

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

FIFTH SECTION

DECISION

Application no. 2498/14
Stepan Ivanovych SAVYCH
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 5 June 2025 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. 2498/14) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 20 December 2013 by a Ukrainian national, Mr Stepan Ivanovych Savych ("the applicant"), who was born in 1947, lives in Pidgaytsi and was represented by Mr Y.V. Koltonyuk, a lawyer practising in Lutsk;

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

the information about the applicant's death on 3 July 2015 and the wish of his wife, Ms Maria Fedorivna Savych, to continue the proceedings before the Court in his stead;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The present case concerns the non-enforcement of a domestic judgment rendered against a private individual. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

2. On 25 January 2001 the Lutsk City District Court of the Volyn Region ("the Lutsk Court") convicted a certain D. of theft and sentenced him to three years' imprisonment. The Lutsk Court allowed a civil claim brought by the applicant and ordered D. to pay him 5,313.88 Ukrainian hryvnias (UAH - approx. 1,054 euros (EUR) at the material time) in respect of pecuniary damage. Subsequently, on 3 July 2001, the Lutsk Court allowed the applicant's claim and ordered D. to pay the applicant UAH 1,100 (approx. EUR 218 at the material time) in respect of non-pecuniary damage. Those judgments were enforced in part; the enforcement proceedings were terminated on several occasions on account of D.'s lack of funds to pay his debt.

3. On 18 March 2013 the Bailiffs Service ordered that the writs of enforcement be returned to the applicant. The applicant subsequently brought a claim in the Lutsk Court seeking to have those orders quashed. On 12 June 2013 the court allowed the applicant's claim and ordered the Bailiffs Service to resume the enforcement proceedings. The court established that D. often left Ukraine for work purposes. On 5 July 2013 the enforcement proceedings were resumed.

4. In the meantime, the applicant brought court proceedings against the Bailiffs Service, seeking payment of UAH 5,636.76 (approx. EUR 523) in respect of pecuniary damage, an amount equal to the outstanding sum to be paid to the applicant by D. He relied on the Lutsk Court's decision of 12 June 2013, arguing that the Bailiffs Service had inflicted pecuniary damage on him through its failure to ban D. from leaving Ukraine until he had paid the outstanding sum owed to the applicant.

5. On 22 October 2013 the Lutsk Court dismissed the applicant's claim as unsubstantiated.

6. On 20 November 2013 the Volyn Regional Court of Appeal upheld the decision of the first-instance court. The appellate court found that the applicant had failed to prove that he had sustained damage or to justify the amount claimed in that respect, nor had he established a causal link between any action or inaction on the part of the Bailiffs Service and the alleged damage. It stated that the mere fact that the order of the Bailiffs Service had been quashed could not serve as grounds for awarding the damages due to be paid by a debtor in accordance with a court decision. The applicant appealed on points of law, reiterating his complaints and relying on Article 1166 of the Civil Code, which provided that damage caused by unlawful decisions, actions or omissions in respect of a person's property must be compensated for in full by a person who caused it.

7. On 10 December 2013 the Higher Specialised Court for Civil and Criminal Matters ("the HSCCCM") found an appeal on points of law lodged by the applicant to be unsubstantiated and refused to open cassation proceedings.

8. On 3 August 2015 the applicant's wife informed the Court of the death of the applicant and of her intention to pursue the application.

THE COURT'S ASSESSMENT

9. The Court notes at the outset that the applicant died after lodging the application and that his wife, Ms Maria Fedorivna Savych, has expressed her wish to continue the proceedings before it. The Government have not objected. Having regard to the circumstances of the present case, the Court accepts that the applicant's wife has a legitimate interest in pursuing the application in her husband's stead. For practical reasons, it will continue to refer to Mr Stepan Ivanovych Savych as the applicant (see, for example, *Tagiyev and Huseynov v. Azerbaijan*, no. 13274/08, §§ 23-24, 5 December 2019, with further references).

10. The applicant complained under Article 6 of the Convention about the lengthy non-enforcement of the court judgments of 25 January and 3 July 2001 and the HSCCCM's failure to justify its refusal to open cassation proceedings. Furthermore, relying on Article 1 of Protocol No. 1 to the Convention, he complained that the State had failed to implement a procedure for awarding and paying compensation for damage, as guaranteed by Article 1177 of the Civil Code, which provided that pecuniary damage caused to the property of a person as the result of a crime was to be compensated for by the State if the person who had committed the crime was not identified or was insolvent.

11. The Court notes that the applicant failed to claim compensation at the national level in respect of non-pecuniary damage resulting from the lengthy non-enforcement of the judgments of 25 January and 3 July 2001. The Court reiterates that, as it has already held in similar cases, Ukrainian legislation provides for the possibility of challenging before the courts the lawfulness of acts and omissions of the State Bailiffs Service in enforcement proceedings and claiming damages from that service for delays in payment of the amount awarded (see, for instance, *Kukta v. Ukraine* (dec.), no. 19443/03, 22 November 2005). In the present case, the applicant failed to make use of those remedies. Therefore, his complaint raised under Article 6 of the Convention must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

12. In relation to the applicant's complaint about the failure to implement a procedure for awarding and paying compensation for damage under Article 1177 of the Civil Code, the Court notes that the applicant did not initiate any national court proceedings, relying on this provision.

13. At the same time, the Court reiterates that the State's obligation to protect the right to peaceful enjoyment of possessions guaranteed by Article 1 of Protocol No. 1 to the Convention is not absolute and cannot extend further than what is reasonable in the circumstances (see, *mutatis mutandis*,

Futornyak v Ukraine (dec.), no. 41678/20, § 31, 4 June 2024). Furthermore, the compensation mechanism under Article 1177 was never intended to be unconditional (see *Zolotyuk v Ukraine* (dec.), no. 3958/13, 16 December 2014; *Petlyovanyy v Ukraine* (dec.), no. 54904/08, 30 September 2014). As the applicant did not demonstrate that he had a sufficiently established claim to compensation for the purposes of Article 1 of Protocol No. 1, he cannot argue that he had a "legitimate expectation" of obtaining any specific sums. It follows that the applicant's complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) of the Convention and must be rejected in accordance with Article 35 § 4 of the Convention.

14. The Court has examined the applicant's remaining complaint under Article 6 § 1 of the Convention (concerning the alleged violation of his right of access to a court of cassation on account of the HSCCCM's refusal to open cassation proceedings) and finds no appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto. Therefore, this part of the application must be rejected as manifestly ill-founded pursuant to 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 26 June 2025.

Martina Keller Deputy Registrar	María Elósegui President