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

FIFTH SECTION

DECISION

Application no. 59238/19
Nataliya TARASOVA
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 26 March 2026 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. 59238/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 5 November 2019 by an Estonian national, Ms Nataliya Tarasova, who was born in 1963 and lives in Tallinn ("the applicant") and was represented by Mr P. Bogomazov, a lawyer practising in Kyiv;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicant, who owned a half of a flat in Ukraine, complained under Article 1 of Protocol No. 1 to the Convention that she had not been duly notified of the other co-owner's intention to sell her share and had not therefore been able to enjoy her priority right to purchase it.

2. In October 2012, following an inheritance-related dispute, the applicant became owner of a half of a flat in Vasylkiv. In September 2013 the other co-owner, V., transmitted to a private notary a statement about her intention to sell her share for 120,000 Ukrainian hryvnias (UAH). As stated therein, the statement was to be sent to the applicant in compliance with Article 362 of the Civil Code of Ukraine (providing that if a share of joint property was to be sold, a co-owner had the right of pre-emption). The applicant was requested to inform the notary, within one month from the date of the receipt

of that statement, whether she wished to acquire the property in question for the indicated price or whether she waived her right of pre-emption.

3. On 16 September and 13 November 2013 the notary sent two letters by registered post to Estonia informing the applicant about the future sale. In the absence of any reply (and, apparently, without having received any conclusive postal tracking documents), on 29 November 2013 the notary sent a written enquiry to the post office. According to the latter's reply of 10 December 2013, the correspondence was being kept at the local post office in Estonia and "the addressee had been informed about the necessity to pick it up".

4. On 24 January 2014 V. sold her part of the apartment to a certain M.

5. On 29 July 2016 the applicant initiated civil proceedings seeking invalidation of the sale contract and recognition of her priority right to buy the part of the apartment. She argued that she had never been notified about V.'s intention to sell her share and that, accordingly, the notary had not had legal grounds to certify the impugned contract. According to the applicant, she had found out about the sale in May 2016.

6. On 30 July 2018 the Vasylkiv City Court allowed the applicant's claim. It noted that the notary had sent her correspondence to the address of the applicant's son and that there was no evidence proving that the applicant had received it. Accordingly, it was concluded that the notary had not complied with her duty to ensure that the applicant had been duly notified of the intended sale. Nor had the applicant waived her pre-emptive right of purchase. The court therefore invalidated the sale contract of 24 January 2014, transferred the buyer's rights and duties stipulated therein onto the applicant and ordered her to reimburse UAH 120,000 to M.

7. M. appealed. He argued that both V. and the notary had done everything possible to notify the applicant of the previewed sale. Furthermore, M. referred to the exchange of emails between his lawyer and the applicant on 26 January 2014, from which it was obvious that the applicant was aware of the sale of 24 January 2014. In addition, M. noted that the case file contained the decision of the Bila Tserkva City Court of 12 August 2014 and the ruling of the Kyiv Regional Court of Appeal of 1 October 2014 delivered within a different set of proceedings, following a civil claim lodged by the applicant against V. for recovery of maintenance expenses in respect of property in common ownership. Referring to the fact that those judicial decisions explicitly mentioned the sale of 24 January 2014, M. contended that the applicant could not have argued that she had been unaware of it until May 2016. M. also submitted that the amount, which the applicant was to reimburse him under the first-instance court's decision, no longer corresponded to the market value of the real estate he had purchased.

8. On 21 December 2018 the Kyiv Court of Appeal quashed the decision of the Vasylkiv Court of 30 July 2018 and delivered a new one, by which it rejected the applicant's claim. The appellate court noted that, pursuant to

the Procedure for Performing Notarial Acts by Notaries of Ukraine (approved by Order of the Ministry of Justice of Ukraine No. 296/5 of 22 February 2012), if a notary had information that a co-owner of common property refused to receive the seller's notification of the intended sale of the latter's share, that was considered as the co-owner's waiver of his/her pre-emptive right of purchase, after which there were no longer any legal obstacles for selling the property share in question to a different person. It was therefore concluded that the notary had had all the grounds for certifying the impugned sale contract of 24 January 2014 after the post office had confirmed that the applicant had been notified of the correspondence addressed to her but had failed to pick it up. As regards the applicant's argument that the notification had been sent to a wrong address, it was noted that it had been the address indicated by her in the power of attorney signed with her lawyer on 23 February 2012 and in the claim lodged by her to the Bila Tserkva City Court on 16 April 2014. In sum, the appellate court considered that the applicant failed to show that the impugned sale contract had been concluded with any breaches of law.

9. The applicant lodged a cassation appeal. She submitted that the notary should have applied to Estonian authorities for legal aid with a view to establishing the applicant's correct address, and that only the address indicated by the competent authorities could be considered as valid. In other words, the applicant maintained that the notary had wrongly used the address earlier indicated by the applicant herself. The applicant further observed that she had submitted to the appellate court documents confirming that, at the relevant time, she was renting an apartment at a different address than the one used by the notary. Also, she submitted that only a note by the postal service at the back of the registered correspondence that the addressee had refused from receiving it was to be considered as valid evidence of such refusal. She therefore argued that the letter from the post office to the notary stating that the applicant had been notified of the correspondence but had failed to pick it up was of little evidential value.

10. On 29 May 2019 the Supreme Court, sitting as a five-judge panel of the Cassation Civil Court, upheld the appellate court's ruling. It considered that the sale contract of 24 January 2014 had been concluded in compliance with the applicable legal rules and that there was no indication of any bad faith in respect of the applicant. One of the judges wrote a dissenting opinion, in which she upheld the applicant's argument that only a note by the postal service at the back of the registered correspondence that the addressee had refused from receiving it was to be considered as valid evidence of such refusal, and that no such evidence was available in the applicant's case.

1. THE COURT'S ASSESSMENT

11. The applicant complained under Article 1 of Protocol No. 1 that she had been unlawfully deprived of her possessions, given that the property, which she had had a priority right to acquire, had been sold to a third person, allegedly in breach of the legally envisaged procedures, and that the domestic courts had failed to remedy that.

12. The Court reiterates that Article 1 of Protocol No. 1 does not guarantee the right to acquire property. An applicant can allege a violation of Article 1 of Protocol No. 1 only in so far as the impugned decisions related to his or her "possessions" within the meaning of this provision. "Possessions" can be either "existing possessions" or claims that are sufficiently established to be regarded as "assets", in respect of which the applicant can argue that he or she has at least a "legitimate expectation" of obtaining effective enjoyment of a property right (see *Kopecký v. Slovakia* [GC], no. 44912/98, § 35, ECHR 2004-IX, and *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 142 and 143, 20 March 2018).

13. The Court does not consider it necessary to determine whether Article 1 of Protocol No. 1 is applicable to the circumstances of the present case, since it should in any event be declared inadmissible for the following reasons.

14. The Court recalls that, even in cases involving litigation between private parties, the State has a positive obligation to take necessary measures, preventive or remedial, to protect the right to property (see *Kanevska v Ukraine*, (dec.), no. 73944/11, § 45, 17 November 2020, and the case-law references therein).

15. In the present case the applicant did not allege that the State had failed to take all the necessary preventive measures. Indeed, she did not express any criticism in respect of the applicable legislative and regulatory provisions. The crux of her application rather concerns the alleged unfairness of the outcome of the property dispute initiated by her. In other words, the applicant questioned in substance the adequacy of the remedial measures in her case.

16. The Court reiterates that its jurisdiction to verify that domestic law has been correctly interpreted and applied is limited and that it is not its function to take the place of the national courts, its role being rather to ensure that the decisions of those courts are not flawed by arbitrariness or otherwise manifestly unreasonable (see *Anheuser-Busch Inc. v. Portugal* [GC], no. 73049/01, § 83, ECHR 2007-I). The Court does not discern anything in the present case indicating that the domestic courts' conclusions and interpretation of the relevant law could be regarded as arbitrary or manifestly unreasonable. The Court also notes that the applicant had the benefit of

adversarial proceedings, and her arguments were thoroughly examined by the courts of three levels of jurisdiction.

17. It follows that the application is manifestly ill-founded and must be rejected 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 30 April 2026.

Martina Keller Deputy Registrar	Andreas Zünd President