



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

FIFTH SECTION

DECISION

Application no. 54353/20
Pavlo Vyacheslavovych VOVK
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 13 January 2026 as a Chamber composed of:

Kateřina řimáčková, *President*,

María Elósegui,

Georgios A. Serghides,

Gilberto Felici,

Mykola Gnatovskyy,

Vahe Grigoryan,

Sébastien Biancheri, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to the above application lodged on 13 January 2021,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

INTRODUCTION

1. The case concerns the applicant's complaints under Articles 6 § 2, 8 and 18 of the Convention that the National Anti-Corruption Bureau of Ukraine (*HABU* – “NABU”) conducted a public smear campaign against him by disclosing investigative information on various online platforms, and under Article 13 that he had no effective remedy for his complaints.

THE FACTS

2. The applicant, Mr Pavlo Vyacheslavovych Vovk, is a Ukrainian national who was born in 1978 and lives in Kyiv. He was initially represented by Mr G. Tokarev, a lawyer practising in Kharkiv, and then by Ms Z. Lukyanenko, a lawyer practising in Boryspil.

3. The Ukrainian Government (“the Government”) were represented by their Agent, Ms M. Sokorenko, of the Ministry of Justice.

4. The facts of the case, as submitted by the parties, may be summarised as follows.

5. Appointed as a judge in 2007, at the relevant time the applicant was president of the Kyiv Circuit Administrative Court (*Окружний адміністративний суд міста Києва* – “the KCAC”).

A. EuroMaidan investigation and covert recordings

6. The KCAC played a role in imposing restrictions on the “Euromaidan” events in Kyiv in late 2013 and early 2014, a series of protests which also became known as the Revolution of Dignity (see *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, §§ 9 and 23-25, 21 January 2021).

7. In February 2014 the Prosecutor General’s Office (“the PGO”) instituted criminal proceedings on suspicion of unlawful actions committed against Euromaidan protestors, including numerous murders linked to those events and the actions of the former President of Ukraine, Mr V. Yanukovich (“the Euromaidan case”). Further details on that large-scale investigation can be found in *Shmorgunov and Others* (cited above, §§ 18-22).

8. At the relevant time, the investigation of the Euromaidan case was conducted by the Special Investigations Department of the PGO and an interagency investigation group. The Chernigiv Regional Directorate of the Security Service of Ukraine (*Sluzhba bezpeky Ukrayiny* – “the SBU”) was the lead investigation unit of that group.

9. On 6 February 2019 the SBU, acting on the PGO’s proposal, expanded the group to include NABU detectives.

10. On 14 February 2019 the Chernigiv Court of Appeal (“the Court of Appeal”) allowed an application by a Deputy Prosecutor General and authorised the wiretapping of the applicant’s office and telephone for sixty days. The order was made within the framework of the Euromaidan case (see paragraph 6 above) on the basis of evidence indicating that a judge who, in 2013, had ordered the dismantling of barricades in central Kyiv had been in frequent telephone communication with the applicant shortly before and after issuing that decision, and that the applicant himself had been in communication with the deputy head of the PGO and with the Kyiv mayor’s office at the time. Three days after that decision, the judge in question had obtained a KCAC judgment authorising the reclassification of the flat he occupied as his official residence into a property eligible for privatisation. There were also indications that the applicant and other KCAC officials had been receiving an unlawful income. Additional wiretap orders were issued by the Court of Appeal between April and July 2019.

11. On the basis of those wiretap orders, between February and July 2019 NABU conducted covert recordings in the court offices of the applicant and

his deputy. The applicant's telephone line was also tapped. As a result, thousands of hours of recordings were obtained. Several sets of criminal proceedings were initiated, which were later merged.

12. A number of courts subsequently allowed the use of recordings and transcripts obtained in the Euromaidan case in a number of sets of criminal proceedings concerning the applicant and other KCAC judges.

B. NABU'S publications in 2019

13. On 12 June 2019 F., a non-governmental organisation (NGO), lodged a criminal complaint with NABU, alleging that a criminal organisation had been interfering with the activities of the High Qualification Commission of Judges ("the HQCJ"), and that the applicant had been involved in a scheme to establish control over the HQCJ to ensure a favourable assessment of himself and other KCAC judges.

14. On 26 July 2019 PGO and NABU officers searched the KCAC premises on the basis of a court order issued the previous day.

15. On the same day the PGO prosecutor overseeing its Special Investigations Department, referring to Article 222 of the Code of Criminal Procedure (see paragraph 59 below), granted permission to NABU to disclose material from the Euromaidan case. She stated that information of considerable public interest had been obtained and that its disclosure would not prejudice the investigation. The document granting permission listed reports on covert surveillance measures and the devices on which the information was stored.

16. Also on 26 July 2019 NABU published an announcement on its website, in Ukrainian and English, entitled "About searches in the Kyiv District Administrative Court", including the following statement:

"According to the investigation, the KCAC president and some KCAC judges organised the issuance of knowingly unjust judicial decisions and interfered with the activities of judicial bodies in order to create artificial obstacles to the work of the [HQCJ] ... The purpose of these actions was to avoid the compulsory qualification assessment established by law for judges."

The announcement described the alleged criminal scheme in several paragraphs and stated that formal notifications of suspicion were in the process of validation.

17. At the end of the announcement, text introduced by the word "Disclaimer" stated that, under the Constitution, a person was presumed innocent of committing a crime until his or her guilt was proven through legal proceedings and established by a court conviction.

18. On the same day NABU posted a 61-minute video on its YouTube channel entitled, in Ukrainian, "Explanation of Searches at the Kyiv District Administrative Court". The video contained a presentation, read by an off-screen narrator, of the same information as that announced on NABU's

website. It also contained an infographic illustrating the alleged unlawful scheme (and which was also posted on NABU's Flickr page), as well as audio-recordings and transcripts of conversations involving the applicant and a number of KCAC judges. The recordings were interspersed with comments from the narrator explaining their meaning according to NABU.

C. Criminal complaint lodged in 2019

19. Following a complaint from Judge P. of the KCAC, on 9 August 2019 the State Bureau of Investigation ("the SBI") initiated criminal proceedings on suspicion that PGO, SBU and NABU officials, in connection with the investigation of the Euromaidan events, had committed offences against KCAC judges under the following provisions of the Criminal Code: Article 163 (violation of the secrecy of telephone conversations), Article 182 (violation of privacy), Article 365 (abuse of power), and Article 376 (interference with the activities of judicial authorities) (see paragraphs 51 to 53 below).

20. The applicant was admitted to the above-mentioned proceedings as an aggrieved party. He argued that NABU's announcement had been aimed at discrediting him and other KCAC judges, and at exerting pressure on judges and other officials who would examine the criminal cases concerning the KCAC judges. The applicant submitted that he had sustained damage to his reputation as a result of unlawful actions on the part of NABU and SBU officials, namely the public dissemination of an artificially created negative image of a KCAC judge on the basis of falsified information presented by the investigating authority as evidence.

21. In December 2020 the applicant asked the SBI investigator to carry out a number of investigative measures, primarily to request information from the Chernigiv Court of Appeal relating to the wiretapping authorisation and to question the judge who had authorised it.

22. On 7 October 2021 the criminal proceedings were discontinued on the grounds that the maximum period allowed by law for pre-trial investigation (see paragraph 58 below) had expired and no one had been issued with a notification of suspicion.

23. On 5 July 2022 the Pecherskyi District Court of Kyiv quashed the above-mentioned decision on the grounds that the investigator had failed to provide the case file, and that there was no indication that, before taking the decision, all possible steps to investigate the offences had been made.

D. NABU'S publications in 2020

24. On 17 July 2020 a Deputy Prosecutor General granted permission to NABU to disclose any information (*у повному обсязі*) from the case file, including the results of covert investigative measures. He stated that the

information collected was of considerable public interest and that its disclosure would not harm the investigation.

25. On the same day the KCAC premises were searched by NABU detectives. The search had been authorised by a court the previous day.

26. On 17 July 2020 NABU published an announcement on its website, in Ukrainian and English, entitled “Abuse of office by the Kyiv District Administrative Court judges: new episodes”, stating that formal notifications of suspicion had been issued against the applicant and several other KCAC judges. It stated that “the investigation [had] revealed that an organised criminal group... led by the [KCAC president] planned to seize State power [by establishing] control and creating artificial obstacles to the work of the HQCJ and the High Council of Justice”. It described an alleged criminal scheme in which “the KCAC president” had arranged for a decision in favour of himself, KCAC judges and political and business figures. NABU again concluded its announcement with a disclaimer referring to the constitutional provision guaranteeing the presumption of innocence.

27. The announcement contained a link to a 45-minute video on NABU’s YouTube channel, presented in the same style as that of July 2019. Transcripts of the video were also published on NABU’s website in Ukrainian and English.

28. On 21 July 2020 NABU published a statement on its website containing largely the same information as that published in the announcement of 17 July 2020 (see paragraph 26 above) and also published a 13-minute video on its YouTube channel entitled “Corruption at the KCAC: the State Judicial Administration episode”, which was presented and structured like its previous videos.

E. Criminal complaint lodged in 2020

29. In September 2020 the applicant lodged a criminal complaint with the SBI, asking that criminal proceedings be instituted on suspicion of interference with the activities of a judge, an offence under Article 376 of the Criminal Code (see paragraph 53 below). He complained that, since 17 July 2020, NABU had been publishing information which, by disseminating details and audio-recordings from the material of the criminal investigation, had sparked a public campaign (*надав поштової інформаційної кампанії*) against him. He claimed that this campaign was a threat to the independence of Ukraine’s judicial system and constituted an attack on its impartiality.

30. In January 2021 the SBI instituted criminal proceedings in response to the complaint.

31. On 14 January 2022 the proceedings were discontinued after it was concluded that the actions under investigation lacked the elements of a criminal offence. The Pecherskyi District Court subsequently rejected an

appeal by the applicant's lawyer against that decision on the grounds that it was lodged out of time.

F. Developments relevant to the complaint under Article 18 of the Convention

32. The applicant referred to the following background events which, in his view, indicated that the criminal charges against him in 2019 and 2020, as well as the related online publications and disclosures, had been driven by ulterior motives.

1. 2016 criminal case

33. In September 2016 the applicant and his deputy refused to provide information about the procedures for the distribution of cases among KCAC judges, as requested by the head of NABU's detective unit. On 8 December 2016 the Pecherskyi District Court of Kyiv rejected NABU's application and refused to impose administrative fines on the applicant and his deputy for their refusal to provide information.

34. On 9 December 2016 NABU initiated criminal proceedings on suspicion that the applicant had engaged in unlawful enrichment, as his and his family's lifestyle did not match his declared lawful income and assets. In 2020 the investigation was discontinued after the relevant provisions of the Criminal Code were declared unconstitutional.

35. According to the applicant, the institution of proceedings against him the day after NABU's loss in court indicated that NABU intended to persecute him for his disloyalty. According to the Government, however, the basis for the investigation was a review of the applicant's and his former wife's assets conducted by NABU's analytical unit, triggered by an investigative journalism report published in July 2015 about KCAC judges declaring unusually high levels of gifts and lottery winnings. Subsequent criminal proceedings were also initiated following a complaint lodged by the NGO Automaidan in April 2017, alleging irregularities in the applicant's asset declarations. These proceedings were merged with the proceedings initiated in 2016.

36. In 2018 the National Agency for the Prevention of Corruption ("the NAPC") conducted an investigation on the basis of a complaint lodged by the applicant's lawyer alleging a conflict of interest on the part of the NABU detectives involved in the applicant's 2016 case. The NAPC requested information from NABU's director about the employees involved, but NABU refused to provide it, arguing that the NAPC lacked jurisdiction and that an internal investigation had not revealed any conflict of interest. In October 2018 the NAPC found that there had been a conflict of interest in the actions of the relevant detectives, noting that they had hastily instituted proceedings in reliance on nothing more than an internal memo referring to certain

publications and had failed to achieve investigative results for two years. For the NAPC, this indicated that the detectives had been guided by a desire to gain the loyalty of KCAC judges.

37. In April 2017 NABU searched the KCAC premises. Following a complaint by the applicant, on 15 August 2017 the High Council of Justice (“the HCJ”) found no evidence that the search had been a form of pressure on him as a judge, but reminded NABU that its actions had to respect the independence of judges and the authority of the judiciary.

38. Also in 2017 a judge of a district court in Lviv (Judge R.) allowed an application by the head of the Specialised Anti-Corruption Prosecutor’s Office, authorising searches in connection with the criminal proceedings concerning suspected unlawful enrichment by the applicant, including at the KCAC offices. The HCJ issued a reprimand to the judge in that connection. However, the Supreme Court subsequently quashed the HCJ’s decision. NABU reported on the Supreme Court’s decision on its website.

2. Public statement by the former President of Ukraine about a bank nationalisation case examined by the KCAC

39. On 31 March 2019 the first round of presidential elections took place. The incumbent President, Mr P. Poroshenko, received about 15% of the votes, while Mr V. Zelenskyy received about 30%. Run-off elections were scheduled for 21 April 2019. Mr Zelenskyy was projected to be the “clear favourite” to win. On 21 April 2019 he was elected President.

40. On 18 April 2019 the KCAC (a panel of three judges not including the applicant) declared unlawful a number of decisions and actions taken by the authorities in 2016 concerning the nationalisation of Privatbank, at the time the largest private bank in the country.

41. On the same day President Poroshenko presided over a meeting of the National Security and Defence Council, at which the above-mentioned KCAC decision was discussed. He stated that steps had to be taken to prevent panic and protect the financial system. He supported the proposal of the Minister of Justice to ask the HQCJ (which he emphasised was independent) to “speed up” the process of assessing KCAC judges and to “restart” (*nepezhanycmumu*) that court.

3. Public statements about NABU publications

42. On 23 July 2020 the HCJ published a statement expressing concern about the NABU’s publications, calling on it to refrain from posting public statements and participating in information campaigns undermining the independence and authority of the judiciary.

43. On 18 September 2020 the Plenary Supreme Court published a statement stressing the importance of integrity for maintaining the authority of the judiciary. It also expressed the opinion that judicial power in Ukraine

had suffered considerable damage because of the content of the published recordings.

44. On 19 October 2020 Mr Y. Lutsenko, the Prosecutor General of Ukraine from 2016 to August 2019, gave an interview to a Ukrainian TV channel. The presenter referred to a statement by the ambassadors of the Group of Seven (G7) countries, which he interpreted as saying that “law enforcement and anti-corruption bodies should not be instrumentalised”. Mr Lutsenko responded by criticising NABU for its lack of convictions over the previous five years, stating that it had achieved “zero results”. He also stated that the same could be said about the effectiveness of the work of his successors at the PGO. In response to a remark by the presenter that “there was a feeling that [the law enforcement authorities] were being used to settle scores”, Mr Lutsenko responded as follows:

“Yes. Listen, there is a famous NABU case about [the KCAC]. When you read those recordings, it makes your hair stand on end. There is only one problem – I read them two years ago. What have they been doing in NABU for two years? Two years! Why have they suddenly become needed now? ... Look at the practice, at the results. And then, of course, we need to pay attention to the ambassadors’ statements – this is very serious. Because, in fact, they created NABU; it is their brainchild, and they are defending it. This is good, but [NABU] is ineffective.”

G. Criminal and disciplinary proceedings concerning the applicant

45. On 21 June 2019 a new set of criminal proceedings was initiated on the basis of information discovered within the framework of the Euromaidan case. The above-mentioned wiretap material was used as evidence in those proceedings.

46. Between August and December 2020 NABU published a number of announcements on its website stating that it was searching for the applicant in connection with the criminal proceedings, as it had been unable to serve him with summonses to appear before it or before the High Anti-Corruption Court (“the HACC”).

47. In June 2022 an indictment was submitted to the HACC concerning the applicant, five KCAC judges, the former head of the State Judicial Administration and some other defendants.

48. In June 2023 the applicant’s lawyer objected to the opening of a trial and sought the return of the indictment to the prosecutor, arguing that the applicant could not stand trial as he had never properly acquired the status of a “suspect”.

49. According to the most recent information available, proceedings are pending before the trial court.

50. On 18 March 2025 the HCJ dismissed the applicant from judicial office for the disciplinary offence of “actions undermining the authority of judicial office and the judiciary”. It appears that material from the

above-mentioned wiretaps was used as evidence in the disciplinary proceedings. The applicant appealed against his dismissal.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Criminal Code (2001)

51. Article 182 of the Criminal Code criminalises the violation of privacy, defined as the unlawful collection, storage, use, destruction or dissemination of confidential information about a person, or the unlawful alteration of such information.

52. Article 365 criminalises the offence of abuse of power or official position.

53. Article 376 criminalises interference with the activities of judicial authorities, defined as any form of interference aimed at preventing a judge from performing official duties or at obtaining an unjust decision.

54. Article 387 § 1 provides for the punishment of individuals who disclose information obtained in the course of operational-search activities or the pre-trial investigation, without written permission from the prosecutor, investigator or person conducting operational-search activities. This applies to individuals who have been warned, in accordance with the procedure established by law, of their obligation not to disclose such information. Article 387 § 2 provides for a more severe punishment where the same act is committed by a judge, prosecutor or a law enforcement officer. If the disclosed information discredits the individual or demeans his or her honour and dignity, the punishment is three to five years' restriction of liberty (Article 387 § 3).

B. Code of Criminal Procedure (2012)

55. Article 17 of the Code of Criminal Procedure proclaims the principle of the presumption of innocence.

56. Articles 75 to 79 describe the circumstances in which judges and other participants in criminal proceedings are precluded from participating and establish the grounds for challenging them.

57. Article 214 § 1 provides that an investigator or prosecutor must immediately, but no later than 24 hours after receiving a statement or report of a criminal offence, enter the relevant information into the Unified Register of Pre-Trial Investigations and begin the investigation.

58. Article 219 § 2 establishes the time-limit of 18 months for completion of pre-trial investigation into serious offences, a category into which the offence under Article 365 of the Criminal Code (abuse of power) falls, as it is punishable by up to eight years' imprisonment.

59. Article 222 § 1 provides that information obtained in the course of a pre-trial investigation (*відомості досудового розслідування*) may be disclosed only with the written permission of the investigator or prosecutor, and only to the extent considered permissible.

60. Article 291 § 2 prohibits the submission to the trial court, prior to the hearing of the case, of any documents other than the indictment and certain annexes to it.

C. Civil Code (2003)

61. Article 296 § 4 of the Civil Code provides that the name of an individual who has been arrested, is suspected or is accused of committing a criminal offence may be published only once his or her conviction has become legally enforceable, or in other cases prescribed by law.

62. Article 297 provides that an individual can bring a civil claim for the protection of his or her honour and dignity. Article 299 provides for the same right in respect of the protection of an individual's business reputation (*ділова репутация*).

D. Corruption Prevention Act (2014)

63. The Act establishes the National Agency for the Prevention of Corruption as an independent central executive agency with a special status. Among its powers (section 11 of the Act as currently worded) is the power to issue binding decisions (*нпунуци*) concerning prevention of and regulation of conflicts of interest in the activities of public officials, to initiate disciplinary investigations and administrative-offence proceedings. Section 1 of the Act defines a conflict of interest as a conflict between a person's private interest and their official or representative powers, which affects the objectivity or impartiality of decision-making.

E. Relevant domestic case-law

64. In its ruling of 3 April 2019 (case no. 211/7655/15-П), the Supreme Court reviewed and remitted for fresh examination a case in which the lower courts held the prosecutor's office liable for disclosing confidential information, contained in a video recording of a search, about the claimant—at the time a defendant in pending criminal proceedings—to third parties. The lower courts had awarded him compensation for non-pecuniary damage. The Supreme Court did not question that the civil courts had jurisdiction to examine the case under the provisions of the Civil Code. However, the Supreme Court did not find that the lower courts had sufficiently reasoned, on the evidence, their finding that a disclosure had actually taken place, in particular whether it was sufficient to have relied on the evidence of witnesses

that a video had been shown to third parties, without direct examination by the courts of the video recording itself.

65. In its ruling of 9 December 2020 (case no. 642/2581/17), the Supreme Court considered a case in which a lower court allowed a claim by a private company seeking protection of its business reputation. The claim arose from the police's dissemination to third parties of a demand for information issued in a pending criminal investigation. The demand alleged that the claimant company had been involved in the creation of fictitious businesses to facilitate tax evasion. The lower court ordered the police to notify the recipients of the contested demand in writing that the information disseminated about the claimant company was unreliable.¹ The Supreme Court quashed that decision and discontinued the proceedings, holding that the civil courts lacked jurisdiction to examine the case and that the relevant matters could only be addressed in criminal proceedings.

COMPLAINTS

66. The applicant complained that the investigating authorities had damaged his reputation by publishing investigative material, including his personal information, in a way intended to create the impression that he was guilty of criminal offences. He alleged that these actions had violated his rights under Articles 6 § 2 and 8 of the Convention.

67. The applicant further complained, under Article 18, that the impugned NABU publications and charges against him had been driven by ulterior motives – namely to damage his reputation, exert pressure on the judiciary and create an image of NABU's effectiveness.

68. Lastly, the applicant complained, under Article 13, that he had had no effective domestic remedy for his complaints under Articles 6 § 2 and 8 of the Convention.

THE LAW

A. Scope of the case and the parties' submissions

69. After notice of the above-mentioned complaints was given to the Government, the applicant made a number of submissions to the Court on his own initiative regarding the progress of the domestic proceedings, in particular the disciplinary and criminal proceedings against him, as well as the liquidation of the KCAC under legislation enacted by Parliament on 13 December 2022.

70. To the extent that the above-mentioned submissions contain new complaints, they are not an elaboration of the original complaints on which

¹ [Єдиний державний реєстр судових рішень](#)

the parties have commented. The Court therefore considers that it is not appropriate to take them up in the context of the present case (see, for example, *Bogdan Shevchuk v. Ukraine*, no. 55737/16, § 32, 24 April 2025).

B. Alleged abuse of the right of application

71. The Government submitted that the applicant had abused the right of application by distorting certain facts in a way designed to present NABU in a negative light. They alleged that he had misinformed the Court by stating that the criminal proceedings initiated in 2019 concerning interference with the activities of the HQCJ had been closed. They further submitted that he had failed to inform the Court that the criminal proceedings initiated in 2019 in connection with Judge P.'s complaints (see paragraphs 19 and 22 above) had been discontinued in 2021. Lastly, they alleged that he had mischaracterised some of the criminal proceedings as distinct, even though they had in fact been merged.

72. The applicant contested those submissions.

73. The Court reiterates that 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, the applicant's intention to mislead the Court must always be established with sufficient certainty (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, with further references).

74. The matters raised did not concern the very core of the case and there is no indication that the applicant intended to mislead the Court. Accordingly, the Government's objection should be rejected.

C. Alleged violations of Article 6 § 2 and Article 8 of the Convention

1. Applicable provisions

75. The applicant complained, invoking Article 6 § 2 and Article 8 of the Convention, that NABU's publications had damaged his reputation by creating the impression in the public eye that he was guilty of criminal offences, even though he had not been convicted and the criminal proceedings against him were pending.

76. The Court observes that the applicant's complaints under Article 6 § 2 and Article 8 concern essentially the same matter, that the NABU's publications damaged the applicant's presumption of innocence and reputation. Since the criminal proceedings against the applicant are pending, it is primarily the principle of presumption of innocence that is at stake (compare *McCann and Healy v. Portugal*, no. 57195/17, § 95, 20 September 2022, and *Zollmann v. the United Kingdom* (déc.), no. 62902/00, CEDH 2003-XII).

77. The Court, being the master of the characterisation to be given in law to the facts of a case, not being bound by the characterisation given by an applicant or a Government (see *Vavříčka and Others v. the Czech Republic* [GC], nos. 47621/13 and 5 others, § 169, 8 April 2021), considers that these complaints are to be examined primarily under Article 6 § 2 of the Convention (see *Alperin v. Ukraine*, no. 41028/20, § 58, 10 October 2024).

78. To the extent the applicant complained also that those publications were part of a strategy to discredit him, punish him for disloyalty to NABU and influence the court (see paragraph 111 below), the Court considers that those matters are to be examined in the context of the complaint under Article 18 of the Convention.

2. *Applicability of Article 6 § 2 to NABU's publications prior to 2 August 2019*

79. The Government submitted that Article 6 § 2 of the Convention did not apply to NABU's publications prior to 2 August 2019, the date on which a notification of suspicion had first been issued against the applicant. The applicant, however, argued that Article 6 § 2 was applicable.

80. The Court observes that the text of the announcement published on 26 July 2019 (see paragraph 16 above) indicated that formal charges against the applicant had already been prepared and were in the process of validation, even though they had not yet been formally served on him. A "charge" therefore did exist within the autonomous meaning of the Convention and Article 6 § 2 of the Convention is applicable.

3. *Exhaustion of domestic remedies*

(a) **The parties' submissions**

(i) *The Government*

81. The Government argued that the applicant had failed to exhaust the effective remedies available under domestic law. They referred to the following remedies.

(i) A civil claim for the protection of honour, dignity and business reputation under Articles 297 and 299 of the Civil Code (see paragraph 62 above).

(ii) A criminal complaint under Article 182 of the Criminal Code for violation of privacy (see paragraph 51 above). If the factual and legal elements (*corpus delicti*) were present – not merely a declaratory statement – it would probably be possible to hold the perpetrators criminally liable. At the same time, the criminal proceedings before the SBI (see paragraph 19 above) could not be considered an effective remedy, as they could not have the effect of correcting the alleged violation of the applicant's rights.

(iii) Submission of the applicant's allegations of conflict of interest and personal revenge on the part of NABU to the National Agency for the Prevention of Corruption ("the NAPC"), which was empowered to investigate such allegations under the applicable legislation on the prevention of corruption (see paragraph 63 above).

82. The Government also referred to a provision of the Code of Criminal Procedure guaranteeing the presumption of innocence, pointing out that the courts were required to be objective and impartial, and to ensure conditions enabling the exercise of the parties' rights. In particular, they highlighted Articles 75 to 79, which set out the requirements for impartiality and the procedure for challenging judges, prosecutors and investigators. They also referred to Article 291, which prohibits the submission of any documents to the trial court before the hearing of a criminal case, except for the indictment and certain annexes to it (see paragraphs 55, 56 and 60 above).

(ii) The applicant

83. The applicant asserted that he had lodged a criminal complaint, a remedy the Government considered effective, and that he had only concluded that it was ineffective after the SBI had failed to act on it.

84. He further submitted that where several remedies were available, he was not required to pursue more than one and was entitled to choose one feasible domestic remedy over another.

85. The applicant argued that a civil claim could not affect the behaviour of the officials who had conducted and supervised the pre-trial investigation against him. In his view, prosecuting those involved in the disclosure of the information was important because this alerted them to the risk of their being convicted by a criminal court, and the unlawful activity of the investigating authorities could thus be stopped in the future.

86. The applicant also submitted that the position of the Supreme Court (see paragraph 65 above) meant that he could not bring a civil claim separate from the criminal proceedings.

(b) The Court's assessment

87. As to the Government's argument that a complaint to the NAPC about alleged "conflict of interest" in NABU's officials' actions could be an effective remedy for the applicant's complaints (see paragraph 81 (iii) above), the Court observes that such a complaint could only conceivably be pertinent in the context of the applicant's complaint under Article 18. In view of its conclusions below concerning the admissibility of that complaint, the Court does not need to examine the question of effectiveness or otherwise of that remedy.

88. The Court does not find that the criminal remedy which the applicant attempted to use, that is, lodging a criminal complaint about the actions of

NABU officials with the SBI, could be considered effective for the following reasons.

89. In *Gutsanovi v. Bulgaria* (no. 34529/10, §§ 178-79, ECHR 2013 (extracts)), the Court did not exclude that in Bulgaria (where certain types of defamation were criminal offences, at least at the time), lodging a criminal complaint for defamation, together with a civil claim for damages, could be an effective remedy in respect of a complaint concerning the presumption of innocence. However, the effectiveness of that remedy was not shown even in those circumstances because application of the criminal-law standard of proof, as interpreted by the domestic courts in Bulgaria at the relevant time, required the accusing party (the applicant) to prove the falseness of the impugned statement, thereby implying the requirement for the applicant to prove his or her innocence.

90. In Ukraine, however, defamation is not a criminal offence, and none of the criminal-law provisions raised in the proceedings on which the applicant relied as potentially effective remedies (see paragraphs 19, 20 and 29 above) concerned the alleged breach of the principle of presumption of innocence or defamation.

91. In a number of cases lodged under Article 8 of the Convention, the Court has found criminal-law remedies potentially effective. However, those cases concerned actions punishable under criminal law, notably unlawful “leaks” of material from criminal case files or other records committed by unknown individuals (see, for example, *M.D. and Others v. Spain*, no. 36584/17, § 29, 28 June 2022, and *Aytaj Ahmadova v. Azerbaijan*, no. 30551/18, § 46, 11 March 2025, with further references).

92. In such cases, there are no specific identified defendants responsible for the leak against whom a civil remedy could be directed (compare *Cășuneanu v. Romania*, no. 22018/10, § 71, 16 April 2013; *Apostu v. Romania*, no. 22765/12, § 110, 3 February 2015). A criminal investigation may be the only conceivable means of establishing the sources of a leak.

93. By contrast, in the present case, formal authorisations for disclosure of material from the relevant criminal case files were issued under the rules of criminal procedure, and disclosure was made by NABU’s officials openly and publicly (see paragraphs 15, 24 and 59 above). There was, therefore, a specific identified entity against which a civil claim could be directed.

94. Therefore, the criminal remedy used by the applicant could not be considered effective in respect of the applicant’s complaint.

95. As regards the effectiveness of the civil-law remedy to which the Government referred, the Court observes that in *Rytikov v. Ukraine* (no. 52855/19, §§ 42-46, 23 May 2024) it held that a civil-law remedy could be an effective way of addressing a complaint about allegedly prejudicial statements made in respect of ongoing criminal proceedings, either alone or in combination with raising the issue within the criminal proceedings against the applicant in that case. Since Mr Rytikov had not sufficiently raised the

issue of the presumption of innocence in the defamation proceedings he had initiated, the Court rejected his Article 6 § 2 complaint for non-exhaustion of domestic remedies (*ibid.*, § 46). Likewise, in *Alperin v. Ukraine* (no. 41028/20, §§ 66-72, 10 October 2024) the Court held that a criminal complaint against the President of Ukraine on account of certain public statements made by him had not been an effective remedy for the applicant's complaint under Article 6 § 2, while a civil remedy could be effective but had not been used by the applicant (see also, for illustrative purposes, *Komar and Others v. Ukraine* [Committee], nos. 68786/14 and 6 others, § 16, 22 June 2023).

96. The Court also reached similar conclusions in cases concerning other member States, finding civil remedies in their legal systems potentially effective and rejecting the relevant complaints for failure to use those remedies (see, for example, *Marchiani v. France* (dec.), no. 30392/03, 27 May 2008; *Januškevičienė v. Lithuania*, no. 69717/14, §§ 58-63, 3 September 2019; *Okropiridze v. Georgia*, nos. 43627/16 and 71667/16, §§ 111-15, 7 September 2023; and *Narbutas v. Lithuania*, no. 14139/21, §§ 210-17, 19 December 2023).

97. The domestic case-law indicates that a civil claim could be effective where it concerns the unlawful disclosure of information, even if committed in the context of criminal proceedings. It would not be effective where the exercise of such a remedy would involve an assessment of the evidence in the criminal case file (compare decisions of the Supreme Court in paragraphs 64 and 65 above). However, the Court is not convinced that effectively addressing the applicant's complaints in the present case would require an assessment of the evidence in the criminal case. What is at stake is not the assessment of the probative value of the evidence but rather the appropriateness of the scope and manner of its publication, accompanied by comments from the investigating authority.

98. The applicant argued that a civil remedy would not be effective because it would not have a sufficient deterrent effect, which only the threat of a criminal prosecution would present (see paragraph 85 above). The Court rejects this argument, as such considerations would only be relevant in respect of complaints about intentional attacks on rights under Articles 2, 3 or 4 of the Convention (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 149, ECHR 2014; *X and Others v. Bulgaria* [GC], no. 22457/16, § 179, 2 February 2021; and *Rantsev v. Cyprus and Russia*, no. 25965/04, § 285, ECHR 2010 (extracts)) and certain other serious violations of rights guaranteed by the Convention (see, in the context of Article 8 of the Convention, *Söderman v. Sweden* [GC], no. 5786/08, §§ 79-85, ECHR 2013).

99. Without diminishing the seriousness of the applicant's complaints, the Court does not consider that they fall into the category of the most serious violations of human rights requiring a criminal-law response.

100. In summary, the Court does not consider that there are sufficient reasons in the present case to reach a conclusion different from the one it reached in *Rytikov* and *Alperin* (cited above) or to doubt the effectiveness of the civil remedy to the point of dispensing the applicant from availing himself of it.

101. Instead of availing himself of that civil remedy, the applicant used a criminal remedy which could not provide redress for the grievances raised before the Court (compare *Saygili v. Turkey* (dec.), no. 42914/16, §§ 43-46, 11 July 2017, and *Gülen v. Turkey* (dec.), nos. 38197/16 and 5 others, §§ 67-69, 8 September 2020).

102. The Court reiterates, in this connection, that the existence of mere doubts as to the prospects of success of a particular remedy which is not obviously futile is not a valid reason for failing to exhaust that avenue of redress (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, § 159, 27 November 2023).

103. The Court would observe that, while it has examined this part of the application primarily under Article 6 § 2 of the Convention, the same considerations also apply under Article 8 of the Convention. A civil action for defamation is available in the Ukrainian legal system as a remedy for the complaints under Article 8 of the Convention (see, for example, *Yarushkevych v. Ukraine* (dec.), no. 38320/05, 31 May 2016). For the reasons stated above the Court sees no reason to find that that remedy would not be effective in the present case. Moreover, the Court has already held that a civil claim for defamation could be the appropriate remedy to exhaust in respect of complaints under Article 8 of the Convention even in the context of legal systems where attacks on honour and dignity can also constitute a criminal offence (see *Gülen*, cited above, §§ 67-69).

104. It follows that this part of the application must be declared inadmissible for failure to exhaust domestic remedies in accordance with Article 35 §§ 1 and 4 of the Convention.

D. Alleged violation of Article 13 of the Convention

105. The Court has found that the applicant had an effective remedy for his complaints, for the purposes of Article 35 § 1 of the Convention. In view of the close link between that provision and Article 13, this finding is equally valid within the context of this complaint (see *Atanasov and Apostolov v. Bulgaria* ((dec.), nos. 65540/16 and 22368/17, § 72, 27 June 2017, and *Szaxon v. Hungary* (dec.), no. 54421/21, 21 March 2023). It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4.

E. Alleged violation of Article 18 taken in conjunction with Articles 6 and 8 of the Convention

1. The parties' submissions

(a) The Government

106. The Government submitted that there had been no violation of Article 18 of the Convention.

107. They argued that the applicant had been charged with serious criminal offences and that the disputed online publications had not included any stigmatising statements, having been made to inform the public of a high-profile criminal investigation that had attracted significant public interest.

108. They submitted that States had legitimate reasons to inform the community of efforts to combat corruption in general, as well as to raise public awareness of problems, particularly in important areas such as the judiciary.

109. They asserted that the overall circumstances – specifically the applicant's role as a judge and the KCAC president, the nature and content of NABU's online publications, and the general context and the reasons behind the domestic decisions – indicated that the authorities' actions had been driven by proper reasons, without any other motive in publishing the information.

110. They further contended that while anyone in the applicant's position could make allegations of hidden motives behind the authorities' actions, the applicant had provided no supporting evidence. They maintained that holding a high-ranking position and enjoying the guarantees of judicial status did not provide immunity from investigation. The allegations related to the applicant, they asserted, had been based on a "reasonable suspicion" and substantiated by sufficient evidence, indicating that the pre-trial investigation – and the publications by the law enforcement authorities in particular – had not been driven by any ulterior motives.

(b) The applicant

111. The applicant submitted that NABU's online publications and criminal proceedings against him had been driven by ulterior motives, namely to take revenge on him as a judge for his "disloyalty" for disobeying its unlawful requests, to compel the court to be compliant in the future, to discredit him, to form an opinion of his guilt before he had been convicted, and to demonstrate NABU's "effectiveness".

112. He provided the following main arguments, pointing to circumstantial evidence of the existence and predominance of these motives.

(i) The online publications were unlawful and disproportionate to any legitimate aim of informing the public.

(ii) The wiretap material published was obtained in proceedings concerning the Euromaidan events, which were unrelated to the KCAC and which NABU allegedly had no competence to investigate.

(iii) The circumstances related to the criminal proceedings initiated in 2016 and the proceedings against the judge who authorised searches at the KCAC offices (see paragraphs 33 to 38 above).

(iv) Public statements by the former President of Ukraine, the HCJ, the Plenary Supreme Court and the former Prosecutor General (see paragraphs 41 and 42-44 above). The applicant suspected that the former President had given instructions to prosecute KCAC judges following that court's judgment unfavourable to the Ukrainian government in the case concerning the nationalisation of the largest commercial bank in Ukraine.

(v) The KCAC's examination of multiple cases concerning NABU, in particular its unfavourable decisions in the following proceedings: in May 2017 a KCAC judge found the election of a member of NABU's Civil Oversight Council unlawful; in December 2018 a KCAC judge found that the then director of NABU and a member of parliament had acted unlawfully in disseminating certain information about an individual who had participated in the 2016 electoral process in the United States of America.

(vi) The KCAC's decisions unfavourable to the Ukrainian government, including the decision of March 2019, in which the panel allowed the claim of a presidential candidate, T., and invalidated the Cabinet of Ministers' decision on utility pricing.

(vii) The timing, sequence and alleged unlawfulness of the initiation, merging, splitting off and termination of various criminal proceedings concerning the matters discussed in the online publications, as well as the investigation jurisdiction over them (NABU did not obtain authority to carry out an investigation against the applicant until 17 June 2020 but it had started publishing information earlier, even though it only had an auxiliary role in the investigation).

113. Lastly, the applicant argued that there had been a "misuse of power" by the State and that the ulterior motives had predominated over the goal of his criminal prosecution.

2. The Court's assessment

114. At the outset, it should be stressed that the applicant alleged that the NABU's online publications, which are the subject of the present case, and also criminal proceedings against him as such (which are currently pending) had been driven by essentially the same ulterior motives. His submissions on those two separate points are not distinct.

115. It is not necessary to determine whether the applicant complied with the rule of exhaustion of domestic remedies since this complaint is, in any event, inadmissible for the reasons set out below.

116. The Court reiterates that Article 18 of the Convention has no independent existence and can only be applied in conjunction with other Articles of the Convention; it can only be applied in conjunction with an Article of the Convention or the Protocols thereto which sets out or qualifies the rights and freedoms that the High Contracting Parties have undertaken to secure to those under their jurisdiction. Article 18 does not, however, serve merely to clarify the scope of those restriction clauses. It also expressly prohibits the High Contracting Parties from restricting the rights and freedoms enshrined in the Convention for purposes not prescribed by the Convention (see *Selahattin Demirtaş v. Turkey (no. 2)* [GC], no. 14305/17, § 421, 22 December 2020).

117. A restriction can be compatible with the substantive Convention provision which authorises it because it pursues an aim permissible under that provision, but still infringe Article 18 because it was chiefly meant for another purpose that is not prescribed by the Convention; in other words, if that other purpose was predominant. Conversely, if the prescribed purpose was the main one, the restriction does not run counter to Article 18 even if it also pursues another purpose (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 305, 28 November 2017).

118. There is no reason for the Court to restrict itself to direct proof in relation to complaints under Article 18 of the Convention or to apply a special standard of proof to such allegations. It must however be emphasised that circumstantial evidence in this context means information about the primary facts, or contextual facts or sequences of events which can form the basis for inferences about the primary facts. Reports or statements by international observers, non-governmental organisations or the media, or the decisions of other national or international courts are often taken into account to, in particular, shed light on the facts, or to corroborate findings made by the Court (see *Selahattin Demirtaş*, cited above, § 422).

119. Given the nature of the case against the applicant and his position, there was a legitimate reason for informing the public about the case. The Court has already held that the public has a legitimate interest in the provision and availability of information on criminal proceedings, and that remarks concerning the functioning of the judiciary relate to a matter of public interest (see *Morice v. France* [GC], no. 29369/10, § 152, ECHR 2015). The Court has held that providing the public with information about ongoing criminal proceedings pursued the legitimate aim of the prevention of disorder or crime under Article 8 § 2 of the Convention (see, for example, *Algirdas Butkevičius v. Lithuania*, no. 70489/17, § 95, 14 June 2022). The Court also reiterates that maintaining integrity in public office and preventing corruption are interests to which the Council of Europe and the Court attach significant importance (see *Păcurar v. Romania*, no. 17985/18, § 31, 24 June 2025, with further references).

120. To the extent the applicant complained that there was an ulterior purpose for NABU publications, the Court observes that, if the applicant had recourse to the civil remedy in respect of his complaints (see paragraphs 95 to 103 above), he could raise his arguments in those proceedings. Before the Court, he failed to make an arguable case that the relevant online publications had been driven by ulterior motives. His arguments (see paragraph 112 above) did not, in fact, provide sufficient evidence of the existence of such motives.

121. As to the history of the Euromaidan investigation in which the disclosed material was obtained, the Court observes that it was initiated not by NABU but by the PGO, with whom NABU actually had a “certain degree of antagonism” (see *Sytnyk v. Ukraine*, no. 16497/20, §§ 12-13 and 154, 24 April 2025). The lead investigative unit was part of the SBU, not NABU (see paragraph 8 above).

122. There is no indication of any substantial connection between the impugned publications and their subject matter and the 2016 criminal case concerning suspected unlawful enrichment. The Government provided detailed information as to the grounds for instituting those proceedings (see paragraph 35 above). The NAPC’s findings concerning the existence of a “conflict of interest” in the actions of detectives involved in that 2016 case (see paragraph 36 above), while concerning, do not suggest that the publications at stake in the present application were driven by ulterior motives.

123. In addition to the above-mentioned context of reported antagonism between NABU and the PGO at the time (see paragraph 121 above), the then Prosecutor General’s statements about the “KCAC case” (see paragraph 44 above) do not clearly indicate that he believed that there were any ulterior motives on the part of NABU in dealing with the case. They can be read as reflecting a view that the prosecution was not progressing speedily enough. The Court does not consider, therefore, that those isolated statements can be considered proof of an ulterior motive.

124. The applicant referred to a number of judgments issued by KCAC judges unfavourable to NABU, its then director and the government of Ukraine (see paragraph 112 (iv) to (vi) above). However, he did not allege that he was personally involved in any of those cases. Moreover, there is no indication of any connection between those judicial decisions and the impugned publications or their subject matter. The same is relevant with regard to remarks of the former President of Ukraine related to one particular case concerning bank nationalisation (see paragraph 41 above). Those remarks were, moreover, made at a turbulent point in time shortly prior to the presidential election, and the impugned publications took place while an entirely different administration was in office (see paragraph 39 above).

125. The applicant’s extensive submissions about the timing of the institution, discontinuation, merging and transfer of various criminal

proceedings do not provide evidence either that the impugned publications were driven by ulterior motives.

126. In the light of the foregoing, the Court finds that there is insufficient evidence to substantiate the applicant's allegation that the impugned publications were driven by ulterior motives. Accordingly, it finds that the complaint under Article 18 of the Convention is manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention.

127. To the extent the applicant raised concerns about the reasons for and circumstances which led to the institution and pursuit of criminal charges against him as such (see paragraphs 111 and 114 above), the Court observes that the criminal proceedings against the applicant are pending and nothing indicates that the applicant would be unable to defend himself against those charges and raise his concerns in the context of those proceedings (compare *Aleksanyan v. Russia* (dec.), no. 46468/06, 24 January 2008).

128. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 29 January 2026.

Victor Soloveytchik
Registrar

Kateřina Šimáčková
President