



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

Legal summary

October 2026

Zakutniy and Others v. Ukraine - 52652/20, 3536/21, 21602/21 et al.

Judgment 15.10.2026 [Section V]

Article 3

Degrading treatment

Inadequate conditions of detention: *violation*

Article 13

Effective remedy

Effectiveness of compensatory remedy for inadequate conditions of detention: *no violation*

Facts – The eight applicants, who had all been detained for varying periods in conditions that they alleged to have been inhuman and degrading, lodged civil claims with the domestic courts seeking compensation for non-pecuniary damage. They complained, in particular, of overcrowding, insufficient lighting and ventilation, inadequate sanitary facilities, exposure to passive smoking, a lack of toiletries, poor quality of food and bed linen, and the limited size of outdoor exercise areas. Except for the fourth applicant, the domestic courts allowed their claims but awarded amounts significantly lower than those sought.

Law – Articles 3 and 13:

(1) *Pilot judgment procedure and subsequent developments at the Court* – In 2020, in the pilot judgment of *Sukachov v. Ukraine*, the Court found, under Article 46 of the Convention, that a structural problem had existed concerning conditions of detention in Ukraine and had indicated the general measures required to reduce overcrowding and improve material conditions. It had further called for the introduction of effective domestic remedies, both preventive and compensatory, but without adjourning the examination of similar cases (pending or future).

Since that judgment, more than 1,700 applications against Ukraine had been registered containing prima facie meritorious complaints about poor conditions of detention in various detention facilities. By May 2026 the structural problem had given rise to findings of Convention violations in over 800 applications. Most of the cases concerned problems of overcrowding and other recurrent shortcomings relating to the material conditions of detention, such as inadequate hygiene and sanitation, insufficient lighting and ventilation, the presence of insects and mould in cells, limited access to showers, restricted opportunities for daily outdoor exercise, lack of privacy when using sanitary facilities, and similar issues.

Moreover, as of May 2026 more than 700 similar applications against Ukraine remained pending before the Court. Many of them had been lodged by applicants whose unsatisfactory conditions of detention had come to an end before they applied to the Court, and in more than 40 pending cases the Government had raised a plea of non-exhaustion, arguing that the applicants should first have made use of the available compensatory remedy.

(2) *Scope of the present case* – Since the unsatisfactory conditions of detention complained of had already come to an end when the applicants had lodged their applications, a compensatory remedy had been the only viable means by which they could have obtained redress for their past placement in such conditions. The scope of the present case was therefore limited to issues arising in relation to the compensatory remedy available under Ukrainian law in circumstances such as those of the applicants. In that respect, the Court noted that it had not yet been called upon to rule on the availability or effectiveness of a compensatory remedy for complaints under Article 3 concerning conditions of detention in Ukraine.

The Court further observed that its findings in the present case were without prejudice to its earlier conclusions in *Sukachov* regarding the respondent State's obligation to put in place an effective preventive remedy meeting the requirements set out in that judgment.

Article 3:

(1) *Whether the applicants were subjected to treatment proscribed by Article 3* – The Court had no reason to disagree with the domestic courts' assessment which, referring to Article 3 and the Court's case-law, had found that the conditions of detention of the applicants, except those of the fourth applicant, had been degrading. That finding had also been acknowledged by the Government.

The fourth applicant's description of the conditions of detention had been similar to that of the other applicants, and he had been held in the same facility and during broadly the same period as the first, second and third applicants, as well as the applicant in *Sukachov*. The Government had not made any observations on the merits and the written pleadings submitted by the detention facility administration to the domestic courts had been confined to general assertions of compliance with domestic standards without indicating the actual number of inmates, addressing specific complaints raised by the applicant or including any primary evidence. Such submissions had long been found by the Court to be insufficient to rebut a credible and reasonably detailed description by an applicant of allegedly degrading conditions of detention.

Accordingly, on the basis of the material before it, the Court considered that the conditions of the applicants' detention had been inadequate and had caused them hardship exceeding the unavoidable level of suffering inherent in detention, amounting to degrading treatment.

(2) *Whether the applicants lost their victim status* – Neither of the two conditions for loss of victim status – acknowledgment of a violation by the national authorities and adequate compensation – had been met in respect of the fourth applicant, whose compensation claim had been dismissed by the domestic courts. He could therefore still claim to be a "victim" of the alleged violation.

As regards the remaining applicants, the first condition had been fulfilled as the domestic courts had, expressly or in substance, acknowledged that the applicants concerned had been held in inadequate conditions contrary to Article 3. However, the redress afforded had been inadequate. The amounts awarded to them in respect of non-pecuniary damage for periods of detention ranging from five months and twenty-two days to ten years and eleven days, were significantly lower than those generally awarded by the

Court in similar Ukrainian cases; they did not even approach the level of 2 euros (EUR) per day identified by the Court as the starting point for assessing an award at domestic level capable of satisfying the requirements of Article 13 in the Ukrainian context. There were no exceptional circumstances which could justify the domestic courts' decision to award compensation at such a low level.

Conclusion: preliminary objection joined to the merits and dismissed (victim status of first, second, third, fifth, sixth, seventh and eighth applicants); violation (unanimously).

Article 13:

(1) *Effectiveness of the remedy in principle* – The Court found that a civil claim for damages under Articles 1173 and 1174 of the Civil Code could, in principle, be regarded as an adequate means of obtaining compensation for persons who considered that they had been held in inadequate conditions of detention and who were no longer detained in conditions alleged to be contrary to the Convention: such a claim offered a prompt and accessible means of enabling claimants to establish the relevant facts without an excessive evidential burden, have them assessed in the light of the standards of the Convention, obtain a finding of State liability and secure tailored financial compensation.

In particular, the Court found as follows:

Firstly, as regards the accessibility of the remedy, the three-year limitation period for civil claims, running from the date on which the injured party became, or ought to have become, aware of the damage, did not appear unreasonable. Furthermore, the Court was satisfied, on the basis of the examples of domestic case-law, that the domestic courts were aware of the Court's case-law on continuing situations, under which that limitation period started to run from the date on which detention in inadequate conditions had ended, notably after a detainee's release or transfer, except for short absences from the facility for interviews or other procedural measures. Moreover, accessibility was reinforced by legislative provisions exempting claimants from paying court fees in respect of claims for damages brought under the special regime of State liability.

The only example before the Court that undermined the accessibility of the remedy was the fourth applicant's case, in which the domestic courts had interpreted the regime of State liability in a very restrictive manner, excluding the detention facilities from its scope owing to their being separate legal entities.

Although the Supreme Court in a number of cases, including those concerning the first, second and third applicants, had criticised the above restrictive interpretation and had decided the claims in the applicants' favour, the fourth applicant had not benefited from that approach. Moreover, his case could not simply be regarded as an isolated error as the restrictive interpretation had been endorsed by the Supreme Court itself, notwithstanding other decisions delivered during the same period in which it had taken the opposite approach. Nevertheless, having regard to the broader body of case-law before it, including subsequent decisions in which compensation claims of that kind had been examined on their merits and allowed, the Court did not consider that temporary inconsistency in the domestic case-law to be sufficient to render the remedy inaccessible in principle.

Secondly, the burden of proof borne by the claimants did not appear to be excessive. In most of the examples of domestic case-law, the claimants had relied on evidence which had been readily accessible to them. It then fell to the authorities to refute the allegations in question. Furthermore, Articles 1173 and 1174 of the Civil Code provided for State liability for damage irrespective of the fault of its organs or officials. A domestic legal framework under which the State's obligation to compensate might arise from a

violation of an individual's rights, without requiring the claimant to prove fault on the part of a specific official, was conducive to the effectiveness of the remedy for the purposes of Article 13.

Thirdly, viewed as a whole, the domestic case-law before the Court demonstrated that the domestic courts were capable of providing a genuine examination of complaints concerning conditions of detention in accordance with Convention standards. The domestic courts did not confine their assessment to the formal lawfulness of the prison authorities' conduct under domestic statutory or regulatory provisions; rather, they addressed the substance of the claimants' complaints by referring to the prohibition of degrading treatment and treating Article 3 of the Convention as a directly applicable standard.

Fourthly, as regards procedural safeguards, there was no indication, either in domestic law or in the examples of domestic case-law examined, of any *prima facie* grounds for doubting that judicial compensation proceedings concerning conditions of detention had provided a forum ensuring due process and effective participation by the aggrieved individuals. Furthermore, in general, domestic proceedings of the type concerned did not appear to be excessively lengthy. Although the Court did not have sufficient information to assess the duration of the proceedings in the examples of domestic case-law, the proceedings concerning the applicants in the present case had lasted no more than two years and seven months before three levels of jurisdiction. While that period had been considerably longer for those applicants who had chosen first to have recourse to the administrative courts, there was no indication that such a complex procedural course was required by law. The civil claim appeared to constitute a separate and independent remedy and had been ultimately used by all the applicants.

Nonetheless, the Court considered it important that the respondent State streamlined the relevant domestic practice so as to ensure that appropriate compensation was awarded within a single procedural framework and, where possible, without the need for applicants to pursue their claims through all three levels of jurisdiction.

Lastly, as regards whether the claimants obtained adequate and sufficient redress, the Court reiterated that it was ready to accept lower levels of compensation at domestic level where the remedy in question, compared with an application to the Court, offered other tangible advantages.

In the present case the domestic courts had applied the rules of civil tort liability under Ukrainian law and assessed the amount of compensation for non-pecuniary damage by reference to considerations of fairness and reasonableness. The determination of compensation fell within the discretion of the domestic judges and that there was no statutory ceiling or other legal obstacle preventing them from allowing the claims in full. Accordingly, the fact that some detainees had been awarded relatively low amounts in the past did not necessarily mean that similarly low awards would be made in the future. The Court noted with regret, however, that the amounts awarded in the examples of domestic case-law before it, ranging from EUR 0.27 to EUR 1.43 per day, fell below the level at which an award might, depending on the circumstances, start to be regarded as sufficient to afford redress for a violation of Article 3.

Nevertheless, the Court was prepared to accept that the domestic system should, as such, be regarded as effective in principle and to encourage its use and development, while leaving open the possibility of finding a violation in individual cases where the compensation awarded was inadequate.

In that connection, the Court noted that despite the considerable lapse of time since the delivery of the *Sukachov* pilot judgment, the Ukrainian authorities had still not taken sufficient legislative and administrative measures. In that context, the Court welcomed

the progress made by the Ukrainian judiciary, in particular the Supreme Court, in the practical application of long-standing provisions of civil law and, consequently, in the development of a compensatory remedy in this area. The domestic courts had demonstrated a certain capacity and willingness to contribute to addressing the problem of inadequate conditions of detention.

Apart from the inconsistent outcome in the fourth applicant's case and, above all, the persistently low level of compensation awarded, the material before the Court did not disclose other recurring shortcomings capable of undermining the functioning of the remedy as a whole. The domestic case-law examined showed an emerging trend towards alignment with the standards of the Convention as regards, in particular, accessibility and the examination of the substance of complaints. That development was limited by the fact that many detainees had been able to bring their complaints directly before the Court without first making use of the domestic remedy. In line with the Court's practice, the domestic courts had to be given the opportunity to assume their primary role and address the systemic problem of inadequate conditions of detention in full before applications were lodged with the Court.

Accordingly, where a complaint under Article 3 was made in that regard, applicants were expected to make use of that remedy before lodging their complaints with the Court.

The Court was prepared to reconsider its approach to the remedy in question should the practice of the domestic courts show, in the long term, that complaints were rejected on formalistic grounds, that the compensation awarded remained insufficient, that proceedings were excessively lengthy, or that they otherwise served merely to delay rather than to ensure effective and full redress.

(2) *Effectiveness of the remedy in the present case* – The fourth applicant's claim had been dismissed on formalistic grounds and the other applicants had been awarded manifestly insufficient amounts of compensation. Nonetheless, the Court found that there had been no violation of Article 13, having regard to its case-law, its finding that the civil remedy in question might be regarded as effective in principle and the fact that it had taken into consideration the low level of compensation awarded to the applicants when it had concluded that they could still claim to be victims of the alleged violation of Article 3.

Conclusion: no violation (unanimously).

Article 41: sums ranging from EUR 1,600 to EUR 7,400 to each of the applicants in respect of non-pecuniary damage.

(See *Sukachov v. Ukraine*, 14057/17, 30 January 2020, [Legal Summary](#); *Ukrayinsky and Others v. Ukraine*, [48751/19 et al.](#), 2 April 2026)