova, had suffered injuries and that his flat, located in Zolote-5, Luhansk Region, had sustained damage as a result of shelling carried out on 14 April 2019. In respect of his complaint the applicant relied on a medical certificate and a witness statement.

8. In application no. 29721/20 the applicants complained that their house, situated in Donetsk, Donetsk Region, had been damaged as a result of shelling carried out on 18 February 2016 and 5 December 2020.

9. The applicants in all applications alleged that the shelling giving rise to their complaints had been carried out by the Ukrainian Armed Forces ("UAF"). In order to prove their ownership of the properties mentioned above, the applicants provided the Court with a number of documents such as purchase agreements, extracts from the register of property rights, technical passports for residential buildings and inheritance certificates.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Domestic law and practice

1. Domestic law

10. The relevant provisions of the Criminal Code of Ukraine of 2001, amended between 2013-2024 read as follows:

Article 12. Classification of criminal offenses

"...

6. A particularly serious crime is an act (action or inaction) defined by this Code for which the primary punishment prescribed is a fine which exceeds 25,000 times the non-taxable minimum citizens' income, imprisonment for a term exceeding ten years, or life imprisonment."...

Article 49. Release from criminal liability owing to expiry of the statute of limitations

"1. An individual is released from criminal liability if the following periods have elapsed from the date on which the criminal offense was committed to the date the court verdict becomes final:

...

5) fifteen years – in the case of the commission of a particularly grave crime."

...

5. Statutory limitations shall not apply in cases of crimes against the foundations of national security of Ukraine as specified in Articles 109 to 114-2, torture as specified in part three of Article 127, and criminal offenses against peace, human security or the international legal order as specified in Articles 437 to 439, 442, and 442-1 of this Code."...

Article 258. Terrorist act

"1. A terrorist act, ... shall be punishable by imprisonment for a term of five to ten years, with or without confiscation of property.

2. The same actions, committed repeatedly, by prior agreement by a group of persons, or resulting in significant property damage or other serious consequences, shall be punishable by imprisonment for a term of seven to twelve years, with or without confiscation of property.

3. Actions described in parts one or two of this Article that result in the death of a person shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment, with or without confiscation of property."...

Article 438. War crimes

"1. The cruel treatment of prisoners of war or civilians, forced displacement of civilians for compulsory labour, plundering of national assets in occupied territory, the use of methods of warfare prohibited by international law, other violations of the laws and customs of war as defined by international treaties ratified by the Verkhovna Rada of Ukraine, as well as the giving of orders that such actions be carried out, shall be punishable by imprisonment for a term of eight to twelve years.

2. The same actions, if they involve the intentional killing of a person, shall be punishable by imprisonment for a term of ten to fifteen years or life imprisonment."

11. The relevant provisions of the new Code of Criminal Procedure of Ukraine, which came into force on 19 November 2012, insofar as they concern regular criminal proceedings (initiation, termination, appeal etc.) have been summarised in the case of *Adnaralov v. Ukraine* (no. 10493/12, § 34, 27 November 2014).

Concerning generally the issue of the parties' representation before criminal courts, the Code mentions in Articles 55-56 that the victim may have an authorised representative in order to have his/her rights protected; such possibility may be waived at any stage of criminal proceedings.

Concerning particular provisions relating to "special pre-trial investigation" or to criminal proceedings involving persons located in the "temporarily occupied territory of Ukraine", the relevant provisions read as follows:

Article 135. Procedure for issuing summonses in criminal proceedings

"...

8. A summons for a person for whom there are sufficient grounds to believe they have departed to and/or are located in the temporarily occupied territory of Ukraine or in the territory of a state recognized by the Verkhovna Rada of Ukraine as an aggressor state, in cases where it can be reasonably considered impossible to serve such a summons in accordance with parts one, two, and four through seven of this Article, shall be published in mass media with nationwide distribution and on the official website of the Office of the Prosecutor General.

A person specified in the first paragraph of this part is considered to have been duly notified of the summons from the moment the summons is published in mass media with nationwide distribution and on the official website of the Office of the Prosecutor General.

..."

Article 139. Consequences of failure to appear on summons

"...

5. The evasion of a summons issued by an investigator or prosecutor, or of a court summons issued by a pre-trial judge or court (failure to appear without valid reason more than twice) by a suspect or accused individual who has been declared internationally wanted and/or who has departed to and/or is located in the temporarily occupied territory of Ukraine, or in the territory of a state recognized by the Verkhovna Rada of Ukraine as an aggressor state, shall serve as grounds for conducting a special pre-trial investigation or special judicial proceedings."...

Article 297-1. General provisions of special pre-trial investigation

"1. A special pre-trial investigation (in absentia) is conducted with respect to one or more suspects in accordance with the general rules on pre-trial investigations established by this Code, taking into account the provisions of this Chapter.

2. A special pre-trial investigation is conducted on the basis of a ruling by a pre-trial judge ..., concerning a suspect, ..., who is evading the investigative and judicial authorities by hiding in the temporarily occupied territory of Ukraine or in the territory of a state recognized by the Verkhovna Rada of Ukraine as an aggressor state, with the

purpose of evading criminal responsibility, and/or has been declared internationally wanted."...

Article 297-5. Procedure for serving procedural documents on a suspect during a special pre-trial investigation

"1. Summonses for a suspect in a case [which is the object of] a special pre-trial investigation are sent to their last known place of residence or stay and must be published in mass media with nationwide distribution and on the official website of the Office of the Prosecutor General. From the moment the summons is published in mass media with nationwide distribution and on the official website of the Office of the Prosecutor General, the suspect is considered to be duly informed of its content."

12. The relevant provision of the Law of Ukraine "On the Protection of the Rights of Ukrainian Citizens and the Legal Regime of the Temporarily Occupied Territory" of 2014, applicable at the relevant time (up to 2022), read as follows:

Article 12

"2. Jurisdiction over criminal offenses committed in the temporarily occupied territory shall be determined by the Office of the Prosecutor General of Ukraine. Materials of pre-trial investigations concerning crimes that are at the stage of pre-trial investigation must be transferred to the pre-trial investigation bodies designated by the Office of the Prosecutor General of Ukraine.

3. The failure by a suspect or accused person, who is located in the temporarily occupied territory of Ukraine, to appear upon summons issued by an investigator or prosecutor, or upon court summons issued by a pre-trial judge or court (failure to appear without valid reasons more than twice), and the declaration of such person as wanted, shall be grounds for conducting a special pre-trial investigation or special court proceedings in the manner prescribed by the Code of Criminal Procedure of Ukraine, with the peculiarities established by this Law.

..."

13. The relevant provision of the Law of Ukraine "On the Administration of Justice and Criminal Proceedings in Connection with the Conduct of the Anti-Terrorist Operation" of 2014 and amended in 2015 reads as follows:

Article 5. Conducting special pre-trial investigations and special court proceedings concerning persons located in the area of the anti-terrorist operation

"1. The failure of a suspect or accused person located in the area of the anti-terrorist operation to appear in response to a summons issued by an investigator or prosecutor, or a court summons issued by a pre-trial judge (failure to appear without a valid reason more than twice), and his or her being declared wanted constitutes grounds for conducting a special pre-trial investigation or special court proceedings in accordance with the procedure prescribed by the Code of Criminal Procedure of Ukraine, with the specifics provided for in this Law.

The requirement to declare that such are wanted on an inter-state or international level does not apply when deciding the issue of applying special criminal proceedings to them."

14. On 26 May 2017 the Prosecutor General of Ukraine issued Order no. 157 setting up the division (as of 2019, the department) of the Prosecutor General's Office of Ukraine for the investigation of all crimes committed in temporarily occupied territories, authorised to carry out investigations in those areas.

15. According to Articles 1, 13 and 14 of the 2011 Law of Ukraine "On Free Legal Aid", Ukrainian citizens who, *inter alia*, reside in temporarily occupied territories are entitled to free legal services in relation to complaints concerning generally rights, freedoms, or interests of individuals (including compensation for damages caused by restrictions on the exercise of property rights on real estate or its destruction or damage) due to the armed aggression of the Russian Federation and the temporary occupation of Ukrainian territory.

2. Domestic practice

16. The Court considers the following publicly available information[1] pertaining to the judicial decisions and resolutions of a number of Ukrainian courts to be relevant for its examination of the present case:

- A ruling of the-then Zhovtnevyi District Court of Dnipropetrovsk of 14 August 2023 underlined the difficulties, caused by the temporary occupation of parts of the Donetsk Region, in carrying out essential investigative actions. The investigative actions in question included inspections of the crime scenes (the locations of artillery- and mortar-shell launches and rocket salvos); questioning of witnesses and victims who resided in the temporarily occupied territory of the Donetsk Region and who could testify about the illegal actions of the Russian occupation forces; and other investigative actions aimed at identifying individuals involved in committing the criminal offence;

- The resolution of the Ukrainian Supreme Court of 10 September 2021 upheld the criminal conviction and imprisonment sentences of members of Ukrainian military forces for acts perpetrated in the conflict zone, such as kidnappings, unlawful detentions, torture and sexual violence, committed between December 2014 and May 2015 against civilians (from the government-controlled and non-government-controlled areas) and other servicemen. The case concerned criminal proceedings initiated by the Main Military Prosecution Office of the Prosecutor General's Office of Ukraine (before the dedicated division was established, see paragraph 14 above) against twelve members of "Tornado" battalion, a Ukrainian special police forces unit, which in 2014-2015 had been stationed in the conflict zone across the government-controlled areas of Luhansk region (Lysychansk, Pryvillia,

[1] The information was taken from the Unified State Register of Court Decisions portal, which provides access to domestic case-law: https://reyestr.court.gov.ua/Review, last accessed in September 2025.

Stanytsia Luhanska). While prosecutors did not qualify their actions as terrorist acts or war crimes, the members of the Ukrainian military forces were convicted on 7 April 2017 by the Obolonskyy District Court of Kyiv of multiple criminal offences; the conviction was upheld on appeal and subsequently by the Supreme Court;

- The resolution of the Ukrainian Supreme Court of 6 February 2020 upheld the criminal conviction and imprisonment sentences of two members of Ukrainian military forces for acts perpetrated in the conflict zone, such as kidnappings and beatings, committed in May 2015 against two civilians from Sartana village near Mariupol. While the defendants claimed that they had acted upon the orders of their commanders and had searched for separatists or civilians who sympathised with them, they were still convicted on 6 June 2017 by the Donetsk Regional Court of Appeal; the conviction was upheld by the Supreme Court;

- The resolution of the Ukrainian Supreme Court of 5 February 2019 reversed the criminal conviction of three members of Ukrainian military forces for acts perpetrated in the conflict zone (Niu-York town, previously Novhorodske), such as kidnapping a Ukrainian police officer, stealing his car and his attempted murder on 9 December 2015 in conjunction with threatening civilians with weapons and disturbing peace in the town. Their conviction was reversed for several procedural shortcomings (for instance lack of evidence into the defendants' intent of murder), the case being pending before the first instance.

B. Relevant international material

1. Reports of the United Nations (UN) Human Rights Monitoring Mission in Ukraine

17. In March 2014 the United Nations (UN) Human Rights Monitoring Mission in Ukraine ("HRMMU") was deployed to monitor and publicly report on the human rights situation in the country. Some of its reports, summarised in paragraphs 137-1060 of Annex A to the admissibility decision in the above-mentioned inter-State case and relied on by the Court in its examination of the admissibility and merits of that case (see the judgment in *Ukraine and the Netherlands v. Russia*, cited above, § 189) indicated that there were limitations on access to the territories controlled by the separatist armed groups, which hindered the collection of evidence, access to crime scenes and the ability to question witnesses. Its reports however also note that the Ukrainian authorities had nevertheless initiated criminal proceedings and investigated human rights violations in those regions which had allegedly been perpetrated both by "DPR/LPR" armed groups and by members of the UAF. Notwithstanding the relocation of Ukrainian law enforcement authorities from territories controlled by the "DPR/LPR", the Ministry of Internal Affairs and the Security Service of Ukraine had instituted criminal

proceedings concerning cases of indiscriminate shelling, killings and other abuses committed during the conflict.

In certain instances, when the alleged perpetrator of the human rights violation was presumably located in territories beyond the control of the Government, the Ukrainian courts held trials *in absentia*, resulting in convictions. The proceedings aimed to investigate not only alleged perpetrators among pro-Russian and/or Russian troops, but also those within the ranks of Ukraine's own military forces.

2. International Criminal Court

18. Similar elements as those listed above were mentioned also in the Report on Preliminary Examination Activities 2019 by the Office of the Prosecutor of the International Criminal Court (hereinafter "the ICC"; indicated in §§ 79-81 of Annex A to the above-mentioned decision in the inter-State case), which noted that relevant Ukrainian authorities had carried out a number of criminal proceedings against both members of Ukrainian Government Forces and members of the armed anti-government entities, including in relation to instances of shelling and other alleged crimes related to the conduct of hostilities.

COMPLAINTS

19. In respect of the alleged events outlined in paragraphs 3-9 above, the applicants raised various complaints under Articles 2, 3, 6, 8, 13 and 14 of the Convention, and under Article 1 of Protocol No. 1 and Article 1 of Protocol No. 12 to the Convention.

20. The applicants in all the cases alleged that military operations carried out by the UAF had placed their lives in significant danger, in violation of Article 2 of the Convention. Under the same provision, the applicant in application no. 43132/19 complained of the injury caused to his daughter as a result of shelling. Additionally, all the applicants alleged a violation of the procedural obligation under Article 2 of the Convention, arguing that the respondent Government had failed to investigate the shelling and the ensuing human rights violations in the region.

21. Relying on Article 3 of the Convention the applicants complained that the harsh living conditions in the conflict zone amounted to inhuman and degrading treatment.

22. Under Article 6 of the Convention the applicants complained that their access to justice had been restricted owing to military activity, difficulties in crossing borders and their fear of the Ukrainian law enforcement authorities. They claimed that Ukrainian courts no longer functioned in the conflict areas and that they had thus been prevented from having recourse to legal avenues.

23. Relying on Article 8 of the Convention the applicants contended that the failure of the respondent Government to evacuate civilians from the

Donetsk and Luhansk regions amounted to a breach of their right to respect for their private and family lives. Additionally, they also complained of an interference with their right to respect for their homes owing to the destruction of their property.

24. Under Article 1 of the Protocol No. 1 to the Convention the applicants complained about damage caused to and/or the destruction of their properties by the UAF.

25. With reference to Article 13 of the Convention the applicants claimed that the Ukrainian authorities had failed to conduct effective investigations into human rights violations in the conflict zones in the Donetsk and Luhansk regions. They also complained of an absence of effective remedies or accountability for the harm they had suffered.

26. Finally, the applicants in applications nos. 54680/15 and 29721/20 also relied on Article 14 of the Convention in conjunction with Article 1 of Protocol No. 12 to the Convention, claiming that restrictions on their movement (in particular, limitations due to inherent dangers within the conflict zone as well as inability to access judicial facilities outside that zone) were discriminatory against them *vis-à-vis* the residents of other regions.

THE LAW

A. Joinder of the applications

27. Having regard to their similar factual and legal background, the Court finds it appropriate to examine the applications jointly in a single decision pursuant to Rule 42 § 1 of the Rules of Court.

B. General principles concerning the exhaustion of domestic effective remedies

28. The Court reiterates at the outset that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights. The Court is concerned with the supervision of the implementation by Contracting States of their obligations under the Convention. It should not take on the role of Contracting States, whose responsibility it is in the first place to ensure that the fundamental rights and freedoms enshrined therein are respected and protected on a domestic level The requirement to exhaust domestic remedies is an indispensable part of the functioning of this system of protection (see, among other authorities, *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 69, 25 March 2014; and *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 138, 27 November 2023).

29. The Court also reiterates that States are dispensed from answering before an international body for their acts before they have had an opportunity to put matters right through their own legal system, and those who wish to invoke the supervisory jurisdiction of the Court as concerns complaints against a State are thus obliged first to use the remedies provided by the national legal system. The rule of exhaustion of domestic remedies is based on the assumption – reflected in Article 13 of the Convention, with which it has close affinity – that there is an effective domestic remedy available in respect of alleged violations (see *Akdıvar and Others v. Turkey*, 16 September 1996, § 65, *Reports of Judgments and Decisions* 1996-IV; and *Vučković*, cited above, §§ 69-70).

30. Furthermore, the applicants' compliance with the rule of exhaustion of domestic remedies allows the Court the benefit of the factual and legal findings and assessments of the national courts (see *Duarte Agostinho and Others v. Portugal* (dec.) [GC], no. 39371/20, §226, 9 April 2024). Indeed, the Court's role is not to be a tribunal of first instance and it does not have the capacity, nor is it appropriate to its function as an international court, to adjudicate on large numbers of cases which require the finding of basic facts or the calculation of monetary compensation – both of which should, as a matter of principle and effective practice, be the domain of domestic jurisdictions (see *Demopoulos and Others v. Turkey*, cited above, § 69). In a context such as the present, the Court is not able to judge the probative value of documents or to adjudicate on complaints which would require it to assess and make findings of primary facts relating to the ownership of property or the existence and extent of the damage caused to it (see, *mutatis mutandis*, *Dzhioyeva and Others v. Georgia* (dec.), nos. 24964/09 and 2 others, § 36, 20 November 2018).

31. Crucially, the existence of mere doubts as to the effectiveness of the remedies is not a valid reason not to exhaust them (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 142). Such doubts do not absolve applicants from the obligation to try a domestic remedy, particularly in a context in which the effectiveness of the remedy has not yet or has only rarely been tested before the domestic courts and in which the Court has considered that applicants had to exhaust remedies which were accessible and offered reasonable prospects of success (ibid., and *Sevdari v. Albania*, no. 40662/19, § 107, 13 December 2022).

32. In what concerns in particular complaints relating to the destruction of property by security or armed forces and the causing of injuries to or the killing of individuals, a positive obligation lies on the State to investigate such incidents; in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of identifying and punishing those responsible for such breaches is required in order to provide an effective remedy (see, *mutatis mutandis*, *Selçuk and Asker v. Turkey*, 24 April 1998, § 96, *Reports* 1998-II; *İpek v. Turkey*, no. 25760/94, §§ 199, ECHR 2004-II

(extracts); *Doğan and Others v. Turkey*, nos. 8803/02 and 14 others, § 106, ECHR 2004-VI (extracts); and *Esmukhambetov and Others v. Russia*, no. 23445/03, §§ 159 and 163, 29 March 2011). If a civil claim were to be regarded as a legal action to be exhausted in respect of a violation as a result of State agents' actions, the State's obligation to pursue those guilty of such serious breaches might be superseded thereby (see *Khamzayev and Others v. Russia*, no. 1503/02, §§ 153-54, 3 May 2011, and *Kerimova and Others v. Russia*, nos. 17170/04 and 5 others, § 217, 3 May 2011).

C. Application of the above principles to the present case

33. The Court notes that none of the applicants in the present case brought any of their grievances before the domestic authorities of the respondent State. In order to justify that failure, the applicants submitted that a number of special circumstances had dispensed them from the obligation to exhaust the domestic remedies.

34. Firstly, the applicants referred to the general lack of access to Ukrainian authorities, in view of the impossibility or great complexity and danger (due *inter alia* to constant shelling) of travelling from territory controlled by the "DPR/LPR" to Ukrainian-controlled territory; lack of funds to travel to those territories; absence of postal services in the non-government-controlled areas; the non-operation of Ukrainian courts in the Donetsk and Luhansk regions because of their relocation; a fear of Ukrainian "right-wing radical groups" and fear of apprehension and/or threats to safety and life by Ukrainian special services authorities.

35. Secondly, the applicants referred to the general ineffectiveness of domestic remedies, and to the "senselessness" of resorting to Ukrainian authorities considering Ukraine's involvement in the armed conflict and its failure to investigate human rights violations in the conflict zone.

1. Availability of remedies

36. In connection to the first set of arguments, the Court has already found that borders, factual or legal, are not an obstacle *per se* to the exhaustion of domestic remedies; as a general rule applicants living outside the jurisdiction of a Contracting State are not exempted from exhausting domestic remedies within that State, practical inconveniences or understandable personal reluctance notwithstanding (see, *mutatis mutandis*, *Demopoulos and Others*, cited above, § 98). The Court therefore considers that, notwithstanding the practical inconveniences or their personal reluctance, applicants' residence on territory that is beyond the *de facto* control of a contracting State does not exempt them from exhausting domestic remedies within that State.

37. Moreover, despite the applicants' claims that it had been impossible for them to travel to the territory controlled by Ukraine, according to the documents in the case files some of them have either obtained or extended

the validity of their Ukrainian national passports in Ukrainian-controlled territories at the relevant time. For example, the second applicant in application no. 54680/15 did so on 14 January 2015 in the city of Krasnoarmiysk (currently the city of Pokrovsk); the first and third applicants in application no. 56648/18 on 23 April 2015 and 5 May 2015 in the city of Artemivsk (currently the city of Bakhmut); and the first and third applicants in application no. 29721/20 obtained and/or extended the validity of their passports on 19 August and 16 December 2016 in the city of Mariupol. The Court notes that obtaining or extending the validity of their Ukrainian passports would have normally necessitated the applicants' travelling to, and their physical presence in the areas controlled by the Ukrainian Government where the relevant authorities and establishments are based and operate; indeed the applicants have not submitted anything to the contrary. In the opinion of the Court, this evidence casts doubt on the credibility of the applicants' allegation that it had not been possible for them to travel to the areas under the control of the respondent Government, both when they had obtained or extended the validity of their passports or later.

38. In that connection, the Court notes that the ability, in principle, of residents of the temporarily occupied territory of Ukraine to travel to the territories controlled by Ukraine was already confirmed by the Court, albeit in the circumstances of that case, in the case of *Tsezar and Others v. Ukraine* (nos. 73590/14 and 6 others, § 54, 13 February 2018).

39. Assuming that their failure to initiate criminal proceedings into incidents such as those complained of could to a certain extent be attributed to travel restrictions within and related to a conflict-affected region of the respondent State, the Court does not find convincing the applicants' arguments concerning their alleged difficulties in communicating with the Ukrainian authorities, in particular with regard to their complaints. Indeed, according to the relevant domestic law (see paragraph 11 above), the applicants were equally entitled to instruct representatives of their choices to lodge a case on their behalf. However, the applicants did not explain or otherwise argue whether they had made any attempt to authorise a representative acting within the Ukrainian-controlled territory, theoretically better placed to communicate with the Ukrainian authorities, to file claims on their behalf and if so why they were not, ultimately, successful in doing so. The Court notes that the applicants' interests in the present case were consistently represented by legal professionals from the Klishin and Partners law firm based in Moscow (compare *Shavlokhova v. Georgia* (dec.) [Committee] no. 4800/10, § 22, 18 September 2018). Given the applicants' ability to instruct lawyers in a foreign country, and in so far as the applicants have not argued that the same law firm or another legal representative, national or foreign, would not have had access to the Ukrainian authorities, they cannot reasonably argue that the domestic remedies in Ukraine were

physically inaccessible to them (see *Pad and Others v. Turkey* (dec.), no. 60167/00, § 69, 28 June 2007).

40. In their attempts to justify their omission to initiate criminal proceedings before the domestic authorities, the applicants also highlighted their financial difficulties in having to access the domestic authorities of the respondent State (see paragraph 34 above). However, the Court notes that the applicants did not provide any evidence to show that they had made any efforts to seek free legal aid, available to them according to the domestic law (see paragraph 15 above; and *Van Oosterwijck v. Belgium*, 6 November 1980, § 38, Series A no. 40).

41. As regards the applicants' allegation that the Ukrainian judicial apparatus did not operate in the temporarily occupied territories, the Court has already acknowledged that State authorities might sometimes experience certain difficulties in ensuring the proper functioning of the judicial system in certain regions in view of ongoing hostilities in those regions. However, it has also already found that the Ukrainian Government had made its judicial system accessible to the residents of territories outside of its control through the relocation of the judicial bodies (for the Donetsk Region see *Tsezar and Others*, cited above, §§ 53-55; for the Luhansk Region see *Chirok and Others v. Ukraine* (dec.)[Committee], nos. 3309/15 and 9 others, §§ 24-27, 13 November 2018). Moreover, in a number of previous cases the Court held that applicants residing in the territories temporarily outside the respondent Government's control had been able successfully to avail themselves of the judicial remedies provided by courts that had been relocated from those territories (see *Kandyba and Others v. Ukraine* (dec.), no. 33137/16, § 54, 13 October 2020).

42. Therefore, while being conscious of the context in which the case arose and reiterating that it would be artificial to examine the facts of the case without considering that general context (see, *mutatis mutandis*, *Khlebik v. Ukraine*, no. 2945/16, § 71, 25 July 2017), the Court considers that in the absence of any evidence in support of the applicants' allegations that would distinguish the present case from the cases mentioned above (see paragraph 41), it sees no reason to depart from its previous findings. It therefore concludes that the applicants' complaints as raised in the present case could have been considered by the courts located on the territory controlled by the respondent Government, if lodged via available remedies at the applicants' disposal.

2. Effectiveness of the available remedies

43. Turning to the applicants' arguments to justify their failure to avail themselves of the domestic remedies provided by the respondent State, the material at the Court's disposal (see paragraphs 16 – 18 above) illustrates that the general arguments regarding the alleged inaccessibility, "senselessness" and ineffectiveness of those remedies do not accurately and fully reflect the

actual functioning of Ukraine's law enforcement system with respect to the events in the conflict zone.

44. In that respect, the Court notes that the Government of Ukraine amended and adopted laws and by-laws regulating the investigatory activities of their law enforcement agencies with a view to empowering those agencies to conduct investigations in areas outside the effective control of the Ukrainian authorities (see paragraphs 11-13 above). Ukrainian law enforcement agencies, at the material time, also established specialised units, within the Prosecutor General's Office of Ukraine, to investigate criminal offences committed in the temporarily occupied territories of Ukraine, which were authorised to carry out investigations in those areas (see paragraph 14 above).

45. The Court also deems it important to highlight in that connection that according to the HRMMU's reports and also the 2019 report by the Office of the Prosecutor with the ICC, which are summarised in paragraphs 79-81 and 137-1060 of the above-mentioned Annex A (see paragraphs 17 and 18 above), the Ukrainian relevant authorities instituted criminal proceedings against both members of Ukrainian Government Forces and members of the armed anti-government entities, concerning cases of indiscriminate shelling, killings and other abuses committed during the conflict; certain trials which ended with convictions were held by the Ukrainian courts *in absentia*, where the alleged perpetrator of the human rights violation was presumably located in territories beyond the control of the respondent Government.

46. Furthermore, in the examination of the above-mentioned inter-State case the Court itself assessed the considerable evidence emanating from the Ukrainian investigatory authorities and obtained by those authorities through their criminal investigations into events in the temporarily occupied territories. Such evidence included material (physical) evidence; inspection records; records of the questioning of suspects/victims/witnesses; criminal reports; reports of reconstructions; police reports; extracts from the Register of Criminal Investigations; notifications of suspicion (charges); recordings of intercepted communications; phonoscopic examinations of intercepted communications between "DPR/LPR" separatists and Russian officials; expert reports; rulings and judgments of Ukrainian courts; and satellite images (see §§ 1263-1495 of Annex A; see also §§ 2834-2847 and §§ 3145-3158 of Annex B to the above-mentioned judgment of 9 July 2025 in *Ukraine and the Netherlands v. Russia*).

47. The Court notes that the Ukrainian authorities themselves have conceded that, owing to the ongoing partial occupation of the conflict zone, access to that territory is limited, which undermines the effectiveness of investigatory activities (see paragraph 16 above). Their task is further complicated by the fact, as established by the Court in its judgment in the above-mentioned inter-State case and on the basis of evidence demonstrating beyond reasonable doubt, that there were "indiscriminate and

disproportionate military attacks and also attacks directed at residential areas and civilian infrastructure" in the area in question at the relevant time (see *Ukraine and the Netherlands v. Russia*, cited above, §§ 760).

48. The Court is also mindful of the fact that, given their novelty, seriousness, unpredictability and uncertainty, the events in the conflict zone in eastern Ukraine presented a number of challenges, including of an evidentiary nature, for those living in the temporarily occupied territories. As the Court has previously acknowledged, where human rights violations to be investigated occur in circumstances of generalised violence, armed conflict or insurgency, obstacles may be placed in the way of investigators and concrete constraints may compel the use of less effective measures of investigation or may cause an investigation to be delayed (see, *mutatis mutandis*, *Hanan v. Germany* [GC], no. 4871/16, § 204, 16 February 2021).

49. However, as may be seen from the case-law of the Ukrainian courts (see paragraph 16 above), in the circumstances the Ukrainian investigatory authorities continued their activities and undertook procedural actions with a view to overcoming the obstacles stemming from the limited access to the conflict zone. Such procedural actions taken by the investigators included, ***inter alia***, inspections of crime scenes, questioning of witnesses and victims residing in the temporarily occupied territory of the Donetsk Region, which were crucial in identifying those responsible for the illegal actions of the Russian occupation forces, as well as petitioning the national courts to seek extensions of the length of the pre-trial criminal investigation stage in order to continue pre-trial investigatory activity in situations where investigations were protracted by the impossibility of examining the crime scene. Thus, despite the limitations and impediments caused by the occupation of the areas in question, the investigative authorities of Ukraine continued to carry out investigations into alleged human rights violations in the temporarily occupied territories, thereby avoiding the creation of an atmosphere of impunity for crimes committed in the conflict zone (see, by contrast, *Uğur v. Turkey*, no. 37308/05, §§ 98 and 101, 13 January 2015).

50. The Court should also reiterate at this juncture that the obligation to carry out effective investigations does not oblige the authorities to achieve a specific result, but rather to undertake all reasonable measures available to them. The lack of conclusions of any given investigation does not, in itself, mean that it was ineffective: an obligation to investigate "is not an obligation of result, but of means" (see *Mikheyev v. Russia*, no. 77617/01, § 107, 26 January 2006).

51. Importantly, the incidents of alleged shelling complained of by the applicants in the present case could still potentially be investigated by the domestic law enforcement authorities under Ukrainian legislation, once and if seized with the relevant facts, in so far as according to the relevant domestic law, there is no statute of limitations for war crimes and for other crimes listed under Article 49 point 5 of the Criminal Code of Ukraine (see paragraph 10

above and the relevant domestic practice outlined in paragraph 16 above). In any event, there is nothing to suggest, and the applicants have not argued, that any investigations into events such as those complained of in the present case would be time-barred.

52. Against this background, the Court, not being a tribunal of fact, cannot, without appropriate assistance on the part of the applicants, establish a factual account of complex events, such as situations of armed conflict (see *Naniyeva and Bagayev v. Georgia* (dec.), nos. 2256/09 and 2260/09, § 39, 20 November 2018). Such assistance may manifest itself in applicants' actions, including the initiation of and active participation in domestic investigations of the relevant incidents. It is precisely why the requirement that the applicants address their complaints firstly to the domestic authorities of the respondent State takes on a particular importance (see also paragraph 30 above). Indeed, as noted in paragraph 31 above, mere doubts the applicants might entertain regarding the prospects of success of such a remedy is not a valid reason for failing to exhaust that avenue of redress (see *Communauté genevoise d'action syndicale (CGAS)*, cited above, § 159). In any event, even if the applicants in the present case had any doubts about the effectiveness of the domestic proceedings, it was for them to dispel those doubts by applying to the domestic authorities (see *Fullani v. Albania* (dec.), no. 4586/18, § 70, 20 September 2022).

53. In this context, the Court notes that it has previously dismissed a number of complaints raised by applicants living in the conflict zone in the Donetsk and Luhansk regions based on their failure to exhaust remedies in Ukraine. Those applicants had complained under Article 2 of the Convention about the lowering of their living standards as a result of the armed conflict and, under Article 1 of Protocol No. 1 to the Convention, about disruptions to payments of their social benefits and salaries in view of the conflict (see *Tsezar and Others,* §§ 57-72 and 79-81, and *Chirok and Others*, [Committee], §§ 29-33 and 38-41, both cited above). The Court noted, *inter alia*, that with respect to the complaints under Article 2 of the Convention domestic remedies that were potentially effective had been available for the applicants (see ibid., § 40).

54. Against that background, the Court considers that, precisely because, in the unprecedented context of events arising during the armed conflict for the Ukrainian investigative authorities, the effectiveness of the available investigative remedies has not been previously assessed, given that such remedies have rarely been tested at the domestic level (see also paragraph 51 above), it was particularly important for the applicants in the present case to fulfil their obligation under Article 35 § 1 of the Convention to exhaust domestic remedies. That would have allowed for an evaluation of the extent of the protection purportedly offered by the State (see, *mutatis mutandis*, *Sevdari*, cited above, § 107).

55. The Court further notes that the present case is distinguishable from that of *Akdıvar and Others v. Turkey* (cited above) in which the applicants' complaints were not dismissed for failing to exhaust domestic remedies which the Court found were not necessary to have pursued, without finding them to be ineffective. In reaching its conclusion about the absence of a necessity to exhaust the existing remedies by the applicants in that case, the Court considered, among other factors, such particular circumstances as: 1) the absence of any impartial investigation by the State into the applicants' allegations that their property had been intentionally destroyed by security forces; 2) the lack of prosecutions of the members of the State security forces involved; and 3) the general reluctance of the domestic authorities to acknowledge the occurrence of such unlawful actions on the part of members of the security forces (see *Akdıvar and Others*, cited above, §§ 70-77). However, with respect to Ukraine there is no indication in the Court's relevant case-law to suggest that the above-indicated remedies (see paragraph 54 above) would be similarly illusory, inadequate and ineffective. Moreover, the Court notes that evidence has been put forward of the efforts made by the Ukrainian authorities to prosecute alleged perpetrators, not only members of pro-Russian and/or Russian troops, but also those of its own military forces, as alleged in present case (see paragraph 17 above). In the light of the foregoing, the Court finds that the applicants failed to substantiate the existence of any special circumstances which could absolve them from the obligation to exhaust the domestic remedies.

56. Having regard to the above and considering the applicants' failure to make at least some attempts to have recourse to the existing domestic remedies prior to applying to the Court, it finds that their complaints are inadmissible under Article 35 § 1 of the Convention for non-exhaustion of domestic remedies and must be rejected pursuant to Article 35 § 4 thereof.

For these reasons, the Court, unanimously,

Decides to join the applications; and

Declares the applications inadmissible.

Done in English and notified in writing on 2 October 2025.

Simeon Petrovski	Lado Chanturia
Deputy Registrar	President

APPENDIX

List of applications:

No.	Application no. Case name Introduction date	Applicant's name Place of residence (as of the date of event)	Represented by
1.	54680/15 **Ryashentseva and Others v. Ukraine** 29/10/2015	**Zhanna Sagitovna Ryashentseva** **Artur Vladimirovich Gordeyev** **Oleg Aleksandrovich Ryashentsev** Flat 62, 1A Kolhospnyi Av., Donetsk, Donetsk Region	Andrey Alekseyevich Shugayev (Klishin and Partners law firm)
2.	56648/18 **Yushkov and Others v. Ukraine** 16/11/2018	**Anatoliy Vladimirovich Yushkov** **Oleg Yuryevich Bulatov** **Lyudmila Anatolyevna Bulatova** 75 & 75A Karbysheva str., Zaitseve, Horlivka, Donetsk Region	Dmitriy Sergeyevich Shmerkin (Klishin and Partners law firm)
3.	43132/19 **Rasskazov v. Ukraine** 02/08/2019	**Aleksandr Vladimirovich Rasskazov** Flat 2, 10 L. Chaykinoy str., Zolote-5, Luhansk Region	Mariya Anatolyevna Khokhlova (Klishin and Partners law firm)
4.	29721/20 **Golovashchenko and Others v. Ukraine** 25/06/2020	**Andrey Nikolayevich Golovashchenko** **Maksim Andreyevich Golovashchenko** **Nadezhda Valeryevna Golovashchenko** **Tatyana Aleksanrovna Tasenko** Flat 3 (Petrovskyi district), 1 Bokiia str., Donetsk, Donetsk Region	Dmitriy Alekseyevich Palubin (Klishin and Partners law firm)