

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

FIFTH SECTION

CASE OF POZDNYAKOV v. UKRAINE

(Application no. 64293/12)

JUDGMENT

STRASBOURG

22 October 2026

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



In the case of Pozdnyakov v. Ukraine,

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

María Elósegui*, President*,
Andreas Zünd,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 64293/12) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 28 September 2012 by a Ukrainian national, Mr Pavel Alekseyevich Pozdnyakov ("the applicant"), who was born in 1961 and lives in Myrgorod, and was represented by Mr T.G. Zakharov, a lawyer practising in Poltava;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko;

the parties' observations;

Having deliberated in private on 1 October 2026,

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

SUBJECT MATTER OF THE CASE

1. Until September 2011 the applicant lived in Krasnodon (Luhansk Region) and received an old age pension from the Krasnodon Branch of the State Pension Fund. He also continued working.

2. The Law on State Pension Insurance provided that pensions of working pensioners had to be recalculated every two years, taking into account any additional pension-qualifying period. On 15 December 2010 the Krasnodon Branch of the State Pension Fund recalculated the applicant's pension using average wage per worker for 2007 as a basis for recalculation.

3. The applicant instituted proceedings before the Krasnodon Court against the Krasnodon Branch of the State Pension Fund. He pointed out that paragraph 3 of part 11 of Decree no. 530 of the Committee of Ministers of 28 May 2008 ("Decree no. 530") provided that the respondent should have used average wage per worker for the year preceding the year of recalculation as a basis for recalculation.

4. On 9 February 2011 the Krasnodon Court ordered the respondent to recalculate the applicant's pension using average wage per worker for 2009 as a basis for recalculation. The court pointed out that the Law on State Pension Insurance established the right of a pensioner to have his or her pension recalculated, however, that Law did not establish a mechanism for such recalculation. The mechanism was established in paragraph 3 of part 11 of Decree no. 530.

5. Enforcement proceedings were started on 23 February 2011 and finished on 30 March 2011. By the latter date, the decision of 9 February 2011 had been fully enforced, that is, the Krasnodon Branch of the State Pension Fund had recalculated the applicant's pension and had started paying him a higher pension.

6. In September 2011 the applicant moved to Myrgorod (Poltava Region) permanently. On 1 October 2011 his pension file was transferred to the Myrgorod Branch of the State Pension Fund, which became responsible for paying his pension.

7. From 1 October 2011, the applicant again started receiving the lower amount of pension which he had received prior to the decision of the Krasnodon Court of 9 February 2011.

8. In 2012 the applicant instituted proceedings before the Myrgorod Court, complaining that he was no longer receiving the amount of pension as recalculated in accordance with the decision of 9 February 2011.

9. On 29 February 2012 the Cabinet of Ministers repealed paragraph 3 of part 11 of Decree no. 530 with effect from 12 March 2012.

10. On 2 April 2012 the Myrgorod Court ruled in favour of the applicant. It noted that the Krasnodon and Myrgorod Branches of the State Pension Fund were parts of the same organisation (the State Pension Fund) and they were both obliged to comply with the decision of 9 February 2011. The court noted that when the applicant had moved, the Myrgorod Branch of the Pension Fund had started paying him a pension amounting to 3,053.12 Ukrainian hryvnias (UAH) (281 euros (EUR) at the time) per month, while the amount as recalculated pursuant to the decision of 9 February 2011 should have been UAH 4,108.44 (EUR 378 at the time) per month. The court thus ordered the Myrgorod Branch of the State Pension Fund to pay the applicant the difference between the pension which he had received and the amount which he should have received between 1 October 2011 and 1 April 2012. The applicant received the difference as a lump sum in May 2012.

11. On 2 July 2012, following an appeal lodged by the State Pension Fund, the Kharkiv Administrative Court of Appeal overturned the decision of 2 April 2012 and terminated the proceedings in the applicant's case, noting that the applicant's claims had concerned the recalculation of his pension and that that issue had been decided by the decision of Krasnodon Court in his favour. The applicant was not required to repay the pension arrears which he had received for the period from 1 October 2011 to 1 April 2012.

12. On 4 September 2012 the Higher Administrative Court rejected the applicant's appeal in cassation noting that the judgement of 2 July 2012 was not subject to appeal.

13. Between May 2012 and December 2016, the applicant received pension which was lower than the amount calculated based on the decision of 9 February 2011. Subsequently, following various legislative changes, his

pension was increased to UAH 9,558 (EUR 282 at the time) by the end of 2017 and to UAH 11,182 (EUR 349 at the time) in 2019. Starting from March 2025 the applicant has been receiving UAH 20,204 (EUR 464) in monthly pension.

14. The applicant complained under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 that the decision of 9 February 2011 had been enforced only until 1 October 2011. He also complained under Article 6 § 1 of the Convention that he had had no access to a court because the Kharkiv Administrative Court of Appeal had refused to consider his claims on the merits.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF FAILURE TO EXAMINE THE APPLICANT'S CLAIMS ON THE MERITS

15. The Government submitted that the applicant should have asked the bailiffs to change the Krasnodon Branch of the State Pension Fund with the Myrgorod Branch of the State Pension Fund as the debtor in the enforcement proceedings instead of lodging a new claim with a court. They also noted that the court of appeal had reached a reasonable and lawful conclusion when it had decided to terminate the proceedings. The applicant maintained his complaints. The Court notes that the Government's arguments relate closely to the merits of this complaint and will, therefore, examine them in the framework of its analysis of the merits of this complaint below. It further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

16. The Court reiterates that everyone has the right to have any claim relating to his or her "civil rights and obligations" brought before a court or tribunal. In this way, Article 6 § 1 of the Convention embodies the "right to a court", of which the right of access, that is, the right to institute proceedings before courts in civil matters, constitutes one aspect (see *Golder v. the United Kingdom*, 21 February 1975, § 36, Series A no. 18). The "right to a court" and the right of access are not absolute. They may be subject to limitations, but these must not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired (see *Stanev v. Bulgaria* [GC], no. 36760/06, § 229, ECHR 2012).

17. In the present case, the court of appeal refused to consider the applicant's claims lodged in 2012, stating that they were identical to those already examined by another court in 2011. However, in the Court's view, the applicant's claims of 2011 and 2012 were different; in particular, the claims examined in 2011 concerned the recalculation of the applicant's

pension by the Krasnodon Branch of the State Pension Fund, whereas those lodged in 2012 concerned non-enforcement of the judgment in his favour by the Myrgorod Branch of the State Pension Fund. The Court observes that the Kharkiv Administrative Court of Appeal could have indicated to the applicant that he had to request the bailiffs to change the debtor in the enforcement proceedings, however, it chose not to do so. Moreover, as both branches were parts of the same organisation, the Court considers that, after the applicant having been registered with the Myrgorod Branch of the State Pension Fund, he did not have to take any further actions to inform the bailiffs that his file had been moved from one branch to another.

18. The Court concludes that the Kharkiv Administrative Court of Appeal failed to address the merits of the applicant's complaint, thus impairing the very essence of his right of access to a court. There was accordingly a violation of 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1 ON ACCOUNT OF NON-ENFORCEMENT

19. The Government submitted that the applicant had been entitled to receive the recalculated amount of his pension until Decree no. 530 had been repealed in February 2012. By the decision of the Myrgorod Court, the applicant had been awarded pension arrears for the period between October 2011 and 1 April 2012 and he had not been required to return this amount after the decision of the Myrgorod Court had been overturned. Even assuming that after February 2012 the applicant could still be considered to have had a legitimate expectation to receive a pension as calculated by the decision of the Krasnodon Court, he should have approached the bailiffs with a request to replace the Krasnodon Branch of the State Pension Fund with the Myrgorod Branch of the State Pension Fund as a debtor in the enforcement. He could also request a court to carry out judicial control over enforcement of a court judgment under Article 267 of the Code of Administrative Justice. Moreover, after 2019, the applicant's pension had been significantly increased on account of legislative changes, therefore, the applicant had lost his victim status.

20. The applicant pointed out that after the Ukrainian Government had lost control over the territory where the Krasnodon Branch of the State Pension Fund had been located, the execution of the judgment had become thus more complicated. He further noted that he had had a right to have the judgment enforced even after the legislation had been changed.

21. The Court observes that on 29 February 2012 the Cabinet of Ministers repealed Decree no. 530 which laid basis for the judgment of 9 February 2011. The Court has already noted that statutory pension regulations are liable to change and a judicial decision cannot be relied on as a guarantee against

such changes in the future. The prospective effect of the judgment of the Krasnodon Court inevitably ended when the underlying which had created the applicant's entitlement was changed (see *Velikoda v.Ukraine* (dec.), no. 43331/12, §§ 16 and 26-27, 3 June 2014). Moreover, the Court does not lose sight that the applicant received the recalculated pension for the period between 1 October 2011 and 1 April 2012.

22. In the light of the circumstances above, the Court considers that this complaint must be declared inadmissible, as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention. It follows that the complaint concerning alleged lack of domestic remedies against the non-enforcement is also inadmissible.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. In respect of pecuniary damage, the applicant claimed compensation in the amount of his pension as recalculated in accordance with the decision of the Krasnodon Court, plus indexation. He also claimed compensation in respect of non-pecuniary damage, while not indicating any amount. He further claimed reimbursement of costs and expenses before the Court and domestic courts, without indicating a specific amount.

24. The Government contested those claims.

25. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. As regards non-pecuniary damage, the Court, ruling on an equitable basis, awards the applicant 1,500 euros (EUR), plus any tax that may be chargeable.

26. Having regard to the documents in its possession, the Court rejects that claim for costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Articles 6 § 1 of the Convention concerning failure of the court of appeal to examine the applicant's claims on the merits admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a

rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	María Elósegui President