

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

FIFTH SECTION

CASE OF ROMANENKO v. UKRAINE

(Application no. 54825/18)

JUDGMENT

STRASBOURG

6 November 2025

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



In the case of Romanenko v. Ukraine,

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

Andreas Zünd*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 54825/18) 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 November 2018 by a Ukrainian national, Mr Aleksandr Anatolyevich Romanenko ("the applicant"), who was born in 1972, is currently detained in Kamyane, Zaporizhzhya Region, and was represented by Ms O. Preobrazhenska, a lawyer practising in Strasbourg;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, of the Ministry of Justice;

the parties' observations;

Having deliberated in private on 9 October 2025,

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

SUBJECT MATTER OF THE CASE

1. The case mainly concerns the applicant's alleged ill-treatment by the police and the lack of an effective investigation in that regard, in breach of Article 3 of the Convention, and the allegedly lengthy criminal proceedings against him, in breach of Article 6 § 1 of the Convention.

I. THE APPLICANT'S ALLEGED ILL-TREATMENT

A. The Government's account

2. On 16 September 2010 the applicant was stopped by police officers M. and Sh. at the bus station in Dnipropetrovsk (currently Dnipro) in order to check his documents. The applicant was suspected of being under the influence of drugs or alcohol and was escorted to a police station for further questioning. At the police station, drugs were found in the applicant's bag and he was also found to be in possession of an unlicensed gun which he hid from the police officers conducting the search. The ensuing confrontation between the applicant and two police officers developed into a fight and resulted in one of the officers, M., being shot dead by the applicant and the other one, Sh., sustaining grievous bodily injuries. The applicant was then

stopped by a group of civilians present in the police station at that time. The applicant sustained minor bodily injuries during the incident.

B. The applicant's account

3. On 16 September 2010 Sh., a duty police officer out on patrol, stopped the applicant at the bus station in Dnipropetrovsk (currently Dnipro) to check his identity documents. Sh. forced the applicant to follow him to the police station, refusing to give back his documents. At the police station, Sh. started searching the applicant, who protested against Sh.'s rude behaviour. Sh. punched the applicant and took out his gun. A fight between Sh. and the applicant ensued and the applicant took out his starting pistol from his bag. Another police officer, M., joined the fight, in the course of which Sh. and the applicant both fired their guns. The applicant, holding two guns, then left the room where the confrontation took place and surrendered to the police. He was arrested and taken to another police station, where he was questioned regarding the incident. After questioning, the applicant was taken to hospital and examined by a doctor. Police officers escorting the applicant instructed the doctor to classify the injuries found on his body as "minor".

II. THE INVESTIGATION INTO THE APPLICANT'S ALLEGED ILL-TREATMENT

4. On 16 September 2010, after his arrest, the applicant underwent a forensic medical examination, as a result of which it was established that he had numerous abrasions to his head, face, body and limbs which had been sustained several hours earlier and which could be classified as "minor" injuries. In the course of the examination, the applicant explained to a forensic expert that two unknown persons in police uniform had tried to arrest him and that he had resisted arrest and fallen to the ground during the incident. He was unable to give any further details regarding the incident but complained of pain and a limited range of motion in his right shoulder.

5. On 17 September 2010 the police conducted an internal investigation into the circumstances of the incident of 16 September 2010, which concluded that the actions of police officers M. and Sh. had been lawful.

6. On 1 February 2011 the investigator of the Dnipropetrovsk Regional Prosecutor's Office, acting in the context of a pre-investigation inquiry, refused to initiate criminal proceedings in connection with the applicant's alleged ill-treatment for lack of the constituent elements of a crime. The investigator concluded that the injuries on the applicant's body had been the result of the fight on 16 September 2010 with the police officers, whose actions had been found to be lawful.

7. In the course of the trial, on 30 October 2014 the Kirovskyy District Court of Dnipropetrovsk ("the trial court") granted a request by

the prosecutor to investigate the applicant's allegations of ill-treatment and ordered the authorities to conduct an inquiry into those allegations and inform the trial court of the outcome.

8. As no information about the outcome of the investigation was forthcoming, on 14 November 2019 the applicant's lawyer asked the authorities for information on the implementation of the decision of 30 October 2014.

9. According to the Government, on 20 November 2019 the investigating authorities discovered that no information on the outcome of the investigation had been recorded. They also found that, on 18 November 2014, the examination of the trial court's decision of 30 October 2014 had been assigned to a prosecutor who had subsequently been dismissed from office in 2016.

10. On 31 August 2020, after the investigation had been reopened, it was closed again as it had not been established that any misuse of power on the part of the police officers had resulted in the applicant's injuries. In establishing the circumstances surrounding the incident, the investigator principally had regard to the findings of the trial court set out in its decision of 23 February 2017 (see paragraph 14 below). According to the Government, that decision was not challenged, in so far as it established the circumstances surrounding the incident of 16 September 2010.

III. CRIMINAL INVESTIGATION IN RESPECT OF THE APPLICANT

11. On 16 September 2010 a criminal investigation into the murder of a police officer, illegal arms possession and illegal drugs possession was initiated in respect of the applicant.

12. On 3 March 2011 the indictment against the applicant and the case file were transferred to the trial court for consideration.

13. In the course of the trial the applicant requested that he be released subject to an undertaking not to abscond. On 17 March 2015, 29 July and 13 December 2016 the trial court refused the applicant's requests, stating, *inter alia*, the following:

> "Owing to the fact that the applicant has committed a serious or especially serious crime, being subject to a travel restriction would mean that he could still evade justice, influence witnesses and victims, and affect the consideration of the case on the merits."

14. On 23 February 2017 the trial court found the applicant guilty as charged and sentenced him to fifteen years' imprisonment. Substantiating its decision by referring to the circumstances as indicated in paragraph 2 above, the trial court further established that, while at the police station, the applicant, who had been under the influence of drugs, had told the police officers that he had a certain amount of cannabis in his bag. Sh. had left the room to call for witnesses to be present during the search of the applicant and, at that moment, the applicant had taken a gun out of his bag and shot M.

When Sh. came back into the room and tried to restrain the applicant, the latter had started shooting at Sh. The applicant and Sh. had started fighting and both fired their guns. On 10 January 2018 the Dnipropetrovsk Regional Court of Appeal overturned the trial court's decision and sentenced the applicant to life imprisonment. On 5 June 2018 the Supreme Court amended that decision but upheld the applicant's sentence of life imprisonment. When examining the applicant's allegations of ill-treatment, the domestic courts at all levels of jurisdiction held that the applicant's submissions to that effect were unsubstantiated and had the aim of exonerating him in respect of the murder charges against him.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

15. The applicant complained that he had been ill-treated by the police officers on 16 September 2010 and that there had been no effective investigation into the incident. He further argued that he had not been provided with copies of the investigator's decisions refusing to institute or closing the criminal proceedings (see paragraphs 6 and 10 above). He also stated that appealing against those decisions, as suggested by the Government, would have been ineffective in any event given the considerable time that had elapsed since the alleged ill-treatment as a result of the significant delay in the investigation.

16. While not denying that the applicant had sustained injuries during the incident of 16 September 2010, the Government argued that the injuries had not resulted from the lawful actions of the police officers, as had been established in the course of the domestic inquiry and the applicant's trial. The Government further argued that the applicant had failed to exhaust domestic remedies as he had not appealed against the investigator's decisions refusing to initiate or closing the criminal proceedings (see paragraphs 6 and 10 above).

17. The Court considers that the issue of exhaustion of domestic remedies raised by the Government is closely linked to the substance of the applicant's complaint concerning the alleged lack of an effective investigation and must therefore be joined to the merits of that complaint. The Court further notes that the complaints are neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds. They must therefore be declared admissible.

18. The relevant general principles have been summarised in *Bouyid v. Belgium* ([GC], no. 23380/09, §§ 81-90 and 114-23, ECHR 2015).

A. Alleged ill-treatment

19. The Court notes that the parties disagreed as to the circumstances of the events of 16 September 2010. However, it is common ground that there had been a serious incident at the police station involving an exchange of gunfire and a physical fight between the applicant and the police officers, resulting in the death of one police officer and serious injury to another. The Court further notes that the applicant did not deny the fact that a forensic expert had correctly registered the injuries sustained following the incident; instead, he merely alleged that they had been incorrectly classified in terms of their seriousness.

20. The Court observes that the applicant did not argue that the alleged injuries could have originated from circumstances not related to the incident in question. It also refers to the explanations which the applicant gave to a forensic expert concerning the incident (see paragraph 4 above), and the finding of the domestic courts that the applicant had been under the influence of drugs during the incident, which he himself had provoked (see paragraph 14 above).

21. Having regard to the above-mentioned considerations, the Court cannot but note that the injuries sustained by the applicant during the incident and assessed by the forensic expert as being minor resulted from the police officers' recourse to physical force, which was made necessary by the applicant's own conduct and cannot be held to have been excessive (see, for a similar approach, *Spinov v. Ukraine*, no. 34331/03, §§ 48-51, 27 November 2008). Those circumstances count heavily against the applicant, with the result that the burden on the Government to prove that the use of force was not excessive in this case is less stringent (see *Berliński v. Poland*, nos. 27715/95 and 30209/96, § 62, 20 June 2002).

22. Accordingly, there has been no violation of the substantive limb of Article 3 of the Convention in this regard.

B. Effectiveness of the investigation

23. The Court further observes that although the authorities appear to have been willing to establish promptly the origin of the injuries sustained by the applicant, they did so in the form of a preliminary police inquiry, the results of which were based on the explanations provided by the police officers only. It appears that the applicant was not questioned regarding the alleged incident and the available material does not indicate that he was informed of the results of the inquiry. The Court has already held that the pre-investigation inquiry procedure does not comply with the standards of Article 3, given that the inquiring officer can take only a limited number of procedural steps, while the victim's procedural status is not properly

formalised and he or she cannot effectively participate in the procedure (see, for example, *Savitskyy v. Ukraine*, no. 38773/05, § 105, 26 July 2012).

24. Moreover, the Court observes that after the trial court's decision of 30 October 2014 ordering the authorities to conduct an investigation into the applicant's ill-treatment allegations (see paragraph 7 above), no investigation was launched until at least 20 November 2019, apparently owing to carelessness on the part of investigating authorities (see paragraph 9 above). The investigation, which was ultimately commenced and then closed on 31 August 2020, does not appear to have been thorough in so far as it was based solely on the findings of the trial court without the applicant having even been questioned (see paragraph 10 above).

25. Although the domestic courts appear to have thoroughly examined the circumstances of the incident of 16 September 2010, including the applicant's arguments that he had been ill-treated by the police officers M. and Sh. (see paragraph 14 above), and despite the fact that the examination was sufficient for the Court to examine the applicant's complaint under thesubstantive limb of Article 3 (see paragraphs 19-21 above), the Court notes that the primary aim of the trial courts in the context of the above-mentioned examination was to decide on the applicant's guilt on the basis of the evidence in the case file, rather than to investigate his complaints of ill-treatment.

26. In view of the circumstances of the present case and its earlier case-law (see, *inter alia*, *Kaverzin v. Ukraine*, no. 23893/03, §§ 173-80, 15 May 2012; *Danilov v. Ukraine*, no. 2585/06, § 70, 13 March 2014; and *Kirpichenko v. Ukraine*, no. 38833/03, §§ 85-88, 2 April 2015), the Court considers that, in the present case, the investigation into the applicant's allegations of ill-treatment lacked the requisite effectiveness.

27. The Court therefore dismisses the Government's objection as to the exhaustion of domestic remedies that it previously joined to the merits (see paragraph 17 above) and finds that there has been a violation of Article 3 of the Convention under its procedural limb.

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

28. The applicant also raised a complaint about the length of the criminal proceedings against him, which lasted from 16 September 2010 to 5 June 2018, that is to say, seven years and nine months at three levels of jurisdiction. Being covered by the well-established case-law of the Court, this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. Accordingly, it must be declared admissible. Having examined all the material before it and having regard to the fact that the proceedings before the trial court lasted from March 2011 to February 2017 and no convincing explanation for their length was provided by the Government, the Court

concludes that the applicant's complaint discloses a violation of Article 6 § 1 of the Convention in the light of its findings in *Nechay v. Ukraine* (no. 15360/10, §§ 69-72, 1 July 2021).

III. REMAINING COMPLAINTS

29. The applicant also raised complaints under Article 6 §§ 1 and 2 of the Convention regarding the lack of impartiality of the trial court and a breach of the presumption of his innocence. The Court has examined that part of the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

30. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

31. The applicant claimed 16,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,000 in respect of costs and expenses incurred before the Court.

32. The Government contested those claims.

33. The Court awards the applicant EUR 2,300 in respect of non-pecuniary damage, plus any tax that may be chargeable.

34. Furthermore, having regard to the documents in its possession and to its case-law, the Court considers it reasonable to award EUR 800 in respect of costs and expenses, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the Government's objection concerning the non-exhaustion of domestic remedies to the merits of the applicant's complaint under the procedural limb of Article 3 of the Convention, and dismisses it;

2. *Declares* the complaints under Article 3 of the Convention concerning the applicant's ill-treatment by the police on 16 September 2010 and the lack of an effective investigation in that regard, and the complaint under Article 6 § 1 of the Convention concerning the unreasonable length of the criminal proceedings admissible and the remainder of the application inadmissible;

3. *Holds* that there has been no violation of Article 3 of the Convention under its substantive limb;

4. *Holds* that there has been a violation of Article 3 of the Convention under its procedural limb;

5. *Holds* that there has been a violation of Article 6 § 1 of the Convention with regard to the unreasonable length of the criminal proceedings against the applicant;

6. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 2,300 (two thousand three hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 800 (eight hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;
   (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;

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

Done in English, and notified in writing on 6 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Andreas Zünd President