



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

FIFTH SECTION

CASE OF ZINCHENKO AND TAMTURA v. UKRAINE

(Applications nos. 46839/17 and 74462/17)

JUDGMENT

*This version was rectified on 19 May 2026
under Rule 81 of the Rules of Court.*

Art 3 (substantive) • Degrading treatment • Confinement in a glass dock during criminal trial hearings • Measure not involving in itself an element of humiliation sufficient to reach the minimum level of severity, unlike confinement in metal cages • In overall circumstances of confinement minimum level of severity not reached • Manifestly ill-founded
Art 5 § 3 • Reasonableness of pre-trial detention • Domestic courts' failure to give "relevant" and "sufficient" justifying the extension of the second applicant's detention and its duration of four years and ten months

Prepared by the Registry. Does not bind the Court.

STRASBOURG

5 March 2026

FINAL

05/06/2026

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Zinchenko and Tamtura v. Ukraine,

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

Kateřina Šimáčková, *President*,

María Elósegui,

Georgios A. Serghides,

Gilberto Felici,

Diana Sârcu,

Mykola Gnatovskyy,

Vahe Grigoryan, *judges*,

and Victor Soloveytschik, *Section Registrar*,

Having regard to:

the applications (nos. 46839/17 and 74462/17) 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, Mr Sergiy Pavlovych Zinchenko (“the first applicant”), Sergiy Borysovych Tamtura (“the second applicant”), on 23 June and 10 October 2017 respectively;

the decision to give notice to the Ukrainian Government (“the Government”) of the complaints under Article 3 (placement in a glass dock during hearings) and Article 5 § 3 of the Convention, and to declare the remainder of the applications inadmissible;

the parties’ observations;

Having deliberated in private on 20 January 2026,

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

INTRODUCTION

1. The case concerns the applicants’ complaint under Article 3 of the Convention about their confinement in a glass dock during court hearings, and the second applicant’s complaint under Article 5 § 3 of the Convention of the unreasonable length of his detention.

THE FACTS

2. The applicants were born in 1990 and 1989 respectively and live in Kyiv. Both applicants were represented by Mr I. Varfolomyeyev, a lawyer practising in Kyiv.

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

4. The facts of the case may be summarised as follows.

I. THE APPLICANTS' ARREST AND DETENTION

5. The applicants, who were law-enforcement officers at the material time, were suspects in criminal proceedings concerning the Maidan events in Kyiv (see *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, 21 January 2021). According to the relevant investigation, the applicants were suspected of using firearms against protesters, which had led to 48 persons being shot dead and 80 persons being injured. The applicants were arrested between April 2014 and June 2015.

6. Shortly after the applicants' arrest on 2 April 2014 and 23 February 2015 respectively, the domestic courts ordered their detention in the context of the criminal proceedings. In particular, on 24 February 2015 the Pecherskyi District Court of Kyiv ordered the second applicant's detention, referring to the gravity of the charges against him, the exceptional subject matter of the case, the public interest in the progress of the investigation, and the risks that he might abscond or interfere with the investigation, in particular by destroying evidence and influencing witnesses. The Pecherskyi District Court of Kyiv, and subsequently the Svyatoshynskyi District Court of Kyiv, acting as the trial court, extended the second applicant's detention, most recently until 16 July 2019. This was mainly owing to the reasons indicated in the initial detention order, since those reasons still existed. The courts' decisions regarding the second applicant's detention did not contain any further explanation as to why the reasons indicated in the initial detention order were still relevant. On 16 July 2019 the trial court changed the second applicant's detention to 24-hour house arrest, which lasted until 24 October 2019¹, when his deprivation of liberty ended.

II. CONDITIONS OF THE APPLICANTS' CONFINEMENT IN THE COURTROOM

7. According to the applicants, while the criminal case against them was heard by the trial court between 12 May 2016 and 4 October 2017, they were held together with three other co-accused in a glass dock measuring 3.6 m in length, 1.2 m in width and 2.2 m in height, on 77 occasions. On 62 occasions the hearings lasted between three and seven hours. The applicants also submitted photographs showing them sitting all together in the glass dock during the court hearings.

8. According to the Government, the glass dock in the hearing room measured 4.3 m in length, 1.2 m in width and 2.2 m in height. It was designed in accordance with the standards approved by the State Judicial Administration (see paragraph 11 below). The dock had a steel frame with

¹ Rectified on 19 May 2026: the text was "19 December."

transparent protective glass at the front and a metal sheet at the back. There was a grid on top of the dock which allowed proper ventilation but prevented defendants from escaping. The Government also provided photographs of a dock like the one in which the applicants had been held. They could not provide photos of the particular dock in which they had been held because the trial court had moved to other premises in 2020.

9. On 18 April 2017 the applicants' defence lawyers lodged an application with the trial court, seeking leave for the applicants to sit next to them during the hearing. The lawyers argued that there was no reason why the applicants should be kept in a glass dock, and that this was degrading to their dignity and comparable to confining them in a metal cage, in breach of Article 3. They also argued that because of the dock's design, the applicants could not communicate effectively with their lawyers or hear the participants in the proceedings well. In addition, they lacked fresh air.

10. On 25 April 2017 the trial court dismissed that application as unsubstantiated, finding that keeping the applicants in the dock was justified by security reasons, given the high-profile nature of the case and the level of public attention it was receiving. The trial court also observed that the dock measured 4.3 m in length and 1.2 m in width, and that its size meant that the applicants could sit or move around without touching each other. It also noted that the applicants always had access to drinking water and that the hearing room was equipped with an air-conditioning system that could effectively control ventilation and the temperature in the dock. On the basis of the above-mentioned factors, the trial court concluded that the conditions in which the applicants were being kept in the dock were compatible with the requirements of Article 3 of the Convention.

RELEVANT LEGAL FRAMEWORK

11. General requirements for glass docks were approved by Order no. 350 of the State Judicial Administration of 20 March 2017. In accordance with the requirements, the construction of a dock should be modular, allowing it to be assembled and disassembled. Each module should measure 1.2 m in length, 1.2 m in width and 2.2 m in height. The number of modules to be assembled and installed depends on the size of a particular hearing room. The dock is made of a steel frame with transparent protective glass at the front and a metal sheet at the back. The top of the dock has a grid and the lower part of it has a frame with slats which allows proper ventilation but prevents defendants from escaping. The dock's construction ensures that sound can pass through it in all directions via openings which do not compromise the rigidity of the dock.

THE LAW

I. JOINDER OF THE APPLICATIONS

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

II. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

13. The applicants complained that their confinement in the glass dock during the court hearings between 12 May 2016 and 4 October 2017 had been inhuman and degrading, and that they had had no effective domestic remedy in respect of the above-mentioned complaint. They relied on Articles 3 and 13 of the Convention, which read as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

Admissibility

1. Article 3

14. The Government submitted that the applicants had failed to exhaust domestic remedies, as they had not challenged the escorting officers’ decision to place them in the glass dock. Nor had the applicants complained about the conditions in which they had been held in the dock or claimed compensation for the alleged breach of their rights. As to the substance of the applicants’ complaint, the Government submitted that their confinement in the glass dock had been justified by security reasons and had complied with Article 3. In particular, the dock had been large enough and the applicants had been able to sit without touching each other, and they had been able to communicate with their defence lawyers and follow the proceedings without difficulty. In addition, there had been adequate ventilation in the dock and the temperature in there had been suitable, and access to water and to the toilet had been ensured.

15. In their initial application forms, the applicants submitted that the conditions in which they had been held in the glass dock had been degrading and similar to the conditions in which defendants had been held in

a metal cage. In particular, they had experienced difficulties in communicating with their defence lawyers and could not hear the parties to the proceedings. The applicants did not elaborate on their complaints in response to the Government's observations and did not submit explicitly or in substance that the difficulties in communicating with their defence lawyers had restricted their rights under Article 6 of the Convention.

16. As regards the Government's non-exhaustion plea, the Court notes that the applicants did request that the trial court allow them to sit with their defence lawyers, and that the trial court examined their application on 25 April 2017 and dismissed it (see paragraph 10 above). However, the Court does not find it necessary to deal with that objection by the Government, as it considers that this part of the application is any event inadmissible for the following reasons.

17. As the Court has repeatedly stated, Article 3 of the Convention enshrines one of the most fundamental values of a democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, among many other authorities, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

18. Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3 of the Convention. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, for example, *Jalloh v. Germany* [GC], no. 54810/00, § 67, ECHR 2006-IX). The public nature of the treatment may be a relevant or an aggravating factor in assessing whether it is "degrading" within the meaning of Article 3 of the Convention (see, among other authorities, *Tyrer v. the United Kingdom*, 25 April 1978, § 32, Series A no. 26; *Erdoğan Yağız v. Turkey*, no. 27473/02, § 37, 6 March 2007; and *Kummer v. the Czech Republic*, no. 32133/11, § 64, 25 July 2013).

19. In the context of courtroom security arrangements, the Court has stressed that the means chosen for ensuring courtroom order and security must not involve measures of restraint which, by virtue of their level of severity or by their very nature, would bring them within the scope of Article 3 of the Convention, as there can be no justification for torture or inhuman or degrading treatment or punishment (see *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, § 127, ECHR 2014 (extracts)). It found, in particular, that confinement in a metal cage was contrary to Article 3 of the Convention, having regard to its objectively degrading nature (*ibid.*, §§ 135-38).

20. The Court has already found that the placement of defendants behind glass partitions or in glass docks does not in itself involve an element of humiliation sufficient to reach the minimum level of severity, as is the case

with metal cages (see *Yaroslav Belousov v. Russia*, nos. 2653/13 and 60980/14, §§ 124 and 125, 4 October 2016). This level may be attained, however, if the circumstances of their confinement, taken as a whole, would cause them distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention (see *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI).

21. The Court will therefore scrutinise the overall circumstances of the applicants' confinement in the glass dock to determine whether the relevant conditions, on the whole, reached the minimum level of severity required to characterise their treatment as degrading within the meaning of Article 3 of the Convention.

22. First of all, the Court observes that the applicants were on trial on charges concerning unlawful use of firearms against protesters leading to numerous deaths and injuries in the context of dramatic events of major importance for the country. The applicants have not shown that the use of the glass dock during hearings based on security considerations was an arbitrary measure. The Court further takes note of the design of the dock as described by the Government and observes that the fact that the applicants appeared behind a glass partition during the hearings was not in itself a degrading element bringing Article 3 into play, in contrast to the Court's approach to defendants being held in a metal cage (see *Svinarenko and Slyadnev*, cited above, §§ 136 and 138).

23. The Court also takes note of the parties' disagreement regarding the size of the dock in which the applicants were kept during the court hearings. However, there appears to be no reason to question the trial court's findings in its decision of 25 April 2017 (see paragraph 10 above) that the dock measured 4.3 m in length and 1.2 m in width. Taking those measurements as the basis for its calculation, the Court finds that the arrangement of the dock allowed each defendant at least 1 sq. m of personal space. The Court notes however, that even accepting the applicants' account regarding the size of the dock which allowed each defendant at least 0.8 sq. m. of personal space, this fact alone cannot affect the Court's assessment in the present case.

24. In this connection, the Court also refers to the remaining findings of the trial court made in its decision of 25 April 2017, namely that the size of the dock allowed them to sit or move around without touching each other, and that the temperature and ventilation in the dock were adequate (see paragraph 10 above). It notes in this connection that the applicants did not contest the trial court's findings referred to above and did not submit any arguments to rebut them.

25. While it is true that some of hearings during which the applicants sat in the glass dock lasted between three and seven hours, all relevant considerations taken as a whole do not persuade the Court that their

confinement in a glass dock attained the minimum level of severity prohibited by Article 3 of the Convention.

26. It follows that this part of the application is manifestly-ill founded. It must be declared inadmissible, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

2. Article 13

27. The Court reiterates that Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The remedy required by Article 13 must be “effective” in practice as well as in law (see, for example, *İlhan v. Turkey* [GC], no. 22277/93, § 97, ECHR 2000-VII, and *Khlaifia and Others v. Italy* [GC], no. 16483/12, § 268, 15 December 2016).

28. In the present case, assuming that the applicants had an arguable claim under Article 3 of the Convention and that its Article 13 therefore applied, the Court observes that on 18 April 2017 the applicants’ defence lawyers lodged an application with the trial court, seeking leave for the applicants to sit next to them during the hearing on the basis of, notably, arguments regarding alleged degrading treatment, and that the trial court gave a reasoned decision on 25 April 2017, dealing explicitly with the question whether there was treatment contrary to Article 3 of the Convention (see paragraphs 9 and 10 above).

29. The Court notes in this connection that the mere fact that the domestic courts ultimately decided against the applicants does not indicate, as such, a lack of effectiveness of the proceedings within the meaning of Article 13 of the Convention (see *Slivenko v. Latvia (dec.)* [GC], no. 48321/99, § 101, ECHR 2002-II).

30. It follows that the applicants’ complaint under Article 13 in conjunction with Article 3 of the Convention is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION (APPLICATION NO. 74462/17)

31. The second applicant (application no. 74462/17) complained that his detention had been too long and in breach of Article 5 § 3 of the Convention, which reads as follows:

“Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

A. Admissibility

32. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

33. The second applicant submitted that the decisions of the domestic courts concerning the extension of his detention had not contained sufficient reasons to justify the length of that detention.

34. The Government submitted that the overall length of the second applicant's detention had been reasonable, taking into account the nature of the accusations against him and the risks that he might abscond or interfere with the investigation.

35. The Court refers to the general principles outlined in *Korban v. Ukraine* (no. 26744/16, §§ 154-57, 4 July 2019), which are equally pertinent to the present case.

36. As regards the period to be taken into consideration for the purposes of Article 5 § 3, the Court notes that that period commenced on 23 February 2015, when the second applicant was arrested. In the course of the trial, the second applicant's detention was replaced with 24-hour house arrest (from 16 July to 24 October 2019²). However, the Government did not dispute that Article 5 of the Convention was applicable to house arrest, which is considered, in view of its degree and intensity, to amount to deprivation of liberty within the meaning of this provision (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 104, 5 July 2016, with further references). The period under consideration, for the purposes of Article 5 § 3, is therefore some four years and eight³ months.

37. The Court also observes that the seriousness of the charges against the second applicant and the risks that he might abscond or interfere with the investigation were mentioned in the initial order for his detention (see paragraph 15 above). There is little doubt that those reasons justified his initial deprivation of liberty.

38. The Court notes, however, that the second applicant's pre-trial detention was extended by a number of decisions issued by the local courts which followed a standard template. In particular, the courts limited themselves to repeating a number of grounds for detention in an abstract and formulaic way, without referring to any factual elements or reasons why they

² Rectified on 19 May 2026: the text was "19 December."

³ Rectified on 19 May 2026: the text was "almost ten."

considered that those grounds were still relevant to the second applicant's case (see paragraph 6 above).

39. As they were couched in general terms and contained repetitive phrases, the courts' decisions concerning the second applicant's detention did not suggest that the continued justification of his deprivation of liberty had been appropriately assessed, despite the passage of time.

40. In the present case, the Court does not need to examine whether the criminal proceedings against the second applicant were conducted with due haste while he was deprived of his liberty pending the determination of the criminal charges against him, or whether delays were attributable to the authorities or to the applicant. That is because the considerations in the preceding paragraphs are sufficient to conclude that, by using a standard formula merely listing the grounds for detention without addressing the specific facts of the applicant's case, the domestic courts failed to give "relevant" and "sufficient" reasons to justify the need to extend his detention and the overall length of that detention.

41. Having regard to the considerations above, the Court considers that there has been a violation of Article 5 § 3 of the Convention in relation to the insufficient justification for the length of the second applicant's detention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

42. 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."

43. The second applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT

1. *Decides*, unanimously, to join the applications;
2. *Declares* unanimously, the complaint under Article 5 § 3 of the Convention concerning the length of the second applicant's detention (application no. 74462/17) admissible, and the remainder of the applications inadmissible;
3. *Holds*, by six votes to one, that there has been a violation of Article 5 § 3 of the Convention in respect of the second applicant.

Done in English, and notified in writing on 5 March 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytschik
Registrar

Kateřina řimáčková
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the following separate opinions are annexed to this judgment:

- (a) concurring opinion of Judge Gnatovskyy;
- (b) statement of dissent of Judge Grigoryan.

CONCURRING OPINION OF JUDGE GNATOVSKYY

I fully support the reasoning and conclusions of the Court in the present case. The purpose of this short concurring opinion is to highlight in a more detailed manner the reasons that led to me voting in favour of all the operative provisions of the judgment. I will therefore expand upon the two main issues the present judgment deals with, namely: (a) the compatibility of the applicants' placement in a glass dock in the courtroom, and (b) the excessive length of the pre-trial detention of the second applicant (Mr Tamtura).

A. Use of glass docks in courtrooms

The use of secure docks in courtrooms, that is, enclosed or reinforced areas in which a defendant is placed during a court hearing in a criminal case, has long been challenged before the Convention bodies. Since at least the 1980s, applicants have been complaining about being placed in metal cages or in glass docks, potentially giving rise to issues with the right to a fair trial (see *Auguste v. France*, no. 11837/85, Commission's report of 7 June 1990, Decisions and Reports 69, p. 104), or with the prohibition of degrading treatment in contravention of Article 3 of the Convention (see *Titarenko v. Ukraine*, no. 31720/02, 20 September 2012).

Since 2014, the case-law demonstrates that the Court has clearly come to the conclusion that holding a person in a metal cage during a trial is degrading, incompatible with the standards of civilised behaviour and constitutes in itself an affront to human dignity in breach of Article 3 of the Convention (see *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, § 138, 17 July 2014). At the same time, the Court's assessment of the use of glass docks has been much more nuanced. In the cases where the Court did find that placement in such docks had reached the threshold of severity required for the applicability of Article 3 of the Convention, it did so only where the circumstances of the applicant's confinement behind glass partitions or in glass docks, taken as a whole, would cause them distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention (see *Yaroslav Belousov v. Russia*, nos. 2653/13 and 60980/14, § 125, 4 October 2016).

The present case presented the Court with an opportunity to examine, for the first time, a *prima facie* arguable issue concerning standard glass docks used in court rooms in Ukraine. It is obvious from the judgment that the Court will analyse concretely in any given case whether the inconveniences experienced by the defendants were such as to reach the high threshold of applicability of Article 3 of the Convention. There is no hard and fast rule in that respect, but the relevant factors, which are not limited to the calculation

of available square centimetres per person, can be seen rather clearly in the judgment.

B. Excessive length of pre-trial detention

The finding of a violation of Article 5 § 3 in the case of the second applicant, Mr Tamtura, does not in itself pose any particular legal issue. The conclusion reached by the Court mirrors that reached in numerous previous cases against Ukraine in respect of that provision of the Convention, all of which were based on its well-established case-law. As summarised in paragraph 40 of the present judgment, “by using a standard formula merely listing the grounds for detention without addressing the specific facts of the applicant’s case, the domestic courts failed to give ‘relevant’ and ‘sufficient’ reasons to justify the need to extend his detention and the overall length of that detention”.

What is, however, noteworthy in the present case, is its links with one of the Court’s historic judgments concerning Ukraine – *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, 21 January 2021. In that case, which dealt with criminal proceedings concerning the so-called Euromaidan protests in 2013-14 in Kyiv, the Court, among other breaches of the Convention, found a violation of the procedural limb of Article 3 owing to the failure to conduct an effective investigation into ill-treatment inflicted by law-enforcement officers on the protesters.

In the present case, the second applicant was suspected of using firearms against the protesters. Although the Court underlined that it did not need to examine whether the criminal proceedings against the second applicant were conducted with due haste (see paragraph 40 of the present judgment), one cannot fail to observe that a problematic investigation, characterised by various delays and omissions, has the potential to lead to the violation not only of the rights of the victims of the crimes in question, but also of the suspects’ rights, owing, for example, to their possibly unnecessarily lengthy detention.

In conclusion, while I fully endorse the Court’s findings, I consider it important to underline that both issues raised in the present case – the use of glass docks in Ukrainian courtrooms and the excessive length of the second applicant’s pre-trial detention – illustrate broader structural challenges that continue to affect the administration of justice. The Court’s judgment reaffirms that measures taken in the context of criminal proceedings must consistently respect the dignity of defendants, even if the threshold of applicability of Article 3 will remain rather high. It also demonstrates that shortcomings in investigative and judicial practices may adversely impact not only the rights of victims but equally those of individuals accused of serious offences. The present case should thus be seen as a reminder that safeguarding Convention rights requires vigilance at all stages of criminal proceedings, and

that systemic deficiencies, if unaddressed, risk producing cumulative violations.

STATEMENT OF DISSENT OF
JUDGE GRIGORYAN

I do not agree with the majority's view that there has been a violation of Article 5 § 3 of the Convention.