



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

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FIFTH SECTION

Application no. 26214/20
Ivan Vasylyovych Danilov and Others
against Ukraine
lodged on 15 June 2020
communicated on 6 July 2026

SUBJECT MATTER OF THE CASE

The application concerns the alleged failure of the State to comply with its positive obligations under Article 8 of the Convention, taken alone and in conjunction with Article 14 of the Convention, as well as under Article 13 of the Convention, in connection with a verbal and physical attack on the applicants, a gay couple, in that the authorities failed to conduct an adequate investigation and, in the ensuing criminal proceedings, refused to reclassify the offence so as to reflect its homophobic motive.

In particular, on 29 March 2017 the applicants were kissing in one of the recreation parks in Kyiv (“Hydropark”), when they were attacked, beaten and robbed by three individuals. The first applicant sustained minor injuries, while the second applicant suffered injuries of medium severity.

On 15 January 2019 the Dniprovskyi District Court of Kyiv convicted the three attackers under Article 187 of the Criminal Code of Ukraine (robbery aggravated by assault), sentencing two of them to eight years’ imprisonment and of one to seven years’ imprisonment. The court found that the attackers had verbally expressed a disrespectful attitude towards gay couples and that the applicants’ sexual orientation had served as an incentive for the attack; however, it considered that the motive of the offence remained robbery. The court partly allowed the applicants’ civil claim. The applicants appealed, arguing that the crime should have been reclassified under Article 161 of the

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Criminal Code of Ukraine (violation of the equality of citizens aggravated by assault).

On 16 October 2019 the Kyiv Court of Appeal upheld the judgment of the first-instance court. The applicants then appealed on points of law, reiterating their arguments.

On 3 June 2020 the Supreme Court dismissed their appeal on points of law and upheld the decisions of the lower courts, with minor amendments concerning the evidentiary assessment.

The applicants complain under Article 8 of the Convention taken in conjunction with Article 14 of the Convention, and Article 1 of Protocol No. 12 to the Convention, that the national authorities failed to conduct an adequate investigation and to establish a homophobic motive behind the attack. They further complain under Article 13 of the Convention that the authorities failed to take positive measures and to adopt criminal-law provisions enabling homophobic motives to be treated as a statutory aggravating factor.

QUESTIONS TO THE PARTIES

1. Did the treatment to which the applicants were subjected on 29 March 2017 attain the minimum level of severity to fall within the scope of Article 3 of the Convention?

2. If so, having regard to the procedural protection from inhuman or degrading treatment (see *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV), was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention?

3. Have the competent domestic authorities conducted an adequate investigation into the applicants' complaint concerning the events of 29 March 2017, as required by the procedural obligations under Article 8 of the Convention (see *Hanovs v. Latvia*, no. 40861/22, §§ 45 and 46, 18 July 2024)?

4. Having regard to the events of 29 March 2017 and the subsequent investigation as well as the ensuing court proceedings, have the applicants suffered discrimination on the grounds of their sexual orientation contrary to Article 14 of the Convention read in conjunction with Articles 3 and 8 of the Convention (see, *mutatis mutandis*, *Grigoryan and Sergeyeva v. Ukraine*, no. 63409/11, §§ 93-98, 28 March 2017; *Beizaras and Levickas v. Lithuania*,

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no. 41288/15, §§ 109-116, 14 January 2020; *Association ACCEPT and Others v. Romania*, no. 19237/16, §§ 98-103, 1 June 2021, and *Karter v. Ukraine*, no. 18179/17, §§ 75-77, 11 April 2024)?

5. Did the applicants have at their disposal an effective domestic remedy for their Convention complaints, as required by Article 13 of the Convention (see, *mutatis mutandis*, *Smith and Grady v. the United Kingdom*, nos. 33985/96 and 33986/96, § 135, ECHR 1999-VI; *Beizaras and Levickas v. Lithuania*, no. 41288/15, § 150, 14 January 2020; and *Wa Baile v. Switzerland*, nos. 43868/18 and 25883/21, § 145, 20 February 2024)?

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APPENDIX

No.	Applicant's Name	Year of birth/registration	Nationality	Place of residence
1.	Ivan Vasylyovych DANILOV	1992	Ukrainian	Kyiv
2.	Yevgen Oleksandrovych MYSNYK	1990	Ukrainian	Brovary
3.	Pravozakhysnyy LGBT tsentr Nash svit, GO	1999	Ukrainian	Kyiv