



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

FIFTH SECTION

DECISION

Application no. 8276/21
ZAKHIDNA ENERGETYCHNA GRUPA, TOV
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 10 September 2026 as a Committee composed of:

Gilberto Felici, *President*,

Mykola Gnatovskyy,

Vahe Grigoryan, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 8276/21) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 29 January 2021 by Zakhidna Energetychna Grupa, TOV, a company registered in Ukraine in 2018 (“the applicant company”), which was represented by Mr M.V. Bem and Mr N.S. Kulchytsky, lawyers practising in Kyiv;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant company’s complaint under Article 1 of Protocol No. 1 to the Convention concerning changes to green energy legislation which adversely affected its business and led to an unpredictable and disproportionate loss of profit.

2. The applicant company specialises in the production of electricity.

3. In 2015 the Ukrainian Parliament passed a law amending existing legislation in order to facilitate the production of green energy by the State. It established, among other things, “green tariffs” which introduced preferential purchase prices for energy produced from a particular renewable source. Those prices were fixed with a commitment to keep them unchanged until 1 January 2030. The State also committed to purchasing all the energy produced.

4. In 2018 the applicant company decided to construct a solar power plant – taking out bank loans to finance the project – taking into consideration the State’s guarantees to keep “green tariffs” unchanged until 2030.

5. In October 2019 the applicant company started construction of the solar power plant, with the first section of the plant completed in December 2019. On 13 December 2019 the National Regulatory Commission for Energy and Communal Services granted the applicant company a licence to produce energy at the solar power plant.

6. On 21 July 2020 the Ukrainian Parliament again changed the law, for economic and technical reasons, decreasing the purchase prices for renewable energy. That law entered into force on 1 August 2020.

7. On 19 August 2020 the applicant company signed a sales agreement with the State-owned G.P. company for energy produced at its solar power plant from 1 September 2020 onwards.

THE COURT’S ASSESSMENT

8. The Court notes that the applicant company’s allegation is based on the fact that it had decided to produce green energy (solar), taking into consideration the State’s guarantees to introduce fixed preferential purchase prices for that type of energy (“green tariffs”) which were set to remain in place until 2030. In the opinion of the applicant company, the guarantees created legitimate expectations but, by the time it started energy production, the “green tariffs” had changed and the purchase prices had been lowered, despite earlier promises established in law to keep those prices unchanged. The applicant company did not therefore make a profit as it had anticipated.

9. The Court reiterates that Article 1 of Protocol No. 1 to the Convention protects “possessions”, which can be either “existing possessions” or assets, including claims, 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. It does not, however, guarantee the right to acquire property or the right to compensation (see *James and Others v. the United Kingdom*, 21 February 1986, § 64, Series A no. 98; *J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd v. the United Kingdom* [GC], no. 44302/02, § 61, ECHR 2007-III; and *Kopecký v. Slovakia* [GC], no. 44912/98, § 35, ECHR 2004-IX). Where a proprietary interest is in the nature of a claim, the person in whom it is vested may be regarded as having a “legitimate expectation” if there is a sufficient basis for the interest in national law, for example where there is settled case-law of the domestic courts confirming its existence (see *Anheuser-Busch Inc. v. Portugal* [GC], no. 73049/01, § 65, ECHR 2007-I, and *Kopecký*, cited above, § 52). No legitimate expectation can be said to arise where there is a dispute as to the correct interpretation and application of domestic law and the applicant’s submissions are subsequently rejected by the national courts (*ibid.*, § 50).

10. In the circumstances of the present case, however, the Court sees no need to examine the existence of “legitimate expectations” on the part of the applicant company so as to attract the applicability of Article 1 of Protocol No. 1 to the Convention, because even assuming such applicability the present application is inadmissible for the following reasons.

11. The Court notes that the applicant company did not submit its complaint to any domestic authority, raising it for the first time before the Court. The Court reiterates that it is a fundamental feature of the machinery of protection established by the Convention that it is subsidiary to the national systems safeguarding human rights. This 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 to ensure that the fundamental rights and freedoms enshrined therein are respected and protected on a domestic level (see *Communauté genevoise d’action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 138, 27 November 2023). 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 remedy available in respect of the alleged violation. The rule is therefore an indispensable part of the functioning of this system of protection (see *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, § 69, 25 March 2014).

12. 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 to use first the remedies provided by the national legal system (see, among many authorities, *Akdivar and Others v. Turkey*, 16 September 1996, § 65, Reports of Judgments and Decisions 1996-IV). It should be emphasised that the Court is not a court of first instance; it does not have the capacity (and 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 *Vučković and Others*, cited above, § 70, and *Hodžić v. Slovenia* (dec.), no. 3461/08, § 17, 4 April 2017).

13. The applicant company claimed that since the alleged violation had emanated directly from the law itself, there had been no effective remedy to redress its complaint domestically. It submitted that the only way to raise a complaint that the law was unconstitutional before the Constitutional Court would have been to raise the matter before the domestic courts at all levels of jurisdiction but that the Constitution did not oblige the courts to respect the principles of necessity and proportionality in cases involving property rights. The Court considers that the applicant company’s doubts as to the

effectiveness of the domestic remedies available to it, even though they require it to raise its complaint before the courts at three levels of jurisdiction to reach the Constitutional Court, are not sufficient to exempt it from such a requirement. Moreover, there is nothing to prevent it from raising the necessity and proportionality of the alleged interference with its property rights before the domestic courts.

14. Accordingly, the application must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 October 2026.

Martina Keller
Deputy Registrar

Gilberto Felici
President