



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

FIFTH SECTION

CASE OF BOROVYK AND TOPORKOVA v. UKRAINE

(Applications nos. 2091/19 and 22953/19)

JUDGMENT

Art 1 P1 • Control of the use of property • Prolonged suspension of applicants' pension payments due to their residence in eastern regions of Ukraine where armed hostilities began in 2014 • Requirement to relocate to government-controlled areas and register as internally displaced persons for payments to be resumed • Applicants' inability to relocate due to old age and serious health conditions • No alternatives to relocation offered over a long period of time • Interference not proportionate to the legitimate aim sought

Prepared by the Registry. Does not bind the Court.

STRASBOURG

8 October 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Borovyk and Toporkova v. Ukraine,

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

Kateřina Šimáčková, *President*,

Gilberto Felici,

Andreas Zünd,

Diana Sârcu,

Mykola Gnatovskyy,

Vahe Grigoryan,

Sébastien Biancheri, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to:

the applications (nos. 2091/19 and 22953/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Ukrainian nationals, Ms Vira Semenivna Borovyk (“the first applicant”) and Ms Lyubov Ivanivna Toporkova (“the second applicant”), on 18 December 2018 and 19 April 2019 respectively;

the decision to give notice to the Ukrainian Government (“the Government”) of the complaints under Article 1 of Protocol No. 1 to the Convention and Article 14 of the Convention taken together with Article 1 of Protocol No. 1, and to declare the remainder inadmissible;

the parties’ observations;

Having deliberated in private on 8 September 2026,

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

INTRODUCTION

1. The present case concerns the suspension of the applicants’ pension payments on account of their residence in the eastern regions of Ukraine, where armed hostilities began in 2014. It raises issues under Article 1 of Protocol No. 1 to the Convention and under Article 14 of the Convention, taken in conjunction with Article 1 of Protocol No. 1.

THE FACTS

2. The first applicant was born in 1947 and lived in Donetsk. She died on 31 May 2019. She was represented by Ms Y. Naumenko and Mr V. Stasyuk, lawyers practising in Kyiv and Dnipro respectively.

3. The second applicant was born in 1935 and lived in Vuhlehirsk, Donetsk Region. She died on 24 August 2024. She was represented by Ms Y. Naumenko and Mr O. Tarasenko, lawyers practising in Kyiv and Kharkiv respectively.

4. The Government were represented by their Agent, Ms M. Sokorenko, from the Ministry of Justice.

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

I. BACKGROUND INFORMATION

6. Owing to armed hostilities in certain parts of the Donetsk and Luhansk regions of Ukraine, which were accompanied by the seizure of official buildings and frequent attacks on employees by armed groups of the so-called “Donetsk People’s Republic” and “Luhansk People’s Republic” (“DPR” and “LPR”), in late July 2014 the Ukrainian postal service, Ukrposhta, suspended its operations, and in early August 2014 the National Bank of Ukraine suspended all its financial transactions in the territories outside the government’s control. In November 2014 all social benefit payments in those territories were also suspended owing to the relocation of State-funded institutions, enterprises and organisations to settlements where the government exercised its powers in full. In December 2014 the courts functioning in those territories were also relocated to government-controlled settlements (see *Tsezar and Others v. Ukraine*, no. 73590/14 and 6 others, §§ 6-14 and 26, 13 February 2018).

7. At the relevant time, social benefits were paid to persons who moved to government-controlled territories and registered there as internally displaced persons (“IDPs”) (see *Kandyba and Others v. Ukraine* (dec.), no. 33137/16, §§ 8-9 and 34, 13 October 2020). In addition, to continue receiving social benefits, the majority of those who moved to such territories and obtained status as IDPs were required, from 1 July 2016 onwards, to have an account with the Derzhavnyy Oshchadnyy Bank of Ukraine (Oshchadbank, the State Savings Bank) and undergo periodic physical identification there (see *Shylyna v. Ukraine*, no. 2412/19, § 5, 15 February 2024).

II. CIRCUMSTANCES OF THE CASE

8. The applicants were in receipt of a retirement pension. As of August 2014, their pension payments were suspended owing to hostilities in the settlements where they lived. They did not move to government-controlled territories. In the applicants’ submission, they were unable to relocate because of poor health and old age. According to the available medical documents, the first applicant suffered from chronic salpingitis and endometrial cancer and was undergoing inpatient treatment, while the second applicant suffered from chronic cerebral atherosclerosis and profound hemiparesis, requiring constant care.

9. Between December 2017 and June 2018 the applicants, through their lawyers, instituted proceedings against the local pension fund authorities, which had been relocated to government-controlled settlements. They sought a declaration that the suspension of their pension payments was unlawful and the resumption of those payments together with the payment of the accumulated arrears. They further argued that the prolonged deprivation of their pensions, their sole means of subsistence, pursued no legitimate public interest and amounted to discrimination on the ground of their place of residence as compared with pensioners living in government-controlled areas.

The applicants maintained that the suspension of their pensions lacked any legal basis under domestic law. They argued that Ukrainian citizens were entitled, under the Constitution and the Law on Compulsory State Pension Insurance (no. 1058-IV of 9 July 2003 – “the 2003 Law”), to receive their pensions irrespective of their place of residence and that section 49 of the 2003 Law contained an exhaustive list of grounds for discontinuing pension payments, none of which covered the absence of IDP registration or residence in the non-government-controlled territories. They further contended that the requirement to relocate and register as an internally displaced person had been introduced by subordinate legislation and could not lawfully amend or restrict rights guaranteed by the Constitution and primary legislation.

10. On 20 April and 3 September 2018 respectively the Donetsk Circuit Administrative Court dismissed the first and second applicants’ claims. Those judgments were upheld by the Donetsk Administrative Court of Appeal on 20 June and 28 November 2018 respectively. The courts accepted that the applicants remained entitled in principle to old-age pensions but found that, under the legislative framework governing social payments in the context of the armed conflict, pension payments to persons residing in the non-government-controlled territories could be resumed only after they had relocated to government-controlled territory, registered as IDPs and applied to the competent pension authority. Relying on the legislation concerning IDPs, the Cabinet of Ministers resolutions adopted in that context and the practical impossibility of administering pension payments in the non-government-controlled territories, the courts concluded that the applicants had failed to satisfy the statutory requirements for the resumption of their pensions and that there were therefore no legal grounds for granting their claims (see paragraph 7 above and paragraph 13 below). The courts found no evidence of the alleged discrimination.

11. By decisions of 15 August 2018 and 18 January 2019 respectively, the Supreme Court refused to entertain appeals on points of law lodged by the applicants, stating that the cases did not warrant review as they were of a trivial nature.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. LAW ON COMPULSORY STATE PENSION INSURANCE

12. The relevant provisions of 2003 Law, as worded at the time of the applicants' claims to the domestic courts, read as follows:

Section 47 – Payment of pensions

“1. Pensions shall be paid monthly ... at the pensioner's actual place of residence in Ukraine, by organisations carrying out the payment and delivery of pensions or through banking institutions in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

...”

Section 49 – Termination of pension payments and renewal

“1. Pension payments shall be terminated by decision of the local pension fund authorities or a court:

(1) if the pension was granted on the basis of documents containing inaccurate information;

(2) for the entire period of the pensioner's residence abroad, unless otherwise provided for by an international treaty of Ukraine, the binding nature of which has been acknowledged by the *Verkhovna Rada* of Ukraine¹;

(3) in the event of the pensioner's death;

(4) in the event of non-receipt of the pension for six consecutive months;

(5) in other cases provided for by law.

...”

II. OTHER RELEVANT DOMESTIC LAW AND PRACTICE

13. Other relevant domestic law, as summarised in *Tsezar and Others* (cited above, §§ 20-29), *Kandyba and Others* (cited above, § 34) and *Shylyna* (cited above, §§ 17 and 19-21), includes the following:

(i) Resolution no. 466 of the Board of the National Bank of Ukraine of 6 August 2014 on the suspension of financial transactions;

(ii) Resolution no. 509 of the Cabinet of Ministers of 1 October 2014 on the registration of persons displaced from the temporarily occupied territories of Ukraine and the anti-terrorist operation area (after relevant amendments – on the registration of internally displaced persons);

(iii) Law on Internally Displaced Persons' Rights and Freedoms (no. 1706-VII of 20 October 2014);

(iv) Resolution no. 637 of the Cabinet of Ministers of 5 November 2014 on welfare payments to persons displaced from the temporarily occupied territories of Ukraine and the anti-terrorist operation area

¹ This provision was invalidated by the Constitutional Court in a ruling dated 7 October 2009.

(after relevant amendments – on welfare payments to internally displaced persons), with further amendments;

(v) Interim Order on the financing of publicly funded institutions, social-security payments and the provision of financial support to companies and organisations in the Donetsk and Luhansk regions, approved by Resolution no. 595 of the Cabinet of Ministers of 7 November 2014 on certain issues of financing of publicly funded institutions, social-security payments and the provision of financial support to enterprises and organisations in the Donetsk and Luhansk regions.

14. The relevant domestic case-law can be found in *Kandyba and Others* (cited above, §§ 36-37). In particular, the Grand Chamber of the Supreme Court analysed various legal acts, particularly those relevant to the situation of those who remained in the territories outside the government's control, holding that they did not provide for the termination of social payments (the non-payment of insurance payments as in the case in question) on the grounds of a person's failure to register as an IDP (decision of 20 September 2018), and that the absence of IDP status could not affect the enjoyment of pension rights (decision of 17 March 2020). In the latter decision, the Supreme Court also referred to its earlier decision of 6 August 2019, which had deviated from the Grand Chamber's decision of 20 September 2018, albeit without providing any particular reasons for such deviation.

15. By Resolution no. 299 of 11 February 2025 (in force as of 20 March 2025), the Cabinet of Ministers established uniform conditions for the receipt of pensions by all citizens of Ukraine, irrespective of their place of residence, whether in government-controlled territories, abroad or in the temporarily occupied territories. More specifically, residents in the latter territories became able to obtain their pension on condition that they (i) had an account with any Ukrainian bank (with certain banks allowing accounts to be opened online); (ii) underwent physical identification once per year (including by electronic means or via videoconference with the pension fund's employees); (iii) conducted at least one financial transaction on their bank account every six months, where no physical identification had been carried out during that period; and (iv) made a statement confirming non-receipt of a pension from Russia (which could likewise be submitted by electronic means).

THE LAW

I. JOINDER OF THE APPLICATIONS

16. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. THE *LOCUS STANDI* OF MR OLEKSANDR IVANOVYCH BOROVIK IN APPLICATION NO. 2091/19 AND OF MS TETYANA VYACHESLAVIVNA POLYAK IN APPLICATION NO. 22953/19

17. The Court notes that the applicants died while the case was pending before the Court. The first applicant's son, Mr Oleksandr Ivanovych Borovik, and the second applicant's niece, Ms Tetyana Vyacheslavivna Polyak (she is a second-line heir after her mother, the second applicant's sister, who is of advanced age and lives in the occupied territories of Ukraine), requested to pursue the applications on their late relatives' behalf. The Government did not raise any objections concerning the *locus standi* of the first applicant's son to act in his late mother's stead. However, they claimed that the level of kinship between the second applicant and her niece is insufficient to prove the existence of a legitimate moral interest to maintain the case.

18. The Court notes that in various cases, where applicants died in the course of the proceedings, it took into account the wishes of their heirs or close members of their families to pursue the proceedings before the Court (see *Jama v. Slovenia*, no. 48163/08, § 28, 19 July 2012). It sees no reason to reach a different conclusion in the present case and therefore accepts that the applicants' relatives can pursue the applications initially brought by the applicants. However, for practical reasons, Ms Vira Semenivna Borovyk and Ms Lyubov Ivanivna Toporkova will continue to be called "the applicants" in this judgment (see *Radzevil v. Ukraine*, no. 36600/09, § 47, 10 December 2019).

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

19. The applicants complained that the suspension of their pension payments had been unlawful and that the requirement they had to fulfil for the resumption of those payments had been too excessive for them to comply with. They relied on Article 1 of Protocol No. 1 to the Convention, which reads as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

20. The Government did not raise any objections in relation to the admissibility of the applicants' complaints under Article 1 of Protocol No. 1 to the Convention.

21. The Court notes that these complaints are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

22. The applicants did not dispute that the interference with their property rights had a legal basis in numerous regulatory legal acts (listed in paragraph 13 above). They contended, however, that those acts were incompatible with a law of higher legal force, namely the 2003 Law (see paragraph 12 above). They further submitted that the Law guaranteed all citizens the right to receive a pension irrespective of their place of residence and set out a list of specific grounds for the termination of pension payments, none of which, in their view, had applied to their situation.

23. The applicants acknowledged the State's objective inability to ensure pension payments in the territories outside its control. At the same time, they argued that Ukraine's lack of control over certain occupied territories did not exempt the State from its positive obligation to provide residents of those areas with their pensions.

24. The applicants emphasised that the suspension of their pension payments had imposed an excessive individual burden on them because they had been unable to relocate to government-controlled territories mainly because of their serious health conditions and resulting limited mobility. They contended that the deprivation of their sole means of subsistence in old age and poor health had been an excessively radical step. Lastly, they argued that the State had failed to explore other, less intrusive alternatives. In this connection, they referred to a situation in Georgia where disabled residents of occupied Abkhazia and South Ossetia had been able to grant power of attorney to their representatives by electronic means, noting that the Ukrainian authorities had never taken similar steps.

(b) The Government

25. The Government submitted that, following the hostilities in the eastern regions of Ukraine, new provisions had been adopted (see paragraph 13 above) allowing recipients of social benefits from the occupied territories of Ukraine to apply to the relevant social-

security authorities – which had been relocated to government-controlled territories – for the resumption of their social benefits. The Government maintained that these provisions were consistent with the principle of lawfulness.

26. The Government confirmed that, owing to the hostilities, the State had had to suspend all social benefit payments in the territories outside its control, as the relevant authorities had been objectively deprived of the possibility to ensure such payments in those territories.

27. The Government further asserted that the suspension of pension payments in the occupied territories of Ukraine did not mean that the applicants had lost their right to a pension as such. Moreover, they submitted that the applicants had failed to show why they could not move to government-controlled territories and register there as IDPs in order to receive their pensions.

2. *The Court's analysis*

28. The Court notes that it is not in dispute between the parties that the applicants were entitled to a pension, and that the suspension of their pension payments amounted to an interference with their right to the peaceful enjoyment of their possessions. It follows that the applicants' complaints are to be examined from the standpoint of the second paragraph of Article 1 of Protocol No. 1 to the Convention regarding control of the use of property (see *Shylina*, cited above, § 32).

(a) **General principles**

29. According to the Court's well-established case-law, to be compatible with Article 1 of Protocol No. 1 to the Convention the impugned measure must fulfil three conditions: it must be lawful, pursue a legitimate aim and strike a fair balance between the general interest of the community and the individual's fundamental rights (see *Beyeler v. Italy* [GC], no. 33202/96, §§ 108-14, ECHR 2000-I).

30. The legal basis must have a certain quality, namely it must be compatible with the rule of law and must provide freedom from or guarantees against arbitrariness (see *Vistiņš and Perepjolkins v. Latvia* [GC], no. 71243/01, § 96, 25 October 2012). The existence of a legal basis in domestic law does not suffice, in itself, to satisfy the principle of lawfulness which, in addition, presupposes that the applicable provisions of domestic law are sufficiently accessible, precise and foreseeable in their application (see, among other authorities, *Centro Europa 7 S.r.l. and Di Stefano v. Italy* [GC], no. 38433/09, § 187, ECHR 2012).

31. The Court further notes that any interference by a public authority with the peaceful enjoyment of possessions can only be justified if it serves a legitimate public (or general) interest. Because of their direct knowledge of

their society and its needs, the national authorities are in principle better placed than an international judge to decide what is “in the public interest”. Under the system of protection established by the Convention, it is thus for the national authorities to make the initial assessment as to the existence of a problem of public concern warranting measures interfering with the peaceful enjoyment of possessions. The Court finds it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one and will respect the legislature’s judgment as to what is “in the public interest” unless that judgment is “manifestly without reasonable foundation” (see, *mutatis mutandis*, *Wieczorek v. Poland*, no. 18176/05, § 59, 8 December 2009, and *Gogitidze and Others v. Georgia*, no. 36862/05, § 96, 12 May 2015).

32. The remaining question for the Court to determine is whether there was a reasonable relationship of proportionality between the means employed by the authorities to achieve the stated legitimate aim and the protection of an applicant’s right to the peaceful enjoyment of his or her possessions. The requisite balance will not be achieved if the person concerned has had to bear an individual and excessive burden (see *Perdigão v. Portugal* [GC], no. 24768/06, § 67, 16 November 2010, and *Béláné Nagy v. Hungary* [GC], no. 53080/13, § 115, 13 December 2016).

In examining the proportionality of an interference, the Court has also had particular regard to factors such as the extent of the loss of benefits, whether there was an element of choice, and the extent of the loss of means of subsistence (see *Fábián v. Hungary* [GC], no. 78117/13, § 73, 5 September 2017). In addition, although the availability of alternative solutions does not in itself render the interference with the right unjustified, it constitutes a relevant factor when determining whether the means chosen may be regarded as reasonable and suited to achieving the legitimate aim being pursued (see, *mutatis mutandis*, *Borzhonov v. Russia*, no. 18274/04, § 61, 22 January 2009).

(b) Application of the above principles to the present case

(i) Whether the interference was lawful

33. The Court notes at the outset that, in the complex situation prevailing in eastern Ukraine and, in particular, in view of the ongoing military activities, the sphere of social policy was governed by an extensive and evolving body of legal provisions contained both in legislation and subordinate normative acts (see *Kandyba and Others*, cited above, § 54). In particular, the requirement for residents of the temporarily occupied territories to relocate to government-controlled areas and register as internally displaced persons in order to receive pension payments was clearly reflected in the domestic regulatory framework and was consistently applied by the domestic courts. It is common ground between the parties that, under that

framework, pension payments could be resumed only after compliance with those requirements.

34. As regards the applicants' argument that the impugned regulatory acts were incompatible with a law of higher legal force which did not provide for the suspension or termination of pension payments on account of a failure to relocate and register as an IDP, the Court observes that certain aspects of the domestic legal framework are not entirely free from ambiguity. In particular, section 49 of the 2003 Law provides that pension payments may be terminated, *inter alia*, "in other cases provided for by law". The domestic courts did not examine whether the notion of "law" ("закон") refers exclusively to an Act of Parliament or may also encompass subordinate legislation, nor whether a provision expressly regulating the "termination" ("припинення") of pension payments also covers their "suspension" ("зупинення").

35. The Court considers that the nature of the alleged defect in the legal basis differs from that examined in cases concerning a direct conflict between primary legislation and subordinate regulation (see *Cherkasov and Kuzin v. Ukraine*, nos. 72982/17 and 74407/17, 8 October 2026, not yet final). Where a statutory provision expressly confers a concrete entitlement — for example, the right to receive pension payments through a bank account designated by the pensioner — and a subordinate act essentially removes that entitlement, the issue concerns a direct contradiction despite the established hierarchy of legal norms. Such a conflict goes to the quality of the legal basis itself.

36. In the present case, however, the difficulty is of a different character. Section 49 of the 2003 Law allowed termination of pension payments, *inter alia*, "in other cases provided for by law". The applicants argued that this phrase referred only to an Act of Parliament and could not cover Cabinet of Ministers resolutions. The domestic courts, by contrast, treated the IDP legislation and implementing regulations as forming part of the applicable legal framework governing the resumption of pension payments in the exceptional circumstances of the armed conflict. Thus, the issue was not a direct contradiction between a statutory entitlement and a by-law, but rather the interpretation of an open statutory clause and its application to a situation not expressly foreseen by the original pension legislation.

37. Seeing that the interpretation of domestic law is primarily a matter for the national authorities, in particular the domestic courts, and that it is not the Court's task to substitute its own interpretation for theirs (see, for instance, *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], no. 60642/08, § 113, ECHR 2014), it is regrettable that the domestic courts did not expressly address the applicants' concrete arguments concerning the alleged unlawfulness of the impugned measures. In these circumstances, the Court is not persuaded that the lawfulness requirement was fulfilled in its

entirety in the cases of the applicants. However, it will proceed with examining, in addition, the justification and proportionality of the impugned interference, having regard to the importance of the issues at stake.

(ii) Whether the interference pursued a legitimate aim

38. Bearing in mind the wide margin of appreciation of the State in implementing social and economic policies (see paragraph 31 above), the Court finds no reason to call into question that the requirement that residents of the occupied territories of Ukraine relocate to settlements where the government exercised its powers in full and register there as IDPs in order to receive their social benefits served the “public interest”. It is undisputed by the parties that the domestic authorities were objectively unable to ensure pension payments in the settlements outside the government’s control. The Court has no doubt that this was necessitated by the existence of hostilities in those areas (see, *mutatis mutandis*, *Tsezar and Others*, cited above, §§ 47 and 55). It follows that the contested requirement may be regarded as pursuing the legitimate aim of protecting national security and public safety.

39. The foregoing considerations are sufficient for the Court to conclude that the interference with the applicants’ property rights pursued a legitimate aim.

(iii) Whether the interference was proportionate to the legitimate aim pursued

40. The Court notes that the Government did not dispute the fact that the applicants’ pensions constituted their sole means of subsistence in old age. Likewise, there is no evidence available to the Court to suggest otherwise. It follows that the prolonged suspension of the applicants’ pension payments affected their well-being to a significant extent and placed a very heavy burden on them (see *Bélané Nagy*, cited above, §§ 123-26, where the applicant was completely deprived of her disability benefits even though she did not have any other significant income on which she could survive, and *Domenech Aradilla and Rodríguez González v. Spain*, nos. 32667/19 and 30807/20, §§ 109-13, 19 January 2023, concerning the refusal to grant a survivor’s pension to the applicants, who had very limited means of subsistence).

41. The Court further reiterates that the applicants’ pension payments were not terminated but merely suspended until they complied with the requirement to relocate to government-controlled settlements and register there as IDPs. At the same time, the applicants’ ability to fulfil this requirement – a precondition for the resumption of their pension payments – is one of the main points of disagreement between the parties. In this connection, the Court observes that the applicants provided before it reliable medical evidence that they suffered from serious health conditions,

which significantly limited their physical ability to move independently to government-controlled territories (see paragraph 8 above). The Court therefore rejects the Government's argument that the applicants failed to demonstrate their inability to comply with the requirement in question.

42. Lastly, the Court notes that the situation in which the applicants found themselves necessitated the State to examine other, less intrusive alternatives to the impugned measure, instead of requiring them to move to settlements within the government's control and register there as IDPs – the only option considered by the Government for the resumption of their pension payments. The respondent State did not implement any other alternative solutions to reduce the burden placed on the applicants until March 2025, when uniform conditions for the receipt of pensions by all citizens of Ukraine were established (see paragraph 15 above) – a delay that affected the applicants in a disproportionate manner.

(iv) Conclusion

43. In the light of the above, the Court cannot but conclude that the prolonged suspension of the applicants' pension payments, combined with the requirement for them to relocate and register as IDPs for their resumption without alternative solutions having been offered over a long period of time, was not proportionate to the legitimate aim sought to be achieved.

44. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

IV. OTHER COMPLAINTS

45. The applicants complained under Article 14 of the Convention, taken in conjunction with Article 1 of its Protocol No. 1, that they had suffered discrimination in the enjoyment of their property rights on account of their health conditions which prevented them from changing their place of residence, as compared to pensioners who had no health issues and had been able to relocate to government-controlled settlements.

46. Having regard to the facts of the case, the parties' submissions and since the Court examined the justification for and proportionality of the impugned measures under Article 1 of Protocol No. 1, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the admissibility and merits of the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

47. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

48. The applicants claimed 10,000 euros (EUR) each in respect of non-pecuniary damage.

As regards pecuniary damage, the first applicant claimed EUR 6,233.24 (comprising EUR 2,893.26 in alleged pension arrears accumulated between August 2014 and May 2019 and EUR 3,339.98 in compensation for late pension payments). The second applicant claimed EUR 8,170.51 (alleged pension arrears accumulated between August 2014 and April 2024).

49. The Government submitted that the applicants’ claims were unsubstantiated and exorbitant.

50. Regarding pecuniary damage, the Court notes at the outset that the applicants provided no evidence in support of their calculations, such as certificates from the pension fund authorities, which they were free to seek via their lawyers but failed to do so. However, it also notes that the applicants’ entitlement to pension payments was undisputed in the domestic proceedings.

51. The Court further observes that the present case does not concern deprivation of property. The applicants’ entitlement to their pensions was never denied and remained enforceable, and the violation of Article 1 of Protocol No. 1 to the Convention found above is limited to the fact that insufficient measures were taken to secure pension payments to those who could not move to government-controlled territories. The damage sustained cannot therefore be equated with the amount of the pensions due. The Court also notes that since February 2025 the impugned obstacles to pension payments have been lifted and that any new issues that may have arisen since then fall outside the scope of the present case. Lastly, while the applicants died during the proceedings before the Court, their heirs have not clarified the amount in arrears to which they may be entitled under the domestic rules on inheritance and on the payment of undrawn pensions.

52. Nonetheless, it appears clear that the applicants suffered a loss of opportunity directly related to the fact that, as a result of the violation found, they could not recover their pensions earlier (see, for a similar approach, *Shesti Mai Engineering OOD and Others v. Bulgaria*, no. 17854/04, § 102, 20 September 2011, and *Papachela and AMAZON S.A. v. Greece*, no. 12929/18, § 74, 3 December 2020). In assessing that loss, the Court has regard to the amounts the payment of which was unduly delayed and to the length of the delay, which extended over several years in respect of each applicant. It attaches particular weight, however, to two features of the present case. First, both applicants died in the course of the proceedings

before the Court without having received the payments at issue, so that for them the opportunity to make use of their pensions was not merely deferred but definitively lost. Secondly, the extent to which the arrears may now be recovered by the heirs under domestic law is uncertain, and the present award is made in respect of the applicants' loss of opportunity and not in respect of the arrears as such, which remain a matter for the domestic authorities. Having regard to the foregoing and ruling on an equitable basis, the Court awards EUR 4,000 to each of the applicants in respect of pecuniary damage, to be paid to their respective heirs. Given the nature of the loss and the absence of substantiated calculations, the Court sees no reason to differentiate between the applicants under this head. The Court emphasises that this assessment is closely tied to the particular circumstances set out above and does not prejudge the assessment of pecuniary damage in other cases raising the same issue under Article 1 of Protocol No. 1.

53. As to non-pecuniary damage, the Court considers that the applicants must have suffered such damage, which cannot be sufficiently compensated for by the mere finding of a violation of the Convention. Having regard to the circumstances of the present case and ruling on an equitable basis, the Court finds it reasonable to award EUR 6,000 to each of the applicants under that head, to be paid to their respective heirs.

54. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Decides* that Mr Oleksandr Ivanovych Borovik, the first applicant's son, has *locus standi* in the proceedings;
3. *Decides* that Ms Tetyana Vyacheslavivna Polyak, the second applicant's niece, has *locus standi* in the proceedings;
4. *Declares* the complaints under Article 1 of Protocol No. 1 to the Convention admissible;
5. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
6. *Holds* that there is no need to examine the admissibility and merits of the remaining complaints;
7. *Holds*

- (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 4,000 (four thousand euros) to each applicant, plus any tax that may be chargeable, in respect of pecuniary damage;
 - (ii) EUR 6,000 (six thousand euros) to each applicant, plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (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;
8. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 8 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytschik
Registrar

Kateřina Šimáčková
President