



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

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FIFTH SECTION

Application no. 20377/20
Mykola Ivanovych ZAYTSEV
against Ukraine
lodged on 18 April 2020
communicated on 6 July 2026

SUBJECT MATTER OF THE CASE

The application concerns the demolition of the applicant's commercial property by municipal authorities and subsequent civil proceedings in which the applicant sought compensation for the destroyed property.

On 8 November 2012 the applicant's property – a shop and an extension to it – was demolished on the basis of Kharkiv City Council decision no. 679 of 7 November 2012 on urban renewal, which ordered the relevant municipal authority to remove certain “unauthorised constructions” from the city. In subsequent administrative proceedings, the Kharkiv Administrative Court of Appeal found that decision to be unlawful and annulled it in so far as it concerned the applicant's property.

In July 2015 the applicant brought civil proceedings seeking compensation for pecuniary and non-pecuniary damage caused by the demolition. A forensic expert examination was ordered. In October 2016 the expert concluded that the market value of the property as at 3 September 2015 was 3,074,354 Ukrainian hryvnias (UAH) (122,584 euros (EUR) at the time), while the material damage caused to the owner by the demolition amounted to UAH 415,852 (EUR 16,581 at the time). On 14 December 2016 the first-instance court partly allowed the applicant's claim, awarding him UAH 3,074,354 (EUR 110,263 at the time) in pecuniary damage and UAH 3,000 (EUR 108 at the time) in non-pecuniary damage, court fees and expert costs. That judgment was later quashed on appeal, and the case was remitted

for fresh examination because the proper respondent had not been involved in the proceedings.

In December 2017 the applicant brought a new claim against the Kharkiv City Council seeking compensation for the destroyed property. The proceedings were later joined with the remitted case. On 31 July 2018 the first-instance court partly allowed the applicant's claim. It awarded him UAH 3,074,735 (EUR 97,678 at the time) in pecuniary damage, UAH 20,000 (EUR 635 at the time) in non-pecuniary damage, UAH 3,600 (EUR 114 at the time) in court fees and UAH 4,620 (EUR 147 at the time) in expert costs. It dismissed the remainder of the claim, including the claim for inflation losses and 3% annual interest, finding that there had been no overdue monetary obligation between the parties.

On 26 December 2018 the Court of Appeal reduced the pecuniary compensation by more than seven times, to UAH 415,852 (EUR 13,201 at the time). It relied on the expert's assessment of the residual value of the destroyed property rather than its market value; it upheld the remainder of the first-instance judgment.

On 21 October 2019 the Supreme Court dismissed the cassation appeals and upheld the judgments of the lower courts. It held, in particular, that the applicant's arguments concerning the need to award compensation based on the market value of the destroyed property were unfounded and amounted to disagreement with the courts' assessment of evidence and factual findings.

Relying on Article 1 of Protocol No. 1, the applicant complains that the compensation awarded for the unlawful demolition of his property was inadequate, as it did not reflect the full extent of the loss sustained and was ultimately calculated on the basis of the residual value of the destroyed property rather than of its market value, thereby failing to provide adequate redress for the unlawful and irreversible deprivation of his possessions.

QUESTION TO THE PARTIES

Did the compensation awarded to the applicant provide adequate redress for the unlawful demolition of his commercial property, as required by Article 1 of Protocol No. 1, having regard to the fact that destroyed property was a functioning commercial asset which could not be restored, and that the final pecuniary award was calculated on the basis of its residual value rather than its market value?