



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

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FIFTH SECTION

Application no. 47491/19
Valeriy Volodymyrovych CHYRUK
against Ukraine
lodged on 29 August 2019
communicated on 21 September 2026

SUBJECT MATTER OF THE CASE

The application concerns an alleged unfairness of administrative proceedings brought by the applicant against a military unit.

In February 2018 the applicant brought an administrative claim (case no. 812/261/18) against Military Unit no. A0536 (“the Military Unit”), seeking, *inter alia*, the annulment of order no. 267 of 16 October 2015, by which he had been downgraded, and order no. 269 of 18 September 2016 (together “the orders”), placing him at the disposal of the commander of the Military Unit (“*вивести у розпорядження командира*”). The orders had been issued following the placement of the applicant into pre-trial detention and subsequently into house arrest on suspicion of unlawful use of firearms while on leave. The applicant also claimed payment of salary arrears in the amount of 23,600 Ukrainian hryvnias.

On 25 June and 19 July 2018 respectively, the Lugansk Circuit Administrative Court ordered the Military Unit to produce documentary evidence relating to the payment and suspension of the applicant’s salary. The Military Unit failed to comply with those orders and did not provide the requested documents.

On 23 July 2018 the Lugansk Circuit Administrative Court annulled the orders as unlawful. However, it dismissed the claim for payment of salary arrears on the ground that the applicant had failed to prove that he had

resumed military service following his release from house arrest on 11 December 2017.

On 11 February 2019 the First Administrative Court of Appeal upheld the decision of the first-instance court. At the same time, it stated that the failure of the Military Unit to provide a copy of order no. 653/1 of 19 October 2015, suspending the payment of the applicant's salary, had prevented it from examining the applicant's claim for salary arrears.

On the same date, 11 February 2019, the First Administrative Court of Appeal issued a separate ruling, obliging the Ministry of Defence to inform the court, within one month, whether the officials of the Military Unit, who had abused their procedural rights by failing to comply with the court orders to produce documentary evidence and to attend mandatory court hearings, had been held accountable. The court stated that the failure to submit order no. 653/1 of 19 October 2015 had prevented it from examining the applicant's claim for payment of salary.

On 20 March 2019 the Supreme Court refused to open cassation proceedings considering the case to be of minor significance.

The applicant complains under Article 6 § 1 of the Convention that the domestic courts breached the principle of equality of arms, in that the Military Unit failed to produce the requested documents, which hindered his ability to effectively present his case.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair hearing in the determination of his civil rights and obligations, in accordance with Article 6 § 1 of the Convention?

In particular, was the principle of equality of arms respected, given the Military Unit's failure to provide a copy of a document (order no. 653/1 of 19 October 2015) requested by the domestic courts? Did that failure adversely affect the applicant's ability to present his case effectively before the domestic courts?

2. Did the applicant have access to a court, given the statements of the First Administrative Court of Appeal in its decision and in its separate ruling of 11 February 2019 that it was unable to examine the applicant's claim for payment of salary because the Military Unit had failed to provide the requested document?