

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

FIFTH SECTION

CASE OF BENYUKH v. UKRAINE

(Application no. 39150/20)

JUDGMENT

STRASBOURG

26 June 2025

This judgment is final but it may be subject to editorial revision.



In the case of Benyukh v. Ukraine,

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

María Elósegui*, President*,
Andreas Zünd,
Mykola Gnatovskyy*, judges*,
and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 39150/20) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 4 November 2020 by a Ukrainian national, Mr Oleksiy Anatoliyovych Benyukh ("the applicant"), who was born in 1974, is currently detained in Vinnytsya and was represented by Mr H. de Suremain, a lawyer practising in Paris;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Agent at the time, Mr I. Lishchyna and subsequently by their acting Agent at the time, Ms. O. Davydchuk;

the parties' observations;

Having deliberated in private on 5 June 2025,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's allegedly inadequate dental treatment in detention, in particular a nineteen-month delay in providing him with dentures free of charge, and the lack of an effective remedy in that regard. He relied on Articles 3 and 13 of the Convention.

2. The applicant is a life prisoner who started serving his sentence in 1999. He has no financial means.

3. According to the applicant, since his detention, almost all his teeth have been extracted for medical reasons. He alleged that, as a result, he experienced pain when eating the food served in prison and was unable to chew properly, and that his speech and facial appearance had changed, causing him humiliation and suffering. Furthermore, he had been diagnosed with chronic gastroduodenitis and pancreatitis, as confirmed by a certificate issued by the prison medical facility in October 2020.

4. The applicant's medical records contain no mention of tooth extractions or any indication of the need for dentures before 2019.

5. On an unspecified date (according to the applicant, after 4 October 2019) the applicant was examined by a dentist, who diagnosed him with full maxillary and partial mandibular adentia (absence of teeth). The dentist recommended that he be fitted with dentures. In view of the above, on 22 October 2019 the prison medical facility asked the municipal authorities to consider providing the applicant with dentures free of charge since he

qualified for them under the legislation on medical care for prisoners[1]. That legislation guarantees the provision of free dentures to prisoners who do not fall within the category of vulnerable persons entitled to them as a social benefit, have no means to pay for them and have an established medical need for dentures.

6. On 28 October 2019 the municipal authorities rejected the above request, stating, on the one hand, that free dentures for prisoners were provided by healthcare institutions on a contractual basis and, on the other hand, that no such contract had been signed between the prison medical facility and the relevant municipal healthcare institutions. They also noted that costs related to prisoners' dentures were not included in the municipal budget.

7. On 8 September 2020 the prison medical facility asked the municipal authorities to consider including such costs in the municipal budget. The case file contains no reply in that regard.

8. On 4 November 2020 the applicant lodged his application with the Court.

9. In March 2021 a non-governmental organisation, Youth with a Mission (*Молодь з місією*) ("NGO"), approached the prison authorities with an offer to provide a limited number of prisoners with free dental care. That offer was accepted by the prison medical facility to which the applicant had since been transferred.

10. As a result, in May 2021 the applicant was examined by an NGO dentist, who confirmed his adentia diagnosis and took dental impressions so that he could be fitted with dentures. In May and June 2021 the applicant had an initial denture fitting and some additional treatment. On 23 September 2021, following some further treatment and adjustments, the denture fitting process was completed.

THE COURT'S ASSESSMENT

I. ALLEGED ABUSE OF THE RIGHT OF APPLICATION

11. In their observations of 16 July 2021, the Government submitted that the applicant had abused his right of application by failing to inform the Court of important developments in his case, in particular that he had been provided with free dentures between May and June 2021. Referring to his medical records, the applicant, for his part, submitted that the entire denture fitting process had lasted from May to September 2021, and that it had not been until

[1] Sub-paragraph 4 of paragraph 1 of Chapter IV of the Procedure for Organising the Provision of Medical Care to Prisoners Sentenced to Imprisonment, approved by joint Order of the Ministry of Justice of Ukraine and the Ministry of Health of Ukraine of 15 August 2014 No. 1348/5/572.

23 September 2021 that the process had been completed (see paragraph 10 above).

12. The Court observes that the process of fitting the applicant with dentures started in May 2021, after he had lodged his application with the Court on 4 November 2020 and notice had been given to the Government on 7 April 2021. Even though the denture fitting process had started in May 2021, it was still ongoing in July 2021 when the Government submitted their observations on the admissibility and merits of the case. In such circumstances, the applicant could not be expected to have informed the Court at that time of the ongoing denture fitting process, but he could reasonably be expected to have provided that information once the process had been completed, as he did in his reply to the Government's observations in November 2021. The Court cannot, therefore, accept the Government's objection that the applicant abused his right of application.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

13. The applicant alleged that he had not been afforded adequate dental treatment in detention, in so far as the provision of dentures free of charge had been refused.

14. The Government submitted that the authorities lacked the necessary funding to ensure the provision of free dentures to prisoners. It is also apparent from their observations that the provision of free dentures was the responsibility of the municipal authorities and that it was for prison medical facilities to request such treatment for prisoners. At the same time, domestic law did not define the procedure for cooperation between the prison, healthcare and social authorities to provide such treatment to prisoners who, like the applicant, did not fall within the category of vulnerable persons entitled to free dentures as a social benefit, and who had no means to pay for them. Lastly, the Government submitted that the authorities had nonetheless found a way to provide the applicant with dentures in cooperation with the NGO.

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

16. The case file shows that since at least 22 October 2019 the authorities had been aware that the applicant was in need of dentures (see paragraph 5 above). Notwithstanding the legislative provisions making dentures available free of charge (ibid.), the applicant was not provided with any. The authorities cited, in that regard, the absence of a relevant framework and a lack of funding (see paragraphs 6 and 14 above). In the light of the foregoing, and having regard to the specific obligations imposed on the State by the duty of care towards prisoners, particularly in the field of dental care (see, for example, *V.D. v. Romania*, no. 7078/02, §§ 92-99, 16 February 2010), the

Court finds that the legislative provisions making dentures available free of charge to prisoners with an established need for them but no means to pay were rendered ineffective by a combination of legislative, administrative and financial obstacles.

17. The Court cannot accept the Government's submission that the State eventually found a way to provide the applicant with dentures in cooperation with the NGO (see paragraph 14 above). It observes that although the applicant was eventually fitted with dentures, he was afforded this treatment on the initiative and at the NGO's expense (see paragraph 10 above and contrast *Stojanović v. Serbia*, no. 34425/04, §§ 24-25 and 76-81, 19 May 2009, and *Radu v. Romania* (striking out) (dec.) [Committee], no. 34751/09, 1 October 2013, where, despite the initial delay, the applicants were eventually provided with dentures at the initiative of the authorities, which covered their full costs). There is no indication that, in the present case, the provision of dentures was the result of any steps taken by the authorities or of any procedures or framework put in place by them. By contrast, it appears to have been the result of the NGO's intervention and there is no evidence that the authorities played any role in the process beyond allowing the applicant to accept the charitable help offered.

18. Moreover, although the applicant was indeed eventually fitted with dentures, the process was not launched at the NGO's initiative until May 2021, even though the need for dentures had been identified more than nineteen months earlier, in October 2019.

19. In a number of similar cases, the Court has found violations of Article 3 in situations where the delay exceeded three years or more (see *Bragadireanu v. Romania*, no. 37075/14, § 55, 8 November 2016; *Drăgan v. Romania*, no. 65158/09, § 86, 2 February 2016; *Iacov Stanciu v. Romania*, no. 35972/05, §§ 181 and 185, 24 July 2012; *Fane Ciobanu v. Romania*, no. 27240/03, §§ 82-84, 11 October 2011; and *V.D. v. Romania*, cited above, §§ 94 and 98).

20. At the same time, the delay in the present case was still considerable (compare, for example, *Slyusarev v. Russia*, no. 60333/00, §§ 42-44, 20 April 2010, and *T.K. v. Lithuania*, no. 14000/12, §§ 83 and 87, 12 June 2018, where it took the authorities almost five months to provide the applicant with new glasses and to return glasses taken away, respectively, and also *Saat v. Türkiye* [Committee], no. 23939/20, §§ 7-9, 6 September 2022, where the applicant was deprived of his contact lenses for three weeks).

21. The Court has no reason to doubt the applicant's submissions to the effect that the lack of dentures had caused him pain, changed his speech and facial appearance, and that his distress in that regard had been further aggravated by his medical condition (see paragraph 3 above).

22. In view of the above, the Court concludes that there has been a violation of Article 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

23. The applicant also raised a complaint under Article 13 of the Convention concerning the lack of an effective remedy under domestic law in respect of the inadequate dental treatment in detention. That complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that the complaint discloses a violation of Article 13 in the light of its well-established case-law (see *Melnik v. Ukraine*, no. 72286/01, §§ 113-16, 28 March 2006).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. The applicant claimed 15,000 euros (EUR) in respect of non-pecuniary damage.

25. The Government contested that claim as unsubstantiated and excessive.

26. Making its assessment on an equitable basis and having regard, in particular, to the duration of the violation in the present case (contrast, for example, the cases cited in paragraph 19 above) and the fact that the prison authorities eventually allowed the NGO to provide the applicant with dentures, the Court awards him EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 3 of the Convention;

3. *Holds* that there has been a violation of Article 13 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, EUR 3,000 (three thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable, in respect of non-pecuniary damage;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 26 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	María Elósegui President