



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

FIFTH SECTION

**CASE OF ODESKA BUTERBRODNA KOMPANIYA, TOV
v. UKRAINE**

(Application no. 59414/15)

JUDGMENT
(Just satisfaction)

STRASBOURG

15 October 2026

This judgment is final but it may be subject to editorial revision.

In the case of Odeska Buterbrodna Kompaniya, TOV v. Ukraine,

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

María Elósegui, *President*,

Gilberto Felici,

Vahe Grigoryan, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having deliberated in private on 24 September 2026,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The application concerns the invalidation of the applicant company's title to a property in court proceedings which had been instituted against it by a prosecutor on the basis that the property was an unauthorised construction built on municipal land.

2. In a judgment delivered on 12 December 2024 the Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention (see *Odeska Buterbrodna Kompaniya, TOV v. Ukraine* [Committee], no. 59414/15, § 33, 12 December 2024; “the principal judgment”). The Court took into account that (i) the applicant company was a *bona fide* acquirer and its title (as well as all previous titles) to the property in question (a café) had been duly registered (*ibid.*, § 24); (ii) the situation around the property had been brought about by the long-lasting tolerance on the part of the authorities in respect of the café or their reluctance to settle the matter (*ibid.*, §§ 27-30); and (iii) there had apparently been no possibility for the applicant company to obtain any compensation for the loss of the property concerned (*ibid.*, § 31).

3. Under Article 41 of the Convention, the applicant company sought just satisfaction comprising 20,000 euros (EUR) in respect of non-pecuniary damage and 18,000 Ukrainian hryvnias (UAH – equivalent to approximately EUR 440) in costs and expenses, corresponding to the amount due under the contract between the applicant company and its representative before the Court. The applicant company also claimed UAH 1,230,000 in respect of pecuniary damage (EUR 117,031.39, according to its calculations as of March 2012), corresponding to the amount which the founders had paid for the café.

4. In the principal judgment, the Court awarded the applicant company certain amounts in respect of non-pecuniary damage and costs and expenses (*ibid.*, §§ 36 and 38).

5. As regards pecuniary damage, since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicant company to submit, within three months, their written observations on that issue and, in particular, to

notify the Court of any agreement they might reach (ibid., § 40, and point 4 of the operative provisions).

6. The above-mentioned delay was extended on several occasions.

7. The applicant company and the Government each filed observations.

THE LAW

8. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

9. Rule 60 of the Rules of Court provides:

“Rule 60 – Claims for just satisfaction

1. An applicant who wishes to obtain an award of just satisfaction under Article 41 of the Convention in the event of the Court finding a violation of his or her Convention rights must make a specific claim to that effect.

2. The applicant must submit itemised particulars of all claims, together with any relevant supporting documents, within the time-limit fixed for the submission of the applicant’s observations on the merits unless the President of the Chamber directs otherwise.

3. If the applicant fails to comply with the requirements set out in the preceding paragraphs the Chamber may reject the claims in whole or in part. ...”

I. THE PARTIES’ OBSERVATIONS AND NEW DEVELOPMENTS

10. On 10 March 2025 the Government informed the Court that the applicant company had applied to the Supreme Court for a review of its case in the light of the Court’s findings made in the principal judgment and that the question of just satisfaction was closely related to the outcome of those proceedings.

11. On 12 March 2025 the applicant company informed the Court that it maintained its claim in respect of pecuniary damage as raised in its initial observations, that is, the value of the café as established in the sale contract of 2011 (see paragraph 3 above and paragraph 7 of the principal judgment). It also stated that that amount was based on a valuation report of 2011, apparently prepared at the time of the sale of the café, and provided a copy thereof. The applicant company submitted that such an award would be in line with the Court’s practice in respect of Article 41 awards in cases related to deprivation of property. It referred in that regard to *Papamichalopoulos and Others v. Greece* ((Article 50), 31 October 1995, Series A no. 330-B), *Scordino v. Italy (no. 1)* ([GC], no. 36813/97, ECHR 2006-V) and *Guiso-Gallisay v. Italy* ((just satisfaction) [GC], no. 58858/00, 22 December 2009).

12. The applicant company also claimed an additional amount under the head of costs and expenses. In particular, it claimed UAH 39,489 (approximately EUR 900 at the material time), which had been paid in March 2025 to Mr Leshchenko, who represented it before the Court. That amount, which had been agreed on by the applicant company and Mr Leshchenko in the legal aid agreement of 2023, constituted a portion (30%) of the Court's award ("the success fee"). The applicant company asked that it be paid directly to Mr Leshchenko's account.

13. On 16 October 2025 the Government informed the Court that on 8 October 2025 the applicant company's request for review of its case by the Supreme Court had been rejected. The Supreme Court had found no grounds to quash previous court judgments and had essentially agreed that the property in issue had been an unauthorised construction which could not be regularised in any way. Six judges had submitted a dissenting opinion, stating that the question of compensation for the reclaimed property could only be decided if the case were reopened.

14. The Government also provided some factual information that had, allegedly, not been known to them previously.

15. In particular, the Government informed the Court that, following the proceedings described in the principal judgment, the State registration of the applicant company's title had been invalidated by a court judgment of 11 January 2016. Further to that, on 24 May 2016 a court had also lifted the attachment on the café which had been applied pending the proceedings which were the subject of the applicant company's complaint to the Court. Allegedly making use of that opportunity, on the same day the applicant company had signed a sale agreement in respect of the café with a certain Mr U. and Mr N. The price had been set at UAH 372,000 (approximately EUR 13,000 at the time). It had apparently been agreed between the parties to the sale that the applicant company would proceed to the notarisation of that contract once it had "sorted out" the situation regarding the café. In support, the Government provided a copy of a cash receipt order for that amount in the name of the applicant company, countersigned, it appears, by its chief accountant.

16. It further appears that in July 2016 Mr U. and Mr N. instituted court proceedings to have the sale agreement declared valid, as the applicant company had failed to have it duly notarised (case no. 523/10129/16-ц). That claim was granted by a local court. In its ruling, the court found, *inter alia*, that the amount agreed on by the parties had been duly paid. On 3 October 2019 that judgment was set aside on an appeal by a prosecutor. The appellate court declared the sale agreement null and void, as, by the time of its signature, the applicant company had had no right to the property concerned. The Government alleged that the money paid had never been reclaimed by Mr U. and Mr N.

17. Furthermore, according to the Government's information, in July 2020 the premises of the café were re-registered in the name of a certain Mr I. and Ms Ye.R. (the mother of Mr Ye., one of the founders of the applicant company). The legal basis of such re-registration is unclear. By a final judgment of 9 August 2023 (case no. 523/8635/21), that re-registration was declared unlawful and annulled.

18. On the basis of those facts, the Government argued that the applicant company's claims in respect of pecuniary damage (which consisted of the amount paid for the café in 2011) had been wholly unsubstantiated. They emphasised that even after its title to the café had been invalidated, it had undertaken unlawful actions seeking to prevent its alienation and demolition. They also emphasised that the applicant company had received, and never returned, the UAH 372,000 paid by Mr U. and Mr N. and had thus not suffered any pecuniary damage.

19. Lastly, they observed that the applicant company had failed to disclose the above information to the Court. Overall, the Government asked the Court not to award the applicant company any amounts under the pecuniary damage head.

20. The applicant company submitted that it had never obtained any money from Mr U. and Mr N. In support, it provided a written statement by Mr U., who confirmed that, indeed, there had been some arrangement to sell the café, but that he had ultimately never paid any money to the applicant company. The applicant company also submitted that in 2016 it had generated no revenue, and it provided a copy of its tax declaration showing no revenue for that year. It also noted that no other financial documents could be provided on account of the fact that too much time had passed.

21. The applicant company did not comment on the situation around the re-registration of the title to the café in 2020. Overall, it asserted that the Government's arguments had been an attempt to discredit it and to have the Court's findings in the principal judgment put into doubt and revised, whereas what the applicant company had, in fact, done had been to simply try, by all available means, "to preserve its property".

II. THE COURT'S ASSESSMENT

22. As the Court has held on a number of occasions, a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparations for its consequences in such a way as to restore, as far as possible, the situation existing before the breach. The Contracting States that are parties to a case are in principle free to choose the means whereby they will comply with a judgment in which the Court has found a breach. This discretion as to the manner of execution of a judgment reflects the freedom of choice attached to the primary obligation of the Contracting States under the Convention to secure the rights and freedoms

guaranteed (Article 1). If the nature of the violation allows *restitutio in integrum*, it is the duty of the State held liable to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, however, national law does not allow – or allows only partial – reparation to be made for the consequences of the breach, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate (see *Guiso-Gallisay*, cited above, § 90, with further references).

23. Once a violation of a Convention provision has been found, the Court must ascertain if a direct causal link may be established between that violation and the damage alleged by the applicant. Proof of pecuniary damage, the amount claimed in respect thereof and the causal link between the damage and the violations found, must in principle be adduced by the applicant. Overall, in applying Article 41 the Court enjoys a certain discretion regarding the valuation of damage requiring compensation, as attested to by the adjective “just” and the phrase “if necessary” (see *G.I.E.M. S.r.l. and Others v. Italy* (just satisfaction) [GC], nos. 1828/06 and 2 others, § 38-39 and 42, 12 July 2023, with further references). The exercise of such discretion encompasses such decisions as to grant or refuse monetary compensation or to reduce the amount that it awards. The Court’s guiding principle in this regard is equity, which above all involves flexibility and an objective consideration of what is just, fair and reasonable in all the circumstances of the case, including not only the position of the applicant but the overall context in which the breach occurred (see *Demirhan and Others v. Türkiye*, nos. 1595/20 and 238 others, § 51, 22 July 2025, with further references).

24. In the present case, the applicant company’s title to the café was invalidated because of the fact that it stood on municipal land which had not been duly allocated for that purpose, so it was essentially an unauthorised construction. It is true that such measure cannot be equated to expropriation or confiscation in the proper sense, but it had comparable consequences, entailing the loss by the applicant company of any possibility of making use of the café, which, moreover, was ordered to be demolished (although, apparently, the relevant court order remains unexecuted; see paragraph 12 of the principal judgment). In that connection, the Court notes that in cases of alleged pecuniary damage resulting from the expropriation or confiscation of real property in violation of Article 1 of Protocol No. 1 to the Convention, it has taken into account the value of property at the date on which an applicant had lost ownership of it (see *Guiso-Gallisay*, cited above, §§ 103 and 105).

25. At the same time, the Court does not lose sight of the fact that in the present case the applicant company acquired the property in question as a contribution by its founders and shareholders into its statutory capital, the founders themselves having bought that property from another private person. It is on the latter amount, that is, the price paid by Mr and Ms Ye. (equivalent to approximately EUR 115,000 according to the official exchange rate at the time of events), that the applicant company’s claims were based. It has,

however, failed to provide any up-to-date valuation reports as regards the value of the property at the time of invalidation of its title, either when submitting its initial claims for just satisfaction or in its observations following the delivery of the principal judgment. In that connection, the Court reiterates that it is for the applicant to submit relevant documents to prove, as far as possible, not only the existence but also the amount or value of the damage (see *G.I.E.M. S.r.l. and Others*, cited above, § 39).

26. In that connection, the Court also takes into account the fact that in 2016 the applicant company was at least prepared to sell, or perhaps sold, the café at a price considerably lower than its value at the time of its acquisition (approximately EUR 13,000 at the time of events). While the Court is not in a position to convincingly establish, on the basis of the documents before it, whether that amount was indeed paid (and never returned, as claimed by the Government; see paragraph 15 above), the relevant facts confirming the existence of the arrangements between the applicant company and two private persons to proceed to the sale were established by the domestic courts, which eventually ruled that the sale was unlawful and declared it null and void (see paragraph 16 above).

27. With the above considerations in mind, the Court finds that the applicant company failed to prove the amount of pecuniary damage suffered and that, therefore, no award can be made under this head.

28. As regards the applicant company's claim for the award in respect of the success fee it had paid in accordance with the agreement with its representative, the Court notes that agreements concluded by applicants with their representatives – giving rise to obligations solely between lawyer and client – cannot bind the Court, which must assess the level of costs and expenses to be awarded with reference not only to whether the costs were actually incurred but also to whether they were reasonably incurred. Moreover, the costs and expenses must have been unavoidable in order to prevent the violation found or to obtain redress (see *Izzettin Doğan and Others v. Turkey* [GC], no. 62649/10, § 192, ECHR 2016).

29. In the circumstances of the present case, the Court observes that the award claimed in respect of the success fee does not appear to have any connection to actual costs or expenses nor was it unavoidable to remedy the applicant company's situation. Therefore, no award can reasonably be made in that regard (see *A.L. and Others v. Norway*, no. 45889/18, § 66, 20 January 2022, with further references; *Michnea v. Romania*, no. 10395/19, § 62, 7 July 2020; and *Pastor and Țiclete v. Romania*, nos. 30911/06 and 40967/06, § 94, 19 April 2011).

30. The Court further observes that the applicant company raised the claim for the success fee only at the stage of exchange of observations under Article 41, after the delivery of the principal judgment. It is true that the fee was actually paid after the delivery of the principal judgment, but the obligation to pay it had already been established by the initial legal aid

contract of 2023. The Court considers that the relevant claim must have been raised during the initial exchange of observations (as was the situation in the cases cited in paragraph 29 above and in, for example, *Văleanu and Others v. Romania*, nos. 59012/17 and 27 others, § 281, 8 November 2022), particularly because it could not have yet been known to the applicant company whether any damages would be awarded in the principal judgment or reserved (see, *mutatis mutandis*, *Geglis v. Lithuania* (just satisfaction) [Committee], no. 52815/15, §§ 28-29, 19 November 2019; contrast, for example, *Budivelno Investytsiyna Grupa 1 v. Ukraine* (just satisfaction) [Committee], no. 56903/10, §§ 45-48, 11 January 2024, in which additional costs and expenses were incurred specifically at the stage of exchange of observations under Article 41).

31. In the light of the findings above, the Court considers that the applicant company's claims in respect of pecuniary damage and additional costs and expenses under Article 41 of the Convention must be dismissed.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

Dismisses the applicant company's claim for just satisfaction in respect of pecuniary damage and additional costs and expenses.

Done in English, and notified in writing on 15 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

María Elósegui
President