



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

FIFTH SECTION

CASE OF UKRAYINSKYI AND OTHERS v. UKRAINE

*(Applications nos. 48751/19 and 41 others –
see appended list)*

JUDGMENT

Art 34 • Undue interference with the exercise of the right of individual application of forty of the applicants through their questioning by prison officials about their applications and the compelling of some of them to give oral or written statements • No such interference in relation to the remaining two applicants who left the prison before the events giving rise to the complaint

Art 3 (substantive) • Degrading treatment • Inadequate conditions of detention

Art 13 (+ Art 3) • Lack of effective domestic remedies

Prepared by the Registry. Does not bind the Court.

STRASBOURG

2 April 2026

FINAL

02/07/2026

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

In the case of Ukrayinskyy and Others v. Ukraine,

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

Kateřina řimáčková, *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 listed in the appendix;

the parties' observations;

Having deliberated in private on 3 March 2026,

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

INTRODUCTION

1. The case concerns complaints about inadequate conditions of detention, the alleged hindrance by the prison authorities with the applicants' effective exercise of their right of individual application under the Convention and the lack of any effective remedy in domestic law. The applicants relied on Articles 3, 8, 13 and 34 of the Convention.

PROCEDURE

2. The case originated in the applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 20 August 2019 by 43 Ukrainian nationals. One applicant subsequently died, and his application was struck out of the Court's list of cases. The remaining 42 applicants ("the applicants") and their corresponding applications are listed in the appended table.

3. The applicants were represented by four lawyers from the non-governmental organisation Kharkiv Human Rights Protection Group ("the KHRPG", see appended table).

4. The Ukrainian Government ("the Government") were represented by their Agents, Mr I. Lishchyna, succeeded by Ms M. Sokorenko, from the Ministry of Justice.

5. On 30 January 2020 the Government were given notice of the complaints concerning inadequate conditions of detention and the lack of any effective remedy in domestic law. The remainder of the applications was declared inadmissible pursuant to the procedure under Rule 54 § 3 of the

Rules of Court. Both parties filed observations on the admissibility and merits. On 2 November 2020 additional complaints regarding alleged pressure to withdraw the applications were made by some of the applicants (see paragraph 21 below).

6. On 3 July 2024 the President of the Section decided, under Rule 54 § 2 (c) of the Rules of Court, to invite the parties to submit further written observations under Article 34 of the Convention regarding the alleged hindrance with the right of individual application. The Government and the applicants represented by Mr Tokarev, namely applicants nos. 26-28, 38 and 42, submitted their observations.

THE FACTS

7. The applicants were, at the material time, detained in Zhovti Vody Correctional Colony no. 26 (“Zhovti Vody Prison”) in the Dnipropetrovsk Region.

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

I. CONDITIONS OF THE APPLICANTS’ DETENTION

9. On 13 March 2019, allegedly at the request of the detainees, representatives of the KHRPG carried out a monitoring visit to Zhovti Vody Prison. During the visit, they met with inmates; inspected the accommodation units, canteen, and laundry and bathing facilities; took photographs; and collected written complaints.

10. During the visit, 84 detainees, including 11 of the applicants, prepared handwritten complaints addressed to the Prosecutor General, the Ministry of Justice and the Parliamentary Commissioner for Human Rights (“the Ombudsperson”), describing various shortcomings in the conditions of detention in the facility.

11. On 18 March 2019 the KHRPG published on its website a report concerning Zhovti Vody Prison¹. Illustrated with numerous photographs, the report stated that the conditions of detention failed to meet established standards and caused serious harm to the prisoners’ health. The situation was described, *inter alia*, in the following terms:

“Living premises

...

Almost all premises were in an unsanitary and neglected state. Dampness could be felt everywhere. Lighting in the dormitories was very poor, and in some areas entirely absent. To reach the living area on the ground floor, one had to pass through a completely dark corridor with stairs. Prisoners reported that electricity supply was

¹ See <https://archive.khpg.org/1552909974> (last visited on 12 November 2025)

usually limited to the period between nightfall and lights-out. In the living areas, iron beds with thin mattresses were placed in cramped conditions, as a result of which most of those interviewed complained of back pain. Severe overcrowding of cells was observed.

...

The walls in the rooms on the second floor of the residential block were covered with fungus and mould, with many ceilings showing traces of past water leakage.

...

Complaints were also received concerning an infestation of bedbugs and cockroaches in the premises.

At the time of the visit, boiled drinking water was only available in one unit; in the others, only tap water was provided. According to the interviewees, the quality of the tap water was very poor: after one day of standing, rust sediment appeared, and in summer white worms bred in the water within a day.

Prisoners stated that the night-time temperature in the living premises was 8-10 °C, dropping to 3-5 °C in winter ...

The water supply pipes were rusty and leaking in places, resulting in periodic flooding in the establishment.

...

Sanitary facilities

... They were not merely inadequate, but in a deplorable state. Washbasins had broken tiles and faulty taps. The stench was unbearable, making it impossible to enter the toilet rooms.

Each unit contained between four and six toilets, and prisoners were forced to queue in order to relieve themselves. The toilets had no doors, and in some units the partitions were no taller than 50 centimetres. The sanitary equipment was in a state of disrepair.

...

In some units, the shower rooms were flooded owing to leaking pipes. In each sector there was only one shower for the entire sector (approximately 50-60 people).

According to the prisoners, even cold water was supplied to the prison for only two hours per day. As a result, inmates were compelled to fill tanks with water and wash themselves from them. Moreover, the stench in the toilets was aggravated by the absence of water in the flushing cisterns.

Canteen

In the canteen, mould was visible on the ceiling and windowsills. The smell of damp was noticeable in the premises.

...

Only five taps for handwashing were functional; the others were broken. Towels and soap were not available.

During the visit, the canteen staff were unable to present sanitary certificates to the monitoring group, stating that they had been taken outside the prison for some form of inspection.

Prisoners complained about shortages of food and poor quality of meals. Some of them stated that they bought 'proper' food at their own expense so that it could be prepared for them in the canteen.

Bathhouse and laundry facilities

The bathhouse had been recently renovated and looked relatively decent compared with other premises seen ...

At the time of the monitors' visit, there was no water in the bathhouse, but the administration stated that the water was switched off after prisoners' visits in order to prevent pipe bursts. Prisoners, however, insisted that they had not been able to use the bathhouse for over a month.

The laundry was equipped with old Soviet-era washing machines and dryers, which were visibly rusty. On the day of the visit, prisoners were drying their clothes outside in +5 °C temperatures.

...

Material and living conditions

Numerous complaints were received from prisoners concerning the lack of provision of clothing, footwear and personal hygiene items. Prisoners also complained that they were obliged to purchase light bulbs and carry out repairs in the units at their own expense ..."

12. On 25 March 2019 the KHRPG representatives carried out a second visit to the facility. They informed the prisoners of the possibility of applying to the Court and collected authority forms signed by the applicants, together with their personal data.

13. The applicants' description of their conditions of detention, as submitted to the Court, essentially repeated the findings set out in the above-mentioned KHRPG report and was supported by numerous photographs taken in the facility. They complained, in particular, of mouldy and dirty cells infested with rodents and insects; recurring flooding owing to leaking pipes; the absence of hot water and limited access to cold water; the lack of potable water, toiletries and clothing; frequent power cuts; sanitary facilities in a state of disrepair, with toilets not ensuring privacy; insufficient laundry facilities; and poor-quality food served in unsanitary conditions.

14. According to the Government, during their first visit to the facility the KHRPG representatives also asked to inspect premises that had been sealed off and were not used for the accommodation of prisoners. They took photographs in those premises, as well as of some water of unknown origin contained in a five-litre plastic bottle handed to them by the prisoners. The monitors allegedly refused to collect tap water samples themselves in any of the accommodation units of the facility and declined to inspect the renovated unit no. 1. Following the visit, the above-mentioned photographs were included among others in the KHRPG report, thereby giving a misleading impression of the actual conditions of detention.

15. The Government further submitted that in 2019 extensive renovation works had been carried out in unit no. 1 and partial renovations in units

nos. 2- 10. In some units the electrical and water supply systems had been repaired, while in others partition walls had been installed in toilet facilities. Twelve windows and three doors had been replaced and certain rooms had undergone cosmetic refurbishment. The interior walls had been treated with an anti-fungal agent and measures had been implemented to eradicate rats and insects in the canteen and storage areas. The facility, they maintained, was heated by its own solid-fuel boiler house, with the average temperature in the dormitories during the heating season not falling below +18 °C. The temperature of the water in the bathhouse used by prisoners met applicable standards, and inmates were provided with an opportunity to shower at least once a week, with compulsory replacement of linen. The facility was said to be fully supplied with cleaning products, and the drinking water available in the dormitories, canteen and medical unit complied with sanitary and microbiological requirements.

16. The Government also explained that, owing to arrears in the payment of utility services, the water supply was cut off daily from 11 a.m. to 4 p.m. and from 11 p.m. to 5.30 a.m. Furthermore, in order to reduce electricity consumption, a schedule had been introduced under which the electricity supply was disconnected from 8 or 9 a.m. until 2 or 3 p.m.

17. On 13 July 2020 the Ministry of Justice decided to close Zhovti Vody Prison. Following that decision, the applicants began to be transferred to other detention facilities.

18. On 31 October 2020 the *Radio Svoboda* website published an interview with the then Minister of Justice². When asked by a journalist about “the Kharkiv Human Rights Protection Group reports that lawyers [were] contending that pressure [was] being put on prisoners in Zhovti Vody Prison because of a previously submitted application to the European Court of Human Rights,” the Minister replied:

“Well, no. Perhaps, of course, there is some pressure there. It would be strange if there were no pressure of one kind or another in a prison. The question is what it is motivated by. As for Zhovti Vody Prison – it seems to me that this is one of those prisons that we are closing down, maybe it has already been ‘frozen’. That is, in any case, it won’t exist for long, given that the detention conditions there are inadequate”.

II. QUESTIONING OF THE APPLICANTS CONCERNING THEIR COMPLAINTS TO THE COURT

19. The KHRPG report of 18 March 2019, mentioned above, also referred to possible future repercussions for the detainees in connection with the monitoring visit:

“... The prison administration, openly and without regard to the monitors’ presence, noted down the names of prisoners who approached the monitoring group, for the

² See <https://www.radiosvoboda.org/a/interview-z-ministrom-yustytysiji-maluskoju/30922905.html> (last visited on 12 November 2025)

purpose of ‘further work with them’. According to the prisoners, representatives of the administration behaved sarcastically and threatened them as soon as the monitoring group left the premises, saying that the monitors would leave but the prisoners would have to remain. Prisoners expressed fears that, after the monitors’ departure, the administration would start to ‘put pressure on’ them.

20. On 11 March 2020, following the communication of the applications to the respondent Government, the administration of Zhovti Vody Prison organised meetings with the applicants to enquire about their complaints to the Court. Further similar interviews were carried out on 28 and 31 August 2020 in that facility, as well as in detention facilities in Dnipro, Kryvyi Rih and Zaporizhzhia, to which some of the applicants had been transferred by that time. In the course of those interviews, 4 applicants made written statements and 6 made oral statements declaring that they had no complaints regarding their conditions of detention, while 26 applicants declined to comment. The authorities drew up reports on the questioning for each of them (see appended table). According to some of those statements, the KHRPG representatives had allegedly handed the applicants blank forms, which they had signed without any intention of applying to the Court. No reports were prepared in respect of applicants nos. 37-40, while applicants nos. 41 and 42 had been released from detention in 2019, before the above-mentioned interviews took place.

21. In September and October 2020 the applicants’ representatives visited several of the applicants, who reported having been subjected to coercion by the prison authorities to withdraw their applications. Applicants nos. 4, 18, 23, 26 and 37 submitted handwritten statements citing insistent demands, deception, inducement and pressure to that end. On 2 November 2020 the representatives sent those statements to the Court, alleging a hindrance with the right of individual application.

22. Upon the Court’s transmission of the representatives’ letter to the Government, the prison authorities reportedly re-interviewed those five applicants on 31 December 2020 and 2 January 2021. According to the Government, applicants nos. 4 and 37 stated that they had signed the statements prepared by their representatives without reading them, while applicants nos. 18, 23 and 26 refused to comment. Applicant no. 37 also stated that the detention facility administration had not exerted any pressure on him to withdraw his application before the Court. No copies of those statements were submitted to the Court.

III. LOSS OF CONTACT WITH THE APPLICANTS

23. After the Court had given notice to the Government of the applicants’ complaint under Article 34 of the Convention, on 13 October 2024 Ms Ovdienko, a lawyer representing applicants nos. 4, 10 and 29-40 informed the Court that she was no longer able to act as a representative in any of the applications owing to restrictions arising from her new professional

position. Her letter was forwarded to the other representatives in the case with a view to a possible substitution, but none of them took any action. Accordingly, no observations regarding Article 34 were submitted on behalf of those applicants.

24. Likewise, no observations on the Article 34 issue were received from two other lawyers: Mr Revyakin, representing applicants nos. 1, 2, 5-7, 11-18 and 37, and Mr Glushchenko, representing applicants nos. 3, 8, 9, 19-25 and 41, despite their having downloaded the request for observations through the Court's Electronic Communications Service (eComms) on 4 November 2024. A warning letter sent by registered post to Mr Revyakin was returned marked "received under a power of attorney", whereas the letter addressed to Mr Glushchenko came back unclaimed.

25. On 30 April 2025 the director of the KHRPG informed the Court that the three above-mentioned lawyers had ceased to cooperate with the organisation and that, as regards Mr Revyakin, even his whereabouts were unknown owing to the ongoing war. The KHRPG accordingly asked the Court to continue the examination of the case in view of the initial joint preparation of the applications and on the basis of the observations submitted by the remaining fourth representative, Mr Tokarev.

26. No other means of establishing contact with the 37 applicants represented by the above-mentioned three lawyers were available to the Court, as they had all only indicated the postal address of Zhovti Vody Prison in their application forms, which had never been updated. All of them had been released or transferred from that facility by the end of 2020.

RELEVANT DOMESTIC REPORTS AND OTHER MATERIAL

27. In the 2017 annual report, the Ombudsperson noted a number of recurrent shortcomings identified during visits to Zhovti Vody Prison:

"Monitoring visits repeatedly confirmed violations of national requirements concerning the minimum living space for prisoners and remand detainees.

...

In many of the institutions visited, ceilings bore stains indicating leakage from sewage pipes. Sanitary equipment was in most cases outdated, and flushing cisterns in toilets were absent. In some punishment cells of Zhovti Vody Correctional Colony (no. 26), polyethylene film had been stretched over the windows instead of glass.

...

No supply-and-exhaust ventilation was installed in those cells, and in all the institutions visited prisoners were unable to open the windowpanes themselves while held in disciplinary cells in order to access fresh air. In one of the enhanced disciplinary unit cells of Zhovti Vody Correctional Colony (no. 26), there was no access to fresh air at all.

...

Exercise yards in certain institutions required improvement, in particular by equipping them with properly sized shelters to protect against precipitation.

...

There was an insufficient level of natural or artificial lighting.

...

The dishes in which food was delivered to certain areas of the institutions were often dirty and sometimes even rusty.”

28. The report also highlighted tensions between the prison administration and the inmates:

“During interviews with prisoners in Zhovti Vody Correctional Colony (no. 26), repeated complaints were received concerning biased treatment by certain officials of the institution and the creation by the administration of artificial conditions leading to conflicts between prisoners.

...

... the grounds for keeping prisoners in the [enhanced disciplinary] units had in fact not been reviewed, as a result of which some prisoners remained in such units without justification.

...

... prisoners reported abuse by representatives of the administration in applying disciplinary measures.”

29. In a press release published on 23 July 2020 following a subsequent monitoring visit to Zhovti Vody Prison, the Ombudsperson’s office reported that the facility’s administration had failed to remedy most of the violations identified during the previous visit:

“... the monitoring group found several stigmatised prisoners who were living in separate premises not adapted for that purpose and who were not provided with bed linen. The staff of the institution at first acknowledged, and later attempted to conceal, the facts of the inadequate conditions of detention of these persons.

The monitors further established that, owing to the institution’s significant arrears for utility services, the water supply and electricity in the prisoners’ dormitories were being cut off.

In addition, numerous violations were revealed in the organisation of food provision for prisoners. Thus, with more than 660 prisoners, the canteen had only about 80-100 plates, all in extremely worn condition. New plates were available in storage but were not being used.”

THE LAW

I. JOINDER OF THE APPLICATIONS

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

II. PRELIMINARY ISSUE: CONTINUED EXAMINATION OF THE APPLICATIONS (ARTICLE 37 § 1 (a) OF THE CONVENTION)

31. The Court notes at the outset the loss of contact with 37 of the 42 applicants, which calls for an assessment of the need to continue the examination of their applications in view of Article 37 of the Convention. The relevant parts of this provision read as follows:

“1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that

(a) the applicant does not intend to pursue his application; ...

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

32. The circumstances falling within the scope of Article 37 § 1 (a) include not only an applicant’s express withdrawal of the application, but also instances where he or she fails to submit observations (see, for example, *Baryshev v. Ukraine* (dec.), no. 17363/06, 14 September 2010), to appoint a representative (see *Rozgon v. Ukraine* (dec.), no. 26122/08, 27 April 2010) or to maintain contact with the Court throughout the proceedings (see *Soproun v. Ukraine* (dec.), no. 39402/02, 16 March 2010). Such contact, specifically, is essential both in order to learn more about an applicant’s particular situation and to confirm his or her continuing interest in pursuing the application (see, *mutatis mutandis*, *V.M. and Others v. Belgium* (striking out) [GC], no. 60125/11, §§ 35-40, 17 November 2016).

33. In the present case, three of the four representatives did not submit comments on the Government’s observations and effectively ceased to act in the proceedings. Ms Ovdiyenko withdrew from the case of her own motion, while Mr Revyakin and Mr Glushchenko failed to respond to the Court’s correspondence. Nor did they inform the Court of any substitution or provide any other means of communication with the applicants. The applicants themselves, albeit bearing the consequences of their representatives’ procedural conduct, have not communicated with the Registry since. In these circumstances, the Court considers that the applicants represented by Ms Ovdiyenko (until 13 October 2024), Mr Revyakin and Mr Glushchenko may be regarded as no longer wishing to pursue their applications within the meaning of Article 37 § 1 (a) of the Convention.

34. That being said, the Court must also ascertain whether there are any circumstances relating to respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case (Article 37 § 1 *in fine*). Such circumstances may be found to exist where such an examination would contribute to the elucidation, safeguarding or development of the standards of protection under the Convention (see, for example, *H.P. v. Denmark* (dec.), no. 55607/09, § 85, 13 December 2016,

and, *a contrario*, *Konstantin Markin v. Russia* [GC], no. 30078/06, § 90, ECHR 2012 (extracts)).

35. There have, however, been very few instances in which the Convention institutions have relied on this safeguard in the context of Article 37 § 1 (a), that is, where an applicant was found not to intend to pursue his or her application. For example, where a formal request for withdrawal had been submitted, the Court continued its examination when the withdrawal appeared ambiguous (see *Sidjimov v. Bulgaria*, no. 55057/00, §§ 25-31, 27 January 2005), when the applicant's mental state had to be taken into account (see *Tehrani and Others v. Turkey*, nos. 32940/08 and 2 others, §§ 53-57, 13 April 2010) or when intimidation of the applicant or members of the applicant's family by the authorities had been reported (see *Kurt v. Turkey*, no. 24276/94, Commission decision of 22 May 1995, Decisions and Reports 81-A, p. 112). The alleged loss of contact between the applicants and their representative did not prevent the further examination of a case whose impact went beyond the individual situation of the applicants (see *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, §§ 75-79, 13 February 2020, concerning migrants attempting to enter a Contracting State in an unauthorised manner).

36. By contrast, in *Cannavacciuolo and Others v. Italy* (nos. 51567/14 and 3 others, §§ 187-92, 30 January 2025), the complaints of an applicant with whom contact had been lost, although raising an important question of general interest, were analogous to those pursued by the remaining applicants. The Court was therefore able to determine the issue on the merits without that particular applicant contributing any new element in that connection.

37. Turning to the circumstances of the present case, the Court observes two factors militating in favour of continuing its examination.

38. Firstly, as in *N.D. and N.T. v. Spain* (cited above), the case has a potential impact going beyond the individual situation of the applicants, as it touches upon the very essence of the system of individual petition established under Article 34 of the Convention, namely the right of an individual to present and pursue a complaint before the Court effectively. In this connection, the applicants have made an arguable allegation of repeated attempts by prison officials in various detention facilities across the country to dissuade them from pursuing the Convention remedy. This is of further importance in the context of the respondent State, given that the alleged pressure occurred after the communication to the Government of the applicants' complaints concerning inadequate conditions of detention – a structural problem in Ukraine affecting thousands of actual and potential applicants (see *Sukachov v. Ukraine*, no. 14057/17, § 137, 30 January 2020).

39. The second factor weighing against striking out these 37 applications is the exceptional combination of their particular circumstances: the alleged pressure exerted on the applicants, which may have deterred them from pursuing the Convention remedy; the variations in the circumstances in which

such pressure was allegedly exerted in respect of different applicants, and the importance of examining all types of pressure; Russia's full-scale invasion of Ukraine, which has undoubtedly complicated communication with the Court; and the fact that the applicants had already submitted observations before the case was recommunicated under Article 34 (see paragraph 5 above). This consideration effectively precludes the Court from following the approach adopted in *Cannavacciuolo and Others* (cited above; see paragraph 36), that is, from limiting its examination to the remaining five applicants, despite the similar factual context and analogous legal issues raised in all 42 applications.

40. There are therefore special circumstances relating to respect for human rights as defined in the Convention and the Protocols thereto which require the examination of the applications lodged on behalf of the applicants by Ms Ovdiyenko, Mr Revyakin and Mr Glushchenko to continue.

III. ALLEGED HINDRANCE OF THE RIGHT OF INDIVIDUAL PETITION UNDER ARTICLE 34 OF THE CONVENTION

41. The applicants complained that they had been subjected to pressure by the prison authorities aimed at inducing them to withdraw or undermine their complaints to the Court. They alleged that, as a result, the respondent State had hindered the effective exercise of their right of individual application, as provided by Article 34 of the Convention, which reads as follows:

“The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.”

A. The parties' submissions

42. The applicants submitted that their questioning had been directly triggered by the Government's receipt of the Court's notification of the present applications, initiated solely by detention facility administrations without any request from the applicants, and limited only to those prisoners who had applied to the Court. The questioning had aimed to force the applicants to withdraw their complaints to the Court by making insistent demands, providing misleading information and threatening disciplinary action, including placement in a disciplinary cell. The statements attached to the Government's observations had therefore been obtained in a clearly involuntary manner, their content contradicting the handwritten statements submitted through the applicants' representatives and providing no reasonable explanation as to why most applicants had suddenly withdrawn their complaints concerning the conditions of their detention. Lastly, the

applicants noted that despite the pressure none of them had reported that they had not signed an authority form for representation before the Court.

43. The Government in their initial observations contested the authenticity of the applications and the validity of the applicants' representation by the KHRPG lawyers, characterising their activity as an abusive practice. In particular, they referred to the reports drawn up after questioning the prisoners, which indicated that the applicants had merely signed blank forms and had not intended to apply to the Court (see paragraph 20 above). The Government denied that any pressure had been exerted and stated that their Agent had never instructed the administrations of the detention facilities to question the applicants.

44. Following the formal notification of the additional complaint under Article 34 of the Convention, the Government no longer objected to the validity of the applicants' representation but submitted that the applications lacked sufficient detail, specificity and individualisation. They maintained that the administrations of the detention facilities had in fact met with the applicants in order to clarify and address their complaints under the Convention.

B. The Court's assessment

1. General principles

45. The relevant general principles concerning the State's obligation to refrain from any act or omission that may hinder the effective exercise of the right of individual application under Article 34 of the Convention have been summarised in *Shirkhanyan v. Armenia* (no. 54547/16, §§ 191-94, 22 February 2022). This obligation comprises both a negative undertaking to abstain from any arbitrary interference and a positive duty to furnish all necessary facilities to enable the proper and effective examination of applications (*ibid.*).

46. When assessing whether a Contracting State has complied with the negative aspect of its obligation under Article 34, the Court takes into account the nature of the alleged interference (see, as regards questioning applicants, *Davydov and Others v. Ukraine*, nos. 17674/02 and 39081/02, § 337, 1 July 2010, and *Sergey Antonov v. Ukraine*, no. 40512/13, §§ 105-10, 22 October 2015), its purpose (see *Vladimir Sokolov v. Russia*, no. 31242/05, § 81, 29 March 2011) and an applicant's vulnerability (see *Cotleț v. Romania*, no. 38565/97, § 71, 3 June 2003; *Knyazev v. Russia*, no. 25948/05, § 116, 8 November 2007; and *Bogdan Shevchuk v. Ukraine*, no. 55737/16, § 49, 24 April 2025). Whether or not contact between the authorities and an applicant are tantamount to unacceptable practices from the standpoint of Article 34 must be determined in the light of the particular circumstances of the case (see *Oferta Plus SRL v. Moldova*, no. 14385/04, § 134, 19 December 2006).

2. Application of the above principles to the present case

47. The Court notes at the outset that applicants nos. 41 and 42 left Zhovti Vody Prison in 2019 and therefore did not take part in the subsequent events that gave rise to the present complaint. Accordingly, no issue arises under Article 34 of the Convention in respect of these applicants.

48. As regards the remaining applicants (hereafter referred to in this section as “the applicants”), the alleged hindrance of their right of individual petition took the form of questioning about their applications to the Court, organised by the administration of Zhovti Vody Prison on 11 March 2020, followed by further interviews in that and other detention facilities. The Court observes that, as a result of those interviews, four applicants made written statements and six made oral statements indicating that they had no complaints regarding their conditions of detention. In respect of 26 applicants, facility officials drew up formal reports documenting their refusal to provide “explanations”. No audio- or video-recordings were made of those interviews, nor were they documented in detailed minutes. They were also conducted in the absence of any independent party. The Court thus cannot but regard with suspicion the situation in which, after detained applicants had lodged detailed and consistent complaints that had been communicated to the Government, the latter submitted statements subsequently received from the same applicants indicating that they no longer had any complaints. In this context, the very conduct of such questioning and the request for written “explanations” may in itself be regarded as a form of intimidation.

49. As to the purpose of the interference, the documents enclosed with the Government’s observations indicate that the interviews were conducted by the prison administrations after the Government Agent’s office had requested from them information about the applicants’ situation in detention. They were thus not routine meetings with detainees, nor did the interviews result from the applicants’ own initiative. The facilities’ officials initiated the meetings and explicitly questioned the applicants in relation to their complaints before, and recourse to, the Court.

50. The Court notes in this regard that Article 34 of the Convention does not preclude the authorities from taking measures, in an appropriate manner, to collect information about an applicant’s situation, to improve that situation, or even to resolve the problem which is at the heart of the Strasbourg proceedings. Nothing in the present case, however, suggests any genuine attempt or intention to address the applicants’ complaints concerning inadequate conditions of detention. Moreover, the substance of those complaints had already been brought to the attention of various national authorities a year earlier, through letters written by the applicants and numerous other prisoners on 13 March 2019, as well as through the KHRPG’s report of 18 March 2019 (see paragraphs 10 and 11 above). The authorities therefore had ample time to ensure a meaningful response to the prisoners’

complaints and demands. Furthermore, there was no justification for re-interviewing five applicants who had previously complained of pressure during earlier questioning, given that the modalities of those interviews – and, in particular, the identity of the interviewers – remained substantially unchanged (see paragraph 22 above). In view of the above and the fact that the interviews resulted in ten applicants making statements indicating that they had no complaints regarding their conditions of detention, the Court is inclined to accept the applicants’ account, namely that the true purpose of the interviews was to induce them to withdraw or undermine their applications.

51. Assuming that the purpose of the questioning was to verify the authenticity of the applications and to investigate the alleged abusive legal practice, the Court considers it appropriate to clarify its approach in this regard. It reiterates that it is for the Court itself, and not for the respondent State authorities, on their own initiative, to monitor compliance by applicants with the procedural obligations imposed by the Convention and by its Rules on the applicant party. If a respondent Government has reasons to believe that in a particular case the right of individual petition is being abused, the sole appropriate course of action is for that Government to alert the Court and provide it with the available information so that the Court can draw the appropriate conclusions (see *Tanrikulu v. Turkey* [GC], no. 23763/94, § 131, ECHR 1999-IV, and, for example, *Amić and Others v. Croatia* (dec.), nos. 21714/22, 25102/22 and 25367/22, §§ 120-25, 9 July 2024).

52. While the status of an applicant party in Convention proceedings does not confer immunity of any type, in the present case the Government did not argue that the applicants had acted in breach of the law, nor that there existed a *bona fide* investigation or disciplinary process against them serving a legitimate public interest. The Government’s allegation of abusive activity on the part of the lawyers representing the applicants cannot, in itself, justify the questioning of the applicants outside any formal legal process concerning those lawyers and in the absence of adequate procedural safeguards.

53. Lastly, the authorities’ actions in the present case were even more unacceptable in view of the applicants’ vulnerability and their susceptibility to influence exerted by the authorities. In this regard, the Court notes that the applicants remained in detention in Zhovti Vody Prison for periods ranging, with one exception (applicant no. 38, released on 3 April 2020), from four to nine months following the first questioning on 11 March 2020, and that many of them continued serving their sentences in other facilities, thus remaining for an extended time under the exclusive control of the prison authorities and with only limited contact with the outside world. Furthermore, the interview on 11 March 2020 was conducted by a committee composed of six senior officials of the detention facility, who had at their disposal various means capable of aggravating the applicants’ situation. The applicants’ lawyers, whose presence could have provided, to some extent, a counterbalance to that

vulnerability and a safeguard against coercion, were neither invited nor notified.

54. The above considerations are sufficient for the Court to conclude that, with the exception of applicants nos. 41 and 42, all others may reasonably be considered to have felt intimidated and to have experienced a legitimate fear of reprisals when questioned by prison officials in connection with their applications to the Court, and when ten of them were compelled to make oral or written statements. Such conduct accordingly amounted to undue interference with the right of individual application, contrary to the requirements of Article 34 of the Convention.

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

55. The applicants complained under Article 3 of the Convention of the inadequate conditions of their detention in Zhovti Vody Prison. They also relied on Article 8 of the Convention, alleging that the toilet facilities had not been properly separated from the rest of the cell. Lastly, they complained that they had not had an effective remedy in respect of their complaints under Articles 3 and 8, as required by Article 13 of the Convention.

56. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 124, 20 March 2018), considers that the applicants' complaints fall to be examined under 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 this 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."

A. Admissibility

57. The Government submitted that the applications lodged by applicants nos. 1-10 should be struck out of the Court's list of cases in view of the statements made by those applicants during their questioning, to the effect that they had no complaints about their conditions of detention. Alternatively, the Government invited the Court to declare all the applications inadmissible as an abuse of the right of individual application on account of the representatives' conduct, in particular the submission of photographs

depicting unused premises, the mass distribution of blank forms and the absence of individualised complaints (see paragraphs 14 and 20 above).

58. The applicants submitted that all of them had personally met their representatives, conveyed their complaints and expressed their willingness to lodge an application with the Court.

59. The Court has regard to its findings above in respect of the complaint under Article 34 of the Convention and therefore dismisses the argument that the applications should be struck out. As to the second limb of the Government's objection – concerning the alleged abuse of the right of individual application on account of the manner of submission and the quality of the applications and supporting evidence – the Court considers that this issue is closely linked to the veracity and cogency of the applicants' complaint regarding the conditions of their detention. It therefore finds it necessary to join this objection to the merits of the complaint under Article 3 of the Convention.

60. The Court lastly notes that these complaints under Articles 3 and 13 of the Convention 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

61. The applicants maintained that the conditions of their detention in Zhovti Vody Prison had been inadequate and amounted to inhuman and degrading treatment. In support of their allegations, they relied on their letters to various national authorities, numerous photographs taken in the facility and references to the KHRPG's monitoring report of 18 March 2019, the Ombudsperson's 2017 annual report and press release of 23 July 2020, as well as the statements made by the Minister of Justice.

62. The Government denied the applicants' allegations. They submitted a series of letters and certificates issued by the prison authorities, as well as contracts and reports concerning various services provided to the detention facility, together with a number of photographs.

63. The Court notes at the outset that the present complaints fall within the scope of its well-established case-law, the general principles of which were summarised in *Muršić v. Croatia* [GC] (no. 7334/13, §§ 96-101, ECHR 2016). In the leading cases of *Melnik v. Ukraine* (no. 72286/01, 28 March 2006) and *Sukachov* (cited above), the Court found violations in respect of issues similar to those raised in the present case. Furthermore, in *Vitkovskiy v. Ukraine* (no. 24938/06, §§ 119-22, 26 September 2013), the Court examined the conditions of detention in Zhovti Vody Prison.

64. Nevertheless, the Court considers it appropriate to undertake a detailed examination of these complaints in order to reiterate its rules on the standard and burden of proof in cases concerning conditions of detention. In

the Court's view, such a reminder may contribute to a better understanding by the parties of their respective roles in the proceedings before it and thereby enhance the proper conduct of those proceedings. This is particularly relevant in the context of the absence of an effective domestic remedy in respect of this structural problem in Ukraine (see *Sukachov*, cited above, §§ 125 and 137), where the Court continues to receive a substantial influx of similar applications and encounters evidentiary difficulties comparable to those faced by a first-instance tribunal of fact.

65. The relevant principles governing the assessment of evidence have been set out in *Muršić* (cited above, §§ 127-28, with further references). Namely, the Court is particularly mindful of the objective difficulties experienced by applicants in collecting evidence to substantiate their claims about the conditions of their detention. Still, in such cases applicants must provide a detailed and consistent account of the facts complained of. In certain cases applicants are able to provide at least some evidence in support of their complaints. The Court has considered as evidence, for example, written statements by fellow inmates or, if possible, photographs provided by applicants in support of their allegations. Once a credible and reasonably detailed description of the allegedly degrading conditions of detention, constituting a *prima facie* case of ill-treatment, has been made, the burden of proof is shifted to the respondent Government who alone have access to information capable of corroborating or refuting these allegations. They are required, in particular, to collect and produce relevant documents and provide a detailed account of an applicant's conditions of detention. Relevant information from other international bodies, such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, on the conditions of detention, as well as the competent national authorities and institutions, should also inform the Court's decision on the matter (*ibid.*).

66. In the present case, the Court acknowledges that the applicants have submitted an arguable case of degrading treatment prohibited by Article 3 of the Convention, shifting the burden of proof on the respondent Government. In particular, they provided a general description of the conditions of detention in Zhovti Vody Prison, corroborated by the KHRPG's detailed report, photographs taken within the facility, the prisoners' complaints to various national authorities and those authorities' own findings (see paragraphs 10-11, 13 and 18 above). The applicants also submitted certificates issued by the prison administration confirming their detention in that facility during specific periods.

67. The Court observes, however, that the applicants' submissions are not beyond reproach. In this connection, it refers to paragraph 14 of the Practice Direction on the Institution of Proceedings, issued by the President of the Court in accordance with Rule 32 of the Rules of Court, which provides the following:

“... where an applicant or representative lodges complaints on behalf of two or more applicants whose applications are based on different facts, a separate application form should be filled in for each individual giving all the information required.”

68. Contrary to that requirement, the applicants in the present case, being detained in different cells and units of Zhovti Vody Prison and during different periods, submitted a grouped application containing a shared and generalised description of the facts and complaints, without, for example, specifying the applicants’ cell numbers or the precise conditions therein. This deficiency has not only diminished their case’s prospects of satisfying the *prima facie* test, given the uncertainty as to how each applicant was personally affected by the alleged situation, but has also generated unnecessary work for both the Court and the respondent Government. Such conduct may lead to the application not being examined (see Rule 47 §§ 5.1 of the Rules of Court) or, where it is systematic or otherwise aggravated, to its rejection as abusive, provided that abuse of the right of petition within the meaning of the Court’s case-law has been established. In the present case, however, the Court finds no compelling reasons warranting such measures, regard being had to the nature of the omissions and inconsistencies in the applicants’ applications and the abundance and quality of their other submissions and supporting evidence. The Court further finds no grounds to consider that the applicants submitted mass, pro forma or misleading applications, nor that their conduct was otherwise manifestly contrary to the purpose of the right of individual application as guaranteed by the Convention (compare *Zambrano v. France* (dec.), no. 41994/21, § 37, 21 September 2021).

69. The observations submitted by the Government – who possess, or ought to possess, the most comprehensive knowledge of the events at issue – are subject to even stricter scrutiny. The Court has previously identified recurring deficiencies in submissions it received in cases concerning conditions of detention in Ukraine, notably where the Government’s arguments were confined to general statements reproducing information prepared by the prison authorities (see *Belyaev and Digtyar v. Ukraine*, nos. 16984/04 and 9947/05, § 38, 16 February 2012, and *Rodzevillo v. Ukraine*, no. 38771/05, § 53, 14 January 2016), or where they failed altogether to address certain issues raised by the applicants (see *Sukachov*, cited above, § 90 and *Sili v. Ukraine*, cited above, § 48, 8 July 2021). This included situations where the Government had not provided reliable information regarding the size of cells and the actual number of inmates (see *Suslov and Batikyan v. Ukraine*, nos. 56540/14 and 57252/14, § 113, 6 October 2022, and *Sili*, cited above, § 45). Furthermore, the Government consistently overlooked the need to submit primary evidence with a view to rebutting the applicants’ specific complaints regarding inadequate temperature, mouldy cells, lack of light and fresh air, poor quality of food and water, or lack of privacy when using the toilet. Where such information was

provided, it frequently pertained to periods either preceding or following an applicant's detention (see, for example, *Sparysh and Kutsman v. Ukraine* [Committee], nos. 49709/18 and 49870/18, § 14, 12 September 2024). Lastly, digital evidence such as photographs or video footage of detention premises, where available, has rarely been used effectively. In particular, such material has often lacked captions or other identifying details linking it to a specific cell or applicant, despite the significant role this type of evidence plays in cases concerning conditions of detention (see, for instance, *Alimov v. Turkey*, no. 14344/13, § 76, 6 September 2016; *Sukachov*, cited above, § 90; *İlerde and Others v. Türkiye*, nos. 35614/19 and 10 others, §§ 48 and 97, 5 December 2023; and, for illustrative purposes, *Govorov v. Ukraine* (dec.) [Committee], no. 20060/21, 2 February 2023).

70. Most of the above considerations are applicable in the present case.

71. To begin with, none of the Government's observations submitted to the Court contained consolidated and reliable data on the periods of the applicants' detention in Zhovti Vody Prison. The certificates issued by the prison authorities in that regard on various dates and appended to the above observations (see paragraph 62 above) contradicted each other and the information concerning one applicant was missing altogether. Accordingly, the Court has decided to accept as conclusive the version of the applicants' detention periods extracted from the individual prisoner files, which were eventually submitted on 243 pages by the Government in respect of most of the applicants.

72. Furthermore, no information has been provided regarding the living space afforded to the applicants – an aspect which, although not expressly raised in their complaints but mentioned in the KHRPG's report, constitutes the starting point for the Court's assessment in accordance with the standards set out in *Muršić* (cited above, §§ 137-40).

73. As to the conditions expressly listed and complained of in the applications, the Government submitted a set of documents on 120 pages, without any accompanying list or page numbers, among which were several letters and certificates largely duplicating one another. Issued by the prison authorities in March 2020, these certificates mainly reported on various isolated repair works carried out in different parts of the facility throughout 2019 (see paragraph 15 above), including ten dormitories, the disciplinary cells, the canteen and the administration building. However, they were drafted in such a manner that the overall state of all the dormitories, except for unit no. 1, is unclear. It appears, moreover, from those same certificates that only one applicant had been detained in that unit, and only until July 2019.

74. The remaining documents attached to the Government's observations included contracts and reports on water-quality testing and disinfection services, as well as a logbook recording the distribution of soap to prisoners. While the former effectively rebutted the applicants' allegations concerning

the poor quality of potable water and the presence of rodents and insects, the latter suggests that the applicants were provided with approximately 109 grams of soap per person per month for all purposes, which appears insufficient to meet basic hygiene needs. The remaining allegations (see paragraph 13 above) were either implicitly acknowledged – for example, the interruptions in water and electricity supply and the lack of privacy for the toilet – or were inadequately addressed by vague or inconclusive evidence, such as four photographs of a recently refurbished but unidentified dormitory, or bare assertions unsupported by any primary documentation. Lastly, the Court observes that the Government did not specify which of the photographs submitted by the applicants had allegedly been taken in non-operational parts of the prison.

75. The Government have therefore not discharged the burden of proof incumbent upon them, as they did not provide clear, comprehensive and convincing arguments or evidence. The Court consequently cannot but rely, in certain respects, exclusively on the applicants' account of the facts together with its own previous case-law in relation to Zhovti Vody Prison.

76. On the basis of all the material before it, the Court considers it established that the applicants were held for periods ranging from 18 to 72 months in damp, mouldy and cold dormitories, without being provided with adequate clothing, footwear or personal hygiene items. They lacked access to electricity and potable water and were forced to eat, shower, do their laundry and relieve themselves in conditions falling short of basic sanitary and hygiene requirements. The Court takes the view that these circumstances, taken cumulatively, are sufficient to warrant the conclusion that the applicants were subjected to treatment which exceeded the unavoidable level of suffering inherent in detention and thus amounted to degrading treatment, contrary to Article 3 of the Convention.

77. The Government's objections must therefore be dismissed.

78. Lastly, in the absence of any observations from the Government in respect of the complaint concerning the lack of an effective domestic remedy, the Court sees no reason to depart from its well-established case-law on the matter (see *Melnik*, cited above, § 115, and *Sukachov*, cited above, § 125).

79. There has therefore been a violation of Articles 3 and 13 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

80. 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.”

81. The Court notes that, when initially giving notice of the applications as regards the complaints under Articles 3 and 13 of the Convention, it informed the parties that the approach to just satisfaction would likely be based on the Court's practice in cases raising repetitive issues, and in particular on the Article 41 awards in *Melnik* (cited above). They were further informed that the applicants would therefore be exempt from the requirement to submit a separate just satisfaction claim (see paragraphs 21 and 23 of the Practice Direction on Just Satisfaction Claims, issued by the President of the Court in accordance with Rule 32 of the Rules of Court on 28 March 2007 and amended on 9 June 2022). Nevertheless, each applicant requested 2,000 euros (EUR) in respect of non-pecuniary damage for each year spent in Zhovti Vody Prison. Seventeen applicants also claimed EUR 200 each (for 4 hours of legal work) and applicant no. 17 claimed EUR 1,250 (corresponding to legal fees for 25 hours' work), carried out by their representatives, in respect of costs and expenses.

82. Later on, following the communication of the additional complaint under Article 34 of the Convention and the invitation to submit claims for just satisfaction, only the applicants represented by Mr Tokarev, namely applicants nos. 26-28, 38 and 42, submitted such claims, seeking EUR 10,000 each in respect of non-pecuniary damage incurred owing to inadequate conditions of detention.

83. The Government contested both the initial and subsequent claims, considering them unsubstantiated and excessive.

84. The applicable principles on the existence of a "claim" for just satisfaction are summarised in *Nagmetov v. Russia* ([GC], no. 35589/08, §§ 78-82, 30 March 2017). In line with those principles, the Court notes at the outset that all applicants unequivocally expressed a wish to obtain monetary compensation in respect of the non-pecuniary harm arising from the alleged violations of their rights under Articles 3 and 13 of the Convention, although 37 of them did so only during the first round of the exchange of observations. No claims have been submitted in respect of the alleged hindrance of the right of individual application, including by those applicants represented by Mr Tokarev. The Court further has regard to the gravity of the violations found and to the absence of any domestic remedy capable of affording redress, with the result that a mere finding of a violation cannot be regarded as sufficient just satisfaction. Lastly, the context of the present case must be taken into account, in particular the reasons underlying the decision to continue the examination of the applications lodged by the applicants with whom contact has been lost (see paragraphs 38-39 above). In view of the foregoing, and while it is true that the Court routinely advises applicants against submitting unsolicited material, rejecting the claims for just satisfaction solely because they were submitted before being formally requested would, in the specific circumstances of the present case, amount to excessive formalism. The Court therefore considers it appropriate to award

the applicants just satisfaction in respect of non-pecuniary damage, in the amounts indicated in the appended table.

85. Regard being had to the considerations set out in the preceding paragraph and to the documents in its possession, the Court also considers it reasonable to award the applicants' claim for costs and expenses, reduced by 30% in view of the manner the present applications were submitted (see paragraphs 67-68 above). The amounts are indicated in the appended table and, as requested by the applicants, are to be paid directly into the bank account of their representatives.

FOR THESE REASONS, THE COURT

1. *Decides*, unanimously, to join the applications;
2. *Decide*, unanimously, to continue the examination of the applications under Article 37 § 1 *in fine* of the Convention;
3. *Holds*, unanimously, that the respondent State has failed to comply with its obligations under Article 34 of the Convention in respect of applicants nos. 1-40;
4. *Holds*, unanimously, that the respondent State has not failed to comply with its obligations under Article 34 of the Convention in respect of applicants nos. 41-42;
5. *Decides*, unanimously, to join to the merits of the complaints under Articles 3 and 13 of the Convention the preliminary objection concerning abuse of the right of individual application and *dismisses* it;
6. *Declares*, unanimously, the applications admissible;
7. *Holds*, unanimously, that these complaints disclose a breach of Articles 3 and 13 of the Convention concerning the inadequate conditions of detention during the periods indicated in the appended table and the lack of any effective remedy in domestic law;
8. *Holds*, by six votes to one,
 - (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 amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, with the costs and expenses to be paid directly into the bank account of the applicants' representatives;

(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;

9. *Dismisses*, by six votes to one, the remainder of the applicants' claim for just satisfaction.

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

Victor Soloveyitchik
Registrar

Kateřina Šimáčková
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Serghides is annexed to this judgment.

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

APPENDIX

No.	Application no.	Applicant's name Year of birth	Representative's name and location	Period of detention in Zhovti Vody Prison	Specific grievances under Article 34 of the Convention	Amount awarded for non-pecuniary damage per applicant, plus any tax that may be chargeable (in euros)	Amount awarded for costs and expenses, plus any tax that may be chargeable to the applicant (in euros)
1.	48751/19	Oleksandr Olegovych UKRAYINSKYI 1990	Maksym Oleksandrovych Revyakin Kharkiv	26/06/2018 to 08/12/2020	The applicants were interviewed by the detention facility administration regarding their complaints before the Court and forced to provide written statements.	5,800	140
2.	61495/19	Dmytro Oleksandrovych BOGDANOV 1986	Maksym Oleksandrovych Revyakin Kharkiv	26/01/2018 to 10/08/2020		5,900	
3.	61511/19	Artem Oleksandrovych DUBCHENKO 1985	Volodymyr Borysovych Glushchenko Kharkiv	16/07/2018 to 09/10/2020		5,300	
4.	61528/19	Valeriy Yuriyovych ZINAIDOV 1994	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	26/03/2018 to 26/08/2020		5,800	140
5.	61498/19	Oleksandr Oleksandrovych GURIN 1992	Maksym Oleksandrovych Revyakin Kharkiv	26/03/2018 to 26/08/2020	The applicants were interviewed by the detention facility administration regarding their complaints before the Court and forced to provide oral statements.	5,800	140
6.	61500/19	Ruslan Igorovych GLUSHKO 1983	Maksym Oleksandrovych Revyakin Kharkiv	26/04/2016 to 21/08/2020		7,500	

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

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7.	61507/19	Oleksandr Oleksandrovych ZAYTSEV 1985	Maksym Oleksandrovych Revyakin Kharkiv	06/02/2019 to 26/08/2020		4,100	140
8.	61512/19	Stanislav Sergiyovych GOLUBOV 1997	Volodymyr Borysovych Glushchenko Kharkiv	16/02/2019 to 26/08/2020		4,100	
9.	61516/19	Vitaliy Mykolayovych POVREZNIK 1999	Volodymyr Borysovych Glushchenko Kharkiv	26/10/2018 to 26/08/2020		4,700	
10.	61533/19	Sergiy Vyacheslavovych ZAGORODNIY 1996	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	06/09/2018 to 21/08/2020		4,900	140
11.	61496/19	Vladyslav Andriyovych KULYK 1994	Maksym Oleksandrovych Revyakin Kharkiv	16/02/2019 to 30/10/2020	The applicants were interviewed by the detention facility administration regarding their complaints before the Court, but they refused to provide any comments, and individual reports were issued accordingly.	4,400	
12.	61497/19	Artem Andriyovych KHARLAMPOV 1987	Maksym Oleksandrovych Revyakin Kharkiv	16/02/2019 to 12/11/2020		4,400	

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

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13.	61499/19	Artur Igorovych RAKIVNENKO 1987	Maksym Oleksandrovych Revyakin Kharkiv	26/06/2018 to 06/11/2020		5,600	
14.	61502/19	Sergiy Sergiyovych SMAGIN 1996	Maksym Oleksandrovych Revyakin Kharkiv	16/06/2017 to 07/10/2020		7,300	140
15.	61503/19	Bogdan Anatoliyovych SHEVCHENKO 1995	Maksym Oleksandrovych Revyakin Kharkiv	26/01/2018 to 26/11/2020		6,500	
16.	61504/19	Ruslan Oleksiyovych PERYATYNSKY Y 1989	Maksym Oleksandrovych Revyakin Kharkiv	26/06/2018 to 15/11/2020		5,600	
17.	61505/19	Valeriy Georgiyovych FEDORCHENKO 1987	Maksym Oleksandrovych Revyakin Kharkiv	26/04/2016 to 11/09/2020		7,500	875
18.	61506/19	Oleksandr Igorovych BUDKO 1993	Maksym Oleksandrovych Revyakin Kharkiv	26/05/2017 to 04/12/2020		7,500	140

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

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19.	61508/19	Andriy Viktorovych KIRYANOV 1986	Volodymyr Borysovykh Glushchenko Kharkiv	06/12/2018 to 28/05/2019, 06/07/2019 to 11/09/2020		4,300	
20.	61509/19	Sergiy Volodymyrovych SAKHAROV 1998	Volodymyr Borysovykh Glushchenko Kharkiv	26/11/2018 to 26/10/2020		4,900	
21.	61513/19	Illya Sergiyovych KUDRYSH 1996	Volodymyr Borysovykh Glushchenko Kharkiv	06/11/2018 to 11/09/2020		4,700	
22.	61514/19	Sergiy Anatoliyovych KHEYLYK 1986	Volodymyr Borysovykh Glushchenko Kharkiv	06/09/2016 to 24/09/2020		7,500	140
23.	61515/19	Igor Volodymyrovych MAZHURA 1989	Volodymyr Borysovykh Glushchenko Kharkiv	06/10/2018 to 11/09/2020		4,900	
24.	61517/19	Volodymyr Oleksiyovych GORYANYI 1998	Volodymyr Borysovykh Glushchenko Kharkiv	16/04/2018 to 11/09/2020		5,600	

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

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25.	61518/19	Oleksandr Vyacheslavovych ODNOROG 1988	Volodymyr Borysovych Glushchenko Kharkiv	26/07/2018 to 11/09/2020		5,200	
26.	61519/19	Dmytro Petrovych KHRUSHCH 1981	Gennadiy Volodymyrovych Tokarev Kharkiv	26/07/2018 to 11/09/2020		5,200	140
27.	61520/19	Sergiy Mykolayovych GANTSEV 1976	Gennadiy Volodymyrovych Tokarev Kharkiv	16/09/2015 to 21/09/2020		7,500	
28.	61521/19	Yuriy Yuriyovych SEMILETOV 1980	Gennadiy Volodymyrovych Tokarev Kharkiv	04/01/2015 – 2020 (no precise data)		7,500	140
29.	61525/19	Yuriy Yuriyovych SOKOL 1987	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	26/10/2014 to 07/10/2020		7,500	
30.	61526/19	Denys Yuriyovych RAKHNYANSKY Y 1997	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	06/07/2018 to 26/10/2020		5,500	140
31.	61527/19	Dmytro Olegovych LYSNYAK 1994	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	06/07/2018 to 04/09/2020		5,200	140

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

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32.	61529/19	Sergiy Valeriyovych SALYONOV 1986	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	16/08/2018 to 12/11/2020		5,300	140
33.	61531/19	Artur Leonidovych BESEDIN 1986	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	26/03/2018 to 21/09/2020		5,800	
34.	61532/19	Sergiy Yuriyovych GLUSHKOV 1987	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	16/08/2018 to 10/08/2020		4,900	140
35.	61534/19	Oleksandr Borysovych NADOLYNNYY 1991	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	26/10/2018 to 07/07/2019, 16/12/2019 to 11/09/2020		4,000	
36.	61536/19	Denys Yuriyovych MAZANKO 1984	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	16/03/2016 to 04/09/2020		7,500	140
37.	61501/19	Oleksandr Mykolayovych KINEV 1993	Maksym Oleksandrovych Revyakin Kharkiv	06/08/2018 to 05/08/2020	The applicants were interviewed by the detention facility administration regarding their complaints before the Court.	4,900	140

UKRAYINSKYI AND OTHERS v. UKRAINE JUDGMENT

No.	Application no.	Applicant's name Year of birth	Representative's name and location	Period of detention in Zhovti Vody Prison	Specific grievances under Article 34 of the Convention	Amount awarded for non-pecuniary damage per applicant, plus any tax that may be chargeable (in euros)	Amount awarded for costs and expenses, plus any tax that may be chargeable to the applicant (in euros)
38.	61522/19	Sergiy Anatoliyovych YARKO 1983	Gennadiy Volodymyrovych Tokarev Kharkiv	26/07/2018 to 03/04/2020		4,400	
39.	61524/19	Oleksandr Sergiyovych LYNNYK 1997	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	26/03/2016 to 11/08/2020		7,500	
40.	61530/19	Ivan Oleksandrovyh BUSHEV 1995	Ganna Volodymyrivna Ovdiyenko Kharkiv (until 13 October 2024)	06/07/2018 to 11/09/2020		5,300	140
41.	61510/19	Stanislav Sergiyovych KOMAROV 1987	Volodymyr Borysovych Glushchenko Kharkiv	06/07/2018 to 16/08/2019	—	3,400	
42.	61523/19	Gennadiy Volodymyrovych OKSAMYTNYY 1972	Gennadiy Volodymyrovych Tokarev Kharkiv	26/02/2017 to 23/08/2019	—	5,800	

PARTLY DISSENTING OPINION OF JUDGE SERGHIDES

1. This case concerns the following complaints brought by the applicants: (a) a complaint under Article 3 of the Convention concerning the inadequate conditions of the applicants' detention in Zhovti Vody Prison; (b) a complaint under Article 8 of the Convention, namely, that the toilet facilities had not been properly separated from the rest of the cell; (c) a complaint that they did not have an effective remedy under Article 13 of the Convention in respect of their alleged violations under Articles 3 and 8 of the Convention; and (d) a complaint that the prison authorities unduly interfered with their right of individual application contrary to the requirements of Article 34 of the Convention.

2. I voted in favour of all points of the operative provisions of the judgment, except for points 8 and 9. I will explain in due course why I voted against these two points. However, at this stage, I wish to underline that **I agree** with paragraph 84 of the judgment and with part of point 8(a) of the operative provisions **awarding the applicants sums for non-pecuniary damage, as well as with the extent of that damage**, as indicated in the appended table.

3. I disagree with the Court's finding in paragraph 56 of its judgment that, since it is master of the characterisation to be given in law to the facts of the case – with reference to *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 124, 20 March 2018 – it is entitled to consider that the applicants' complaints fall to be examined under Articles 3 and 13 of the Convention, thereby leaving the complaint under Article 8 entirely outside its examination. However, this decision not to examine separately, or even at all, the complaint under Article 8 is not reflected in any separate point of the operative provisions of the judgment. For further details regarding the Article 8 complaint I would refer to the arguments set out by the applicants in their application form. They alleged that their right to private life was violated due to the inadequate height of the partitions in the toilet rooms of the residential units of the Zhovti Vody Prison. They noted that the height of such partitions was no more than 50 centimetres, with the result that they covered only the applicants' legs up to the knees or to mid-thigh (depending on height). In their opinion, partitions of such height did not perform their function at all. As they also argued, in the case of *Szafrański v. Poland* (no. 17249/12, 15 December 2015) the Court found a violation of Article 8 of the Convention, noting that the national authorities had a positive obligation to provide access to sanitary facilities that were separated from the rest of the cell in such a way as to ensure prisoners the necessary minimum level of privacy. They also maintained that, although they were not held in a cell and could move around the residential unit, they use shared toilet rooms for 4–6 convicted persons and, like the applicant in *Szafrański*, were not ensured privacy.

4. The Court, by refraining from examining Article 8 separately and absorbing it into the Article 3 complaint, used an unduly reductive “absorption” logic – one that treats Article 3’s moral and normative gravity as exhausting the field of personal integrity protections at the expense of the moral and normative scope of Article 8. This overlooks the distinct, yet complementary dimensions of human dignity safeguarded by Articles 3 and 8, which protect divergent normative interests through structurally dissimilar analytical frameworks: Article 3’s absolute prohibition of ill-treatment as a binary threshold of humane treatment versus Article 8’s broader, proportionality-based guarantee of respect for private and family life, encompassing personal autonomy, identity, and relational well-being.

5. By collapsing these domains into the scope of Article 3, the Court risks a threefold contraction in its jurisprudence. First, a doctrinal contraction, whereby Article 8’s graded balancing analysis is eclipsed, curtailing nuanced intermediate rulings on State conduct – such as systemic neglect or privacy deprivations in detention – that undermines integrity without reaching the thresholds of inhuman or degrading treatment. Second, a symbolic contraction, as harm related to autonomy and identity, especially for detainees or vulnerable persons, goes unacknowledged in its own right, diluting the expressive force of the Court’s reasoning. Third, a functional contraction, limiting the refinement of positive obligations that Article 8 uniquely calibrates between individual freedom and collective security. In detention contexts, this elision proves particularly acute, as conditions like restrictions on intimate life or family contact often fall short of Article 3 yet engage Article 8’s core. A separate Article 8 scrutiny would enrich accounts of structural vulnerabilities, fostering graduated dignity protections that honour both absolute inviolability and relational self-realisation under the Convention. Absent such scrutiny, the absorption logic entails normative impoverishment – with doctrinal depletion – and erodes the Convention’s structural pluralism by privileging economical and hierarchical absorption over the complementarity of the rights that it guarantees.

6. If one were to argue that the Court’s decision to absorb an Article 8 complaint into an Article 3 complaint is merely a matter of methodology – no different from any other analytical technique at the Court’s disposal – such an argument would, in my view, be unpersuasive and invalid. Methodology, properly understood, concerns the structure and presentation of judicial reasoning. It cannot legitimately be relied upon to justify dispensing with a separate examination of a distinct Convention right, thereby effectively treating that right as if it were neither provided for in the Convention nor capable of being breached. As already explained, Articles 3 and 8 protect different legal interests, reflect different normative values, and operate under different legal thresholds. Even where the factual background overlaps, the rights themselves retain autonomous scope and content. To subsume an Article 8 complaint entirely under the Article 3 analysis is therefore not

simply a matter of streamlining the reasoning. It may have the effect of leaving unaddressed the specific dimension of privacy protected by Article 8. When an arguable complaint is raised under a distinct provision of the Convention, the Court's task is not merely to organise its reasoning efficiently, but to ensure that each right invoked is examined in a manner that reflects its independent legal significance. Accordingly, what may be presented as a methodological choice can, in reality, carry substantive consequences. In such circumstances, the issue transcends questions of analytical preference and touches upon the Court's duty to provide a reasoned and autonomous assessment of each Convention guarantee relied upon by the applicants.

7. As I have also argued in a number of other separate opinions, one cannot absorb one right into another right – or one Convention provision into another Convention provision – and simply refrain from addressing the admissibility and merits of the remainder of an applicant's complaints. Such a method of absorbing one right into another has no legal basis in the Convention and on the contrary, is not in line, *inter alia*, with the principles of the rule of law, effectiveness, indivisibility of rights and autonomy of rights, or with the purpose of an individual application under Article 34 of the Convention, which is the cornerstone of the Convention. To reiterate, each right possesses its own defined normative core, scope, purpose, parameters of application, and distinct legal and moral character. To treat one right as an empty receptacle to be filled by another is to risk undermining these fundamental distinctions. The Court has a responsibility not only to safeguard rights but also to preserve their individual identities within the Convention system.

8. The practice or principle applied by the Court, according to which it is master of the characterisation to be given in law to the facts of a case, is not intended to result in the subsuming of one right under another without an individual examination of its admissibility and merits. Rather, it is intended to ensure the effective protection of an applicant who has not invoked the appropriate Convention provision, even though, in substance, his or her application does describe facts falling within its scope (see further on this argument, paragraph 5 of my partly dissenting opinion in *Mandev and Others v. Bulgaria*, nos. 57002/11 and 4 others, 21 May 2024, and paragraph 5 of my partly dissenting opinion in *Tomenko v. Ukraine*, no. 79340/16, 10 July 2025).

9. My disagreement also lies in the fact that the Court, having decided to absorb the Article 8 complaint into the Article 3 complaint, additionally failed to examine the Article 13 complaint in relation to the Article 8 complaint.

10. I will now turn to another matter on which I disagree with the judgment; this one, unlike my above-mentioned points of disagreement, is reflected in the operative provisions, namely, **point 8(a)**, and in the Appendix attached. I must clarify that **my disagreement concerns only**

the amount awarded for costs and expenses, and not the award or amount for non-pecuniary damage. Because point 8(a) of the operative provisions was not divided up in order to allow a separate vote on non-pecuniary damage, I was unable to support it. Voting in favour of that point would have implied endorsing something I could not accept. I therefore wish to explain my position in this separate opinion. I decided not to vote in favour of point 8(a) because, were I to do so, this might have given rise to the misleading impression, for a reader consulting only the judgment and not my separate opinion, that the vote was unanimous on all the points in the operative provisions save for point 9 – and this would have risked creating further confusion, as the reader might not understand why I voted only against that point, which in itself is not self-explanatory.

11. My vote against point 8(b), which concerned the interest applicable to the amounts related to point 8(a) and set out in the Appendix, was the direct and unavoidable consequence of my position on point 8(a).

12. Coming back to my disagreement regarding point 8(a), I disagree with the Court's decision reflected in paragraph 85 of the judgment and point 8(a) of its operative provisions, together with the Appendix, to consider it reasonable to reduce the applicants' claim for costs and expenses by 30% on account of the manner in which their applications were submitted, as mentioned in paragraphs 67-68 of the judgment to which paragraph 85 refers. More specifically, in paragraphs 67-68 it is noted that contrary to paragraph 14 of the Practice Direction on the Institution of Proceedings, issued by the President of the Court in accordance with Rule 32 of the Rules of Court, the applicants in the present case, being detained in different cells and units and during different periods, submitted a grouped application, containing a shared and generalised description of the facts and complaints, without for example, specifying the applicants' cell numbers or the precise conditions in each cell.

13. I submit that such a reduction in the award was not justified in the circumstances of the case for the following reasons.

14. First, the Court ultimately upheld the applicants' substantive position by finding a violation of Articles 3 and 13 of the Convention. In particular, the Court in paragraph 76 of its judgment found, based on all the material before it, that the applicants were held for periods ranging from 18 to 72 months in damp, mouldy and cold dormitories, without being provided with adequate clothing, footwear or personal hygiene items. They lacked access to electricity and drinking water and were forced to eat, shower, do their laundry and relieve themselves in conditions falling short of basic sanitary and hygiene requirements. Consequently, the Court took the view (at the end of the same paragraph) that these circumstances, taken cumulatively, were sufficient to warrant the conclusion that the applicants were subjected to treatment which exceeded the unavoidable level of suffering inherent in detention and thus amounted to degrading treatment, contrary to Article 3 of

the Convention. In paragraph 78 of its judgment, the Court held that in the absence of any observations from the Government in respect of the complaint concerning the lack of an effective domestic remedy, it saw no reason to depart from its well-established case-law as regards the complaint under Article 13 of the Convention and therefore found a violation of that Article also. In view of the above, the Court in paragraph 79 of its judgment concluded that there had been a violation of Articles 3 and 13 of the Convention.

15. Second, the Court accepted the applicants' argument that there had been an interference with their right of individual application and found a violation of Article 34. The right of individual application occupies a central place in the Convention system. It is the procedural cornerstone that enables individuals to bring alleged violations before the Court and to seek effective protection of their rights. Any interference with those right strikes at the very heart of the supervisory mechanism established by the Convention. In that context, it appears difficult to reconcile the finding of a violation of Article 34 with a financial reduction justified by reference to the manner in which the applications were submitted. Where applicants have faced interference in the exercise of their right to apply to the Court, their procedural conduct must be assessed with particular sensitivity. The existence of such interference may itself affect the way in which an application is prepared and presented. In my view, once the Court acknowledged a violation of Article 34, greater caution was required before attributing financial consequences to the manner in which the applications were presented. Otherwise, the reduction may be perceived as indirectly weakening the very protection that Article 34 is designed to secure, and thus as amounting, in substance, to a form of penalisation.

16. Third, as it follows from the above, the reduction of the amount awarded for costs and expenses appears difficult to reconcile with the outcome of the case. The findings of the Court that there had been a violation of Articles 3, 13 and 34 of the Convention confirm that the applicants were vindicated on significant and fundamental aspects of their claims. This point is further reinforced by the Court's own acknowledgment of the seriousness of the breaches established. In paragraph 84 of the judgment, it expressly observes that, having regard to the gravity of the violations found and to the absence of any effective domestic remedy capable of affording redress, the mere finding of a violation cannot be regarded as sufficient just satisfaction. In a number of my separate opinions, I have disagreed with and firmly criticised the Court's usual practice of considering that the finding of a violation, in itself, constitutes sufficient just satisfaction for non-pecuniary damage (see, *inter alia*, paragraphs 22-38 of my partly concurring, partly dissenting opinion in *Yüksel Yalçınkaya v. Türkiye* [GC], no. [15669/20](#), 26 September 2023; paragraphs 5-8 of the joint partly dissenting opinion I authored with Judge Felici in *Grzęda*

v. Poland [GC], no. 43572/18, 15 March 2022; and paragraph 12 of my partly dissenting opinion in *L.F. and Others v. Italy*, no. 52854/18, 6 May 2025). In my view, such an approach has too often been applied in a formulaic manner, without adequate consideration of the concrete impact of the violations on the individuals concerned. The relevance of this point in the present case is twofold. First, I reiterate my principled disagreement with that line of reasoning, which frequently results in the absence of any award for non-pecuniary damage; this does not mean, however, that I maintain that non-pecuniary damage should always be awarded, as this will depend on whether all the requirements of Article 41 are fulfilled. Secondly, and more importantly for present purposes, the Court itself considered the violations in this case to be of such gravity that it departed from its usual approach. By explicitly recognising that a mere finding of a violation was insufficient, the Court unequivocally underscored the seriousness of the breaches at issue. Against that background, the decision to reduce the applicants' recoverable costs becomes even more difficult to justify. Where the Court has acknowledged grave violations warranting more than symbolic redress, a substantial reduction of costs risks appearing inconsistent with the overall assessment of the case and the weight accorded to the rights at stake.

17. Fourth, the imposition of a flat-rate reduction of 30% on the applicants' recoverable costs risks appearing disproportionate. Such a measure, without clear justification reflecting the nature and seriousness of the procedural shortcoming identified, may give rise to concerns of arbitrariness that are difficult to reconcile with principles of fairness and legal certainty. While procedural shortcomings may, in certain circumstances, justify a reduction, any such measure must remain proportionate and should not diminish the recognition that the applicants have prevailed on essential points. As an international human rights court, the Court could have conveyed an equally strong – if not stronger – message regarding the importance of full compliance with the relevant paragraph of the Practice Direction on the Institution of Proceedings without reducing the applicants' lawyers' costs and expenses by 30%. A principled reminder in the reasoning of the judgment would have sufficed to underline the procedural expectations placed upon representatives, while avoiding any appearance that the applicants were bearing financial consequences in a case where the Court had already found interference with their right of individual application. Such an approach would arguably have preserved both the authority of the Court and the integrity of the protection guaranteed by Article 34.

18. Fifth, the decision to reduce the applicants' recoverable costs by 30% lacked a clear legal foundation, whether in the Convention or in the Rules of Court. The authority of the President of the Court under Rule 32 of the Rules of Court and paragraph 14 of the Practice Direction on the Institution of Proceedings is, of course, beyond question; likewise, a failure to comply with the relevant directions may properly entail procedural consequences.

However, those consequences must be both proportionate and firmly grounded in law. In the present case, the reduction concerned the costs and expenses that were incurred for an application that succeeded on essential points, including findings of violations of Articles 3, 13 and 34 of the Convention. The omission attributed to the applicants' representative was, moreover, not of such gravity as to affect the substantive assessment of the case or the Court's ability to reach its findings. It neither obstructed the proper administration of justice nor compromised the fairness of the proceedings (see paragraph 68 of the judgment).

19. Sixth, the reduction risks conveying the impression that, even though the Court has established serious violations of their Convention rights, the applicants are nonetheless being sanctioned in financial terms. Such an approach may have a dissuasive effect on applicants seeking to assert their rights before the Court and is therefore difficult to reconcile with the spirit and purpose of the Convention system. This is particularly so in the field of human rights protection, in a case where the Court has itself found that the applicants suffered Convention violations and expressly acknowledged that their application was neither misleading nor otherwise manifestly contrary to the purpose of the right of individual application; in such circumstances, a punitive reduction of costs cannot be regarded as appropriate.

20. Lastly – and this is linked to the previous point – the fact of reducing the award of costs and expenses to such a substantial extent is not **consistent with the principle of effectiveness, which requires** that Convention rights be interpreted and applied in a practical and effective manner rather than in a theoretical or illusory one. If applicants are awarded substantially reduced reimbursements for the costs and expenses necessary to pursue their claims, their practical ability to bring Convention complaints may be significantly undermined. Adequate reimbursement of costs and expenses therefore plays an important role in ensuring that the protection afforded by the Convention remains effective in practice. By contrast, awards that fall significantly short of the expenses reasonably and necessarily incurred may weaken the remedial function of the Court's judgments and undermine the practical enforceability of Convention rights.

21. In the circumstances of the case, I would not reduce at all the award for the applicants' costs and expenses which were actually incurred.

22. I have already explained why I disagree with the judgment in not examining the complaint under Article 8 and the complaint under Article 13 read in conjunction with Article 8, as well as in reducing the costs and expenses of the applicants' lawyer. Consequently I disagree with point 9 of the operative part where the Court dismisses the remainder of the applicants' claims for just satisfaction.