



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

FIFTH SECTION

DECISION

Application no. 9694/19
Vasyl Ivanovych NOVYTSKYY
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 24 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. 9694/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 27 January 2019 by a Ukrainian national, Mr Vasyl Ivanovych Novytskyy (“the applicant”), who was born in 1962 and lives in Brovary;

the decision to give notice of the complaints under Article 6 § 1 and Article 13 of the Convention to the Ukrainian Government (“the Government”), represented by their Agent, Ms M. Sokorenko, and to declare inadmissible the remainder of the application;

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application mainly concerns an alleged breach of the principle of equality of arms in administrative proceedings. The applicant relied on Article 6 § 1 and Article 13 of the Convention.

2. According to the applicant, in 2003 he purchased a warehouse from the B. company. He stated that the relevant sale agreement, a copy of which was submitted to the Court, had been neither notarised nor registered with the State authorities. The B. company denied having signed the agreement.

A. Main Proceedings

3. Seeking an order to have his title to the warehouse registered on the basis of the above agreement, in August 2010 the applicant brought administrative proceedings against the local Technical Inventory Bureau (“the Bureau”). By a ruling of 20 August 2010, delivered in the B. company’s absence, the Kyiv Circuit Administrative Court allowed the applicant’s claim and ordered the Bureau to register his title. In September 2010 this ruling became binding.

4. In December 2010 the B. company lodged an appeal. It asserted that it had not been aware of the applicant’s claim and that the sale agreement was invalid. According to the case file materials, namely a note prepared by a court secretary, on 22 February 2011 the parties, including the applicant, were informed of the upcoming appeal hearing by telephone («*телефонограма*»), a method of notification provided for by Article 33 of the Code of Administrative Procedure as in force at the material time. The applicant denied having received such notification. On 1 March 2011, in the applicant’s absence, the Kyiv Administrative Court of Appeal overturned the ruling of the first-instance court and dismissed his claim.

5. Arguing that he had not been notified of the appeal hearing and that he had learned of the above ruling only in November 2017, the applicant attempted to challenge it before the Supreme Court. By a final decision of 31 July 2018, his request for an extension of the time-limit for lodging a cassation appeal was rejected as unsubstantiated. The Supreme Court noted, in particular, that the applicant had not advanced any plausible explanation for his failure to initiate the cassation proceedings at an earlier stage.

B. Other proceedings

6. According to information provided by the Government, in addition to his administrative claim against the Bureau (see paragraph 3 above), between 2009 and 2019 the applicant initiated at least 11 other sets of proceedings, in which he sought in various ways to obtain judicial recognition of his property rights to the warehouse. The B. company consistently opposed the applicant’s claims. All of those sets of proceedings (nine of which had been completed before the applicant lodged his application with the Court) were either unsuccessful or abandoned.

7. The proceedings in question included a commercial claim brought in December 2010 against the B. company¹, in which the applicant sought a declaration of the validity of the sale agreement (see paragraph 2 above) and recognition of his title to the warehouse. By a final decision of 3 December 2014, the Higher Commercial Court of Ukraine upheld the findings of the

¹ Domestic proceedings no. 18/213-10/7-12/17

lower courts, in which they had dismissed the applicant's claim. Among other evidence, it relied on a forensic expert's conclusion of September 2012, according to which signatures on the documents submitted by the applicant, including the above sale agreement, had not been made by the B. company's director, but by another person.

In the context of those proceedings, on 6 July 2011 the B. company informed the domestic court that it had learned of the applicant's administrative claim against the Bureau (see paragraph 3 above) and that, following its appeal, the 2010 ruling by the Kyiv Circuit Administrative Court had been overturned. Copies of the relevant court decisions were attached to the case file. On 7 July and 16 August 2011, the applicant consulted and photocopied the case file materials.

THE COURT'S ASSESSMENT

8. Relying on Article 6 § 1 and Article 13 of the Convention, the applicant complained that he had been denied a fair hearing in the administrative proceedings against the Bureau, in that he had not been notified of the appeal proceedings and had not been served with a copy of the B. company's appeal. He also argued that the Supreme Court had failed to provide sufficient reasons for its refusal to extend the time-limit for his appeal on points of law and that he had had no effective remedies in respect of his Convention complaints. The Court considers that the applicant's complaints fall to be examined under Article 6 § 1 of the Convention alone (see *Canè and Others v. Malta* (dec.), no. 24788/17, § 44, 13 April 2021).

9. The Government submitted that the application ought to be rejected as an abuse of the right of application, given the applicant's failure to inform the Court of the outcome of numerous sets of judicial proceedings at the domestic level (see paragraph 6 above), including the allegedly established fact of forgery of the sale agreement (see paragraph 7 above). In the alternative, they argued that the applicant's complaints should be declared inadmissible as manifestly ill-founded given that the applicant had been properly notified of the relevant appeal proceedings.

10. The applicant reiterated his complaints, arguing that the impugned decision of the Kyiv Administrative Court of Appeal (see paragraph 4 above) had not been properly published in the State Register of Court Decisions and that he could not therefore have learned of it earlier. He also considered that the developments in other proceedings were immaterial to the present case, and that the alleged forgery of the B. company director's signature on the sale agreement had never been judicially established.

11. The general principles concerning the rejection of an application on grounds of abuse of the right of individual application have been summarised in *Gross v. Switzerland* ([GC], no. 67810/10, § 28, ECHR 2014). In particular, the submission of incomplete and thus misleading information

may amount to an abuse of the right of application, especially if the information concerns the very core of the case and no sufficient explanation has been provided for the failure to disclose that information. However, even in such cases, the applicant's intention to mislead the Court must always be established with sufficient certainty.

12. Turning to the present case, the Court notes that the sale agreement between the applicant and the B. company formed the basis of the applicant's administrative claim against the Bureau and his subsequent complaint before the Court. However, when lodging his application, the applicant did not disclose important facts concerning that agreement. In particular, he omitted to mention that in parallel proceedings the domestic courts had dismissed his claim for recognition of the agreement's validity, and that in reaching that conclusion they had relied on expert evidence indicating that the signature of the seller's representative might have been forged (see paragraph 7 above).

13. While such an omission could lead to a finding of an abuse of the right of individual application (compare, for example, *Gevorgyan and Others v. Armenia* (dec.), no. 66535/10, § 36, 14 January 2020), the Court is not required to establish with certainty that the applicant intended to mislead it, as the applicant's complaints are in any event inadmissible for the reasons set out below.

14. In contrast to cases in which there was no evidence that appeals were served on the applicants or that they were informed of the appeals by any other means (see, for example, *Strizhak v. Ukraine*, no. 72269/01, § 39, 8 November 2005, and *Lazarenko and Others v. Ukraine*, nos. 70329/12 and 5 others, § 43, 27 June 2017), in the present case the Government provided evidence showing that on 22 February 2011 the applicant had been informed by telephone about the appeal proceedings (see paragraph 4 above). While the applicant argued that he had never received that notification, the Court considers that, in the circumstances of the case, it was nonetheless incumbent on him to display special diligence and to take the necessary steps to remain apprised of the developments in his case (see, among other authorities, *Teuschler v. Germany* (dec.), no. 47636/99, 4 October 2001).

15. In particular, given the existence of a dispute with the B. company over the validity of the sale agreement, the applicant could reasonably have anticipated that, once aware of the ruling delivered in his favour in the administrative proceedings, the B. company would seek to challenge it. However, the applicant failed to make any enquiry to the domestic courts concerning the state of the administrative proceedings after the delivery of the impugned ruling in his favour. Consequently, the respondent Government cannot be held liable for depriving him of an opportunity to comment on the appeal lodged in his case (see, for illustrative purposes, *Gros v. Ukraine* (dec.) [Committee], no. 18015/19, 18 February 2021).

16. The Court also considers that irrespective of whether the decision of the court of appeal was duly uploaded to the online court register (see

paragraph 10 above), the material before it indicates that, as early as July 2011, the applicant had access to information capable of alerting him to the fact that the 2010 ruling delivered in his favour had been overturned. In particular, this matter had been brought to the commercial court's attention by the B. company in proceedings to which the applicant was a party, and the applicant subsequently accessed and photocopied materials from the relevant case file on two occasions (see paragraph 7 above).

17. As to the remainder of the applicant's complaints under Article 6 § 1, the Court does not consider that his arguments were left without due response by the Supreme Court, as claimed by him. The Supreme Court rejected the applicant's request for an extension of the time-limit for lodging a cassation appeal after having expressly noted that the applicant had not demonstrated a good reason for failing to do it earlier (see paragraph 5 above). In the circumstances of the present case, such a finding cannot be considered arbitrary or manifestly unreasonable.

18. 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 15 October 2026.

Martina Keller
Deputy Registrar

Gilberto Felici
President