

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

FIFTH SECTION

CASE OF STRASHUNSKYY v. UKRAINE

(Application no. 6522/19)

JUDGMENT

Art 3 (procedural) • Domestic authorities' failure to conduct an effective investigation into multiple injuries sustained by the applicant, suffering from a mental health condition, by staff of the State-run Boarding House for Disabled and Elderly People he was residing in, during his forced hospitalisation • Particularly vulnerable person under the State's full control • Failure to carry out a medical expert examination • No information given as to the qualifications and job functions of the staff who restrained the applicant and took him to the hospital • No meaningful examination of whether the staff did everything possible to avoid using force and whether its use was justified and absolutely necessary in case circumstances • No indication the investigation considered the fact that disciplinary sanctions were imposed on certain staff members for their rough handling of the applicant
Art 3 (substantive) • Positive obligations • Inhuman or degrading treatment • Government's failure to discharge their burden of demonstrating that the interference with the applicant's physical integrity was strictly required by the situation and compatible with Art 3 • Applicant not afforded with a level of protection commensurate with his situation • Circumstances not shown to have been either unavoidable or managed in a manner consistent with the State's obligation to protect the applicant's physical integrity and dignity • Domestic authorities' failure to comply with both their negative and positive obligations

Prepared by the Registry. Does not bind the Court.

STRASBOURG

17 September 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Strashunskyy v. Ukraine,

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

Kateřina Šimáčková*, President*,
María Elósegui,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy,
Vahe Grigoryan,
Sébastien Biancheri*, judges*,
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 6522/19) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Ukrainian national, Mr Oleksandr Oleksandrovych Strashunskyy ("the applicant"), on 15 January 2019;

the decision to give notice of the application to the Ukrainian Government ("the Government");

the parties' observations;

Having deliberated in private on 1 September 2026,

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

INTRODUCTION

1. The case concerns the applicant's complaint under Article 3 of the Convention that he had sustained bodily harm during his forced hospitalisation, ordered on mental health grounds, and that the authorities had failed to defend him and to investigate the incident properly.

THE FACTS

2. The applicant was born in 1975 and died on 21 July 2020. Being legally incapacitated, he was represented by his mother. Legal representation was provided to the applicant by Mr S.A. Zayets and Ms O. Semenyuk, lawyers practising in Irpin.

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

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

5. The applicant was diagnosed with paranoid schizophrenia in 2001. By a decision of the Smila Local Court of the Cherkasy Region of 24 June 2016, he was declared legally incapacitated. His mother was appointed as his guardian.

6. Since 13 May 2016 the applicant had been staying in the Zvenyhorod Boarding House for Disabled and Elderly People ("the Boarding House"). He was transferred from there to Cherkasy Regional Psychiatric Hospital on 23 November 2016. Both institutions are run by local authorities.

7. According to the applicant's mother, on the morning of 23 November 2016 the applicant was in his room – which he shared with three other people, who were also present during the event in question – when three male staff members of the Boarding House entered and told him to pack his belongings as he was to be taken to hospital. The applicant told them that he did not want to go. Two staff members then grabbed the applicant while the third started punching him in the head, face and torso. The applicant began to scream. A medical staff member was present and observed the incident. The applicant sustained multiple bodily injuries, including numerous haematomas on his arms and legs, black eyes, bleeding injuries, a closed-head injury and concussion. The applicant was not provided with any medical assistance before or during his transfer to the hospital. He was immobilised and forced to sit in the car which took him to hospital. Immediately upon his arrival, he was examined by a doctor.

8. Medical examinations conducted after the applicant's transfer to the hospital revealed the concussion and the multiple haematomas and bruises on his face, trunk and extremities.

9. On 24 November 2016 the Smila District Court ordered the involuntary hospitalisation of the applicant for mental health reasons.

10. On the same date the director of the Boarding House issued an order imposing disciplinary sanctions on certain employees. These took the form of a reprimand given to S. (a junior nurse) and a warning given to M. (a facilities manager), V. (a laboratory assistant) and K. (an auxiliary worker), for negligence in the performance of official duties and rough handling (*грубе поводження*) of the applicant during his transfer to the hospital.

11. On 17 December 2016, following a complaint by the applicant's mother, the Zvenyhorod local police department opened a criminal investigation into the infliction of minor bodily injuries on the applicant.

12. On 29 March 2017 the investigator of the police department decided to terminate the criminal investigation for want of proof that a crime had been committed. That decision was overruled by the Zvenyhorod local prosecutor's office on 21 April 2017.

13. On 26 September 2017, following a further complaint by the applicant's mother, another criminal investigation was opened into professional negligence on the part of the employees of the Boarding House.

14. In the course of the investigation, V., S. and K. were questioned. According to them, on 23 November 2016 V. had gone to the applicant's room and had informed him that he should pack as he was going to hospital. The hospitalisation had been arranged following a referral by a psychiatrist, Ch. The applicant had objected to being hospitalised and had become

aggressive, so V. had called S. for help. The applicant had resisted, had started throwing furniture and had bitten the arm of S. K., who had heard a noise, had then come to the room and had helped S. to restrain the applicant, take him to the car and transfer him to hospital.

15. On 29 December 2017 the police investigator issued two separate decisions by which he closed both criminal investigations. In both decisions, the investigator noted that, according to his findings, the applicant had not followed the orders of the Boarding House's staff and had behaved aggressively, had broken furniture and had caused bodily harm to the staff. The staff had therefore had to use force against the applicant, but they had had no intention of causing him any harm. During the attempts to restrain the applicant, he had tried to break free and had fallen down on numerous occasions, sustaining the injuries that had later been established during his medical examination. The investigator thus closed the cases for want of proof that a crime had been committed.

16. On 19 February 2018 the District Court quashed the decisions of 29 December 2017 on the grounds that the police had not established all the circumstances of the case. It noted, in particular, that despite there being two different versions of the event, the investigator had failed to seek an expert opinion on whether the applicant's injuries could have been sustained in the circumstances alleged by the parties. The District Court further noted that the applicant was a person with a mental disability who had been staying in the Boarding House at the time of the events; thus, he had been under full State control and the State agents had been under an obligation to secure his life and health.

17. On 27 June 2018 the investigator closed the cases. Having questioned the applicant's mother and S., K. and V., he concluded that there was no evidence that the employees had intentionally inflicted bodily harm on the applicant, and that his injuries had resulted from their overcoming his aggressive behaviour.

18. On 30 October 2018 the District Court quashed the decisions of 27 June 2018, noting that the investigator had not sought an expert opinion as to how the applicant's injuries might have occurred, despite the fact that the parties disagreed on the relevant circumstances. The District Court further noted that the investigation had not established the exact functions of S., K. and V. – the employees who had restrained the applicant and transported him to the hospital on 23 November 2016 – and whether their job description included dealing with that type of patient.

19. On 30 January 2021 the criminal investigation into the alleged infliction of bodily harm on the applicant was terminated by the police investigator for want of proof that a crime had been committed.

20. On 3 January 2024 the criminal investigation into the alleged professional negligence on the part of the personnel of the Boarding House was also terminated for want of proof that a crime had been committed.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. CONSTITUTION OF UKRAINE (1996)

21. The 1996 Constitution of Ukraine affirms the inherent dignity of every individual and safeguarding bodily and personal integrity in the following terms:

Article 28

"Everyone shall have the right to have his/her dignity respected.

No one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment that violates his/her dignity.

No person shall be subjected to medical, scientific or other experiments without his/her free consent."

II. THE PSYCHIATRIC CARE ACT (2000)

22. The Psychiatric Care Act, as worded at the material time (November 2016), provided, in so far as relevant, as follows:

Section 1

Definitions

"In this Act, the terms listed below shall have the following meanings:

...

professional – a healthcare worker (doctor, nurse, paramedic), psychologist, social worker or other worker who has the relevant education and special qualifications and is involved in the provision of psychiatric care ..."

Section 4

Principles Governing the Provision of Psychiatric Care

"Psychiatric care shall be provided in accordance with the principles of legality, humanity, respect for human and citizens' rights, voluntariness and accessibility, and in line with current scientific knowledge, ensuring that treatment measures are necessary and adequate, with minimal social and legal restrictions."

Section 5

State guarantees regarding the provision of psychiatric care and social protection for persons suffering from mental disorders

"The State guarantees

...

the protection of the rights, freedoms and legitimate interests of persons suffering from mental disorders;

...

In order to provide citizens with various types of psychiatric care and social protection for persons suffering from mental disorders, executive authorities and local self-government bodies, in accordance with their powers,

shall establish a network of psychiatric institutions and organise the provision of a guaranteed level of psychiatric care;

shall ensure appropriate conditions for the provision of psychiatric care and the realisation of the rights, freedoms and legitimate interests of persons suffering from mental disorders ...”

Section 8

Ensuring the safety of the provision of psychiatric care and preventing dangerous acts by persons suffering from mental disorders

“Psychiatric care shall be provided in the least restrictive conditions possible, ensuring the safety of the person concerned and others, while respecting the rights and legitimate interests of the person receiving psychiatric care.

Measures involving the physical restraint and/or isolation of a person suffering from a mental disorder, whilst psychiatric care is being provided, shall be applied as prescribed and under the constant supervision of a psychiatrist or other healthcare professional to whom the owner of the psychiatric institution or a body authorised by the owner has entrusted the provision of psychiatric care, and shall be applied only in those cases and forms and for as long as it is impossible to prevent, by all other lawful means, actions by the person that pose an immediate danger to himself or herself or others. A record of the forms and duration of the application of measures of physical restraint and/or isolation shall be made in the medical records. Measures of physical restraint and/or isolation shall be applied in accordance with the rules established by the central executive authority responsible for formulating State policy in the field of public healthcare.”

Section 10

Psychiatric institutions, healthcare professionals and other specialists providing psychiatric care

“Psychiatric care is provided by psychiatric institutions of all forms of ownership, as well as by psychiatrists holding a licence obtained in accordance with the law. Healthcare professionals and other specialists must undergo special training and confirm their qualifications in accordance with the procedure established by the Cabinet of Ministers of Ukraine in order to be authorised to work with persons suffering from mental disorders.

The professional training, retraining and further training of medical staff and other specialists involved in the provision of psychiatric care shall be carried out in accordance with the law.”

Section 25

Rights of persons receiving psychiatric care

“Persons receiving psychiatric care shall enjoy the rights and freedoms of citizens as provided for by the Constitution of Ukraine and the laws of Ukraine. Restrictions on their rights and freedoms shall be permitted only in the cases provided for by the Constitution of Ukraine, in accordance with the laws of Ukraine.

Persons receiving psychiatric care may seek to protect their rights and freedoms either personally or through their representatives in accordance with the procedure established

by the Civil Code of Ukraine, the Code of Civil Procedure of Ukraine and other laws of Ukraine.

Persons receiving psychiatric care shall be entitled to

respectful and humane treatment, which excludes any violation of human honour and dignity ...”

Section 30

Supervision of the provision of psychiatric care

“State supervision of the activities of psychiatric institutions of all forms of ownership, as well as of specialists and other staff involved in the provision of psychiatric care, shall be exercised by the central executive authority responsible for implementing State policy in the field of healthcare ...”

III. JUDGMENT OF CONSTITUTIONAL COURT OF UKRAINE OF 24 APRIL 2018, NO. 3-P/2018

23. In its judgment (§ 2.1), the Constitutional Court of Ukraine stated that the constitutional guarantees of the rights to life and respect for human dignity gave rise not only to a negative obligation on the State to refrain from interference with those rights, but also to positive obligations requiring the establishment of an effective legal and institutional framework for their protection. It further held that those positive obligations included the duty to ensure an effective investigation into deaths and allegations of ill-treatment, including where such allegations concerned persons under the full control of the State, and that the effectiveness of an investigation was to be assessed by reference to such criteria as thoroughness, comprehensiveness, promptness and independence.

THE LAW

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

24. The applicant complained under Article 3 of the Convention that he had sustained bodily harm during his forced hospitalisation and that the authorities had failed to defend him and to investigate the incident properly. Article 3 of the Convention reads as follows:

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

A. Admissibility

25. The Government maintained that the applicant’s allegations of ill-treatment had not been confirmed by the investigation into the matter. His established injuries had been minor and thus had not reached the threshold to fall within the scope of Article 3. The Government argued that, accordingly,

the applicant's complaint under the substantive head of that Article was inadmissible.

26. They further maintained that all necessary investigative actions had been conducted to establish the circumstances of the incident in question, and that there were no reasons to doubt the completeness and efficiency of the investigation. Furthermore, the applicant had had an opportunity to challenge the decisions of the investigator before the domestic courts. The Government emphasised that it would be inappropriate and contrary to the Court's subsidiary role under the Convention for it to attempt to establish the facts of this case on its own, duplicating the efforts of the domestic authorities, which were better placed and equipped for that purpose. They submitted that the complaint under the procedural head of Article 3 was also inadmissible.

27. The applicant maintained that the Government's objections as to admissibility were closely linked to the merits of the application and should be examined under that head.

28. The Court notes that the Government's objections as to admissibility are inextricably linked to the merits of the case. It therefore considers that those arguments are better examined under that head.

29. The Court further notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Parties' submissions

30. The applicant maintained that he had suffered injuries while in a vulnerable position and under the control of State agents. He disagreed with the classification of his injuries as minor and submitted that, in the absence of any conclusions as to how those injuries had been inflicted, it had not been possible for the authorities to determine the level of cruelty involved – an important factor, given that under certain circumstances even a slap could constitute treatment contrary to the requirements of Article 3.

31. He further maintained that his ill-treatment had been a result of the lack of proper planning and preparation for his hospitalisation, even though the hospitalisation had been arranged following the referral issued by the psychiatrist, meaning that there had been sufficient time to prepare. He also submitted that the staff involved in restraining him had not had the necessary professional training to hospitalise him. Furthermore, following his ill-treatment, neither his guardian nor the law-enforcement authorities had been informed, and no medical care had been provided to him prior to his transfer from the Boarding House to the hospital, which had taken more than an hour. He noted that the decision on his forced hospitalisation had been taken by the domestic court a day after he had actually been hospitalised.

32. He also noted that the investigation had not been conducted promptly, that not all witnesses to the incident had been questioned, that the crime scene had not been examined, and that the conclusions of the investigator had been based solely on the explanations of the alleged perpetrators.

33. The Government made no comment as to the merits of the application, submitting that it was inadmissible. Their arguments in that connection are summarised in paragraphs 25 and 26 above.

2. *The Court's assessment*

34. The Court observes that the applicant's complaints concern both the substantive and procedural aspects of Article 3 of the Convention. Being sensitive to the subsidiary nature of its task and recognising that it must be cautious in taking on the role of a first-instance tribunal of fact where this is not rendered unavoidable by the circumstances of a particular case, the Court considers it appropriate to firstly examine whether the applicant's complaints of ill-treatment were adequately investigated by the authorities (see *Panayotopoulos and Others v. Greece*, no. 44758/20, § 102, 21 January 2025, with further references).

(a) Procedural aspect of Article 3 of the Convention

(i) General principles

35. In the context of allegations of ill-treatment through the use of physical restraint against a person who was vulnerable owing to his or her mental health condition and who was under full State control, the Court has held that Article 3 of the Convention requires States to put in place effective criminal-law provisions to deter the commission of offences against personal integrity, backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions. The domestic legal system, and in particular the criminal law applicable in the circumstances of the case, must provide practical and effective protection of the rights guaranteed by Article 3. Where an individual raises an arguable claim of ill-treatment under Article 3 of the Convention, the notion of an effective remedy entails, on the part of the State, a thorough and effective investigation capable of leading to the identification and punishment of those responsible. The same applies to allegations of ill-treatment in the context of psychiatric internment where physical restraint has been used against the applicant (see, *mutatis mutandis*, *M.S. v. Croatia (no. 2)*, no. 75450/12, §§ 74 and 75, 19 February 2015, with further references).

36. Whatever the method of investigation, the authorities must act as soon as an official complaint has been lodged. They must also take into account the particularly vulnerable situation of victims. This is of particular significance for patients confined in psychiatric hospitals, whose position of inferiority and powerlessness calls for increased vigilance in reviewing

whether the Convention has been complied with. The Court has established that for an investigation to be considered effective it must, in particular, be thorough. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill-founded conclusions to close their investigation or as the basis of their decisions. The investigation must be capable of leading to the establishment of the facts of the case and to the identification and punishment of those responsible. The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony, forensic evidence, and so on. Any deficiency in the investigation which undermines its ability to establish the cause of injuries or the identity of the persons responsible will risk falling foul of this standard. However, the obligation on the State is not to elucidate all the facts of the case but only those that are important for establishing the circumstances of the use of force and to determine whether official responsibility is engaged (ibid., §§ 76 and 77, with further references).

37. The Court lastly notes that failure to examine other plausible explanations for the cause of injuries may irreversibly affect the prospects of an investigation (see, *mutatis mutandis*, *Myronenko v. Ukraine*, no. 15938/02, §§ 34-36, 18 February 2010).

(ii) Application of these principles to the present case

38. The Court notes at the outset that, as the domestic authorities themselves established, the applicant was a particularly vulnerable person and was staying in the Boarding House under the full control of the State during the events of 23 November 2016 (see paragraph 16 above). It further notes that, in those circumstances, the applicant sustained bodily harm, the origins of which were disputed by the parties to the present case.

39. The police investigation into the incident concluded that the applicant's injuries had been caused by his falling down on numerous occasions while trying to break free and that the force used by the staff of the Boarding House had been justified by the applicant's own behaviour (see paragraph 15 above). The Government endorsed those findings, submitting that the investigation had been comprehensive and effective. They also noted that the applicant had had an opportunity to challenge the outcome of the investigation before the domestic courts (see paragraph 26 above).

40. The Court notes that in addition to recognising the applicant's vulnerability and the fact that he had been under the full control of the State at the time when the bodily harm had been inflicted, the domestic court raised two important questions. The first question concerned the need to conduct a medical expert examination, which is indispensable in order to establish the mechanism of infliction of the injuries suffered by the applicant, having regard to the different versions of the incident put forward by the parties (see paragraphs 16 and 18 above). The second question concerned the

qualifications and job functions of the personnel who had restrained the applicant and taken him to the hospital (see paragraph 18 above). From the material available to the Court, it does not appear that a medical expert examination was conducted. Moreover, no explanation was provided for the failure to do so, despite the central importance of such an examination in cases of alleged ill-treatment resulting in injuries. The second important question was not answered either, despite the fact that answers to it could have provided necessary clarifications as to whether the staff of the Boarding House had been specifically trained to deal with vulnerable people like the applicant. As a result, there was no meaningful examination of the questions whether the staff had done everything possible to avoid using force and whether the use of force had been justified and absolutely necessary in the circumstances of the case.

41. The Court further notes that, even accepting the version of events presented in the investigator's decision to terminate the criminal investigation into the infliction of the injuries on the applicant, the duty of the State to protect a vulnerable person under its full control required it to check whether the institution in which the applicant had been staying and its employees had done everything possible to protect the applicant. The fact that on the day after the incident disciplinary sanctions were imposed on certain members of staff for their rough handling of the applicant (see paragraph 10 above) further refutes the version of events according to which the applicant's injuries were entirely his fault. Nevertheless, there is no indication that the investigation looked into that matter either.

42. The foregoing considerations are sufficient to enable the Court to conclude that the domestic authorities fell short of their procedural obligations under Article 3 of the Convention and that there has accordingly been a violation of the procedural aspect of that provision.

(b) Substantive aspect of Article 3 of the Convention

(i) General principles

43. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of a democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances or the victim's behaviour (see, for example, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV). The prohibition is closely bound up with respect for human dignity, which forms part of the very essence of the Convention (see *Bouyid v. Belgium* [GC], no. 23380/09, §§ 81 and 89, ECHR 2015). Where allegations are made under Article 3 of the Convention, as in the present case, the Court must apply particularly thorough scrutiny (see, among other authorities, *Wiktorko v. Poland*, no. 14612/02, § 48, 31 March 2009).

44. To fall under Article 3 of the Convention, ill-treatment must attain a minimum level of severity. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the gender, age and state of health of the victim. Other relevant factors include the purpose for which the treatment was inflicted, the intention or motivation behind it, the context in which it occurred and whether the victim was in a situation of vulnerability (see *Khlaifia and Others v. Italy* [GC], no. 16483/12, §§ 159-160, 15 December 2016).

45. The Court has consistently held that, where an individual is under the authority and control of State agents, any recourse to physical force which has not been made strictly necessary by that individual's own conduct diminishes human dignity and is, in principle, an infringement of Article 3. The burden lies on the authorities to demonstrate convincingly that any force used was strictly necessary and proportionate in the circumstances. The fact that the treatment did not result in serious or permanent injury is not decisive (see *Bouyid*, cited above, §§ 88-90 and 100-101).

46. The Court has recognised in its case-law the particular vulnerability of persons with psychosocial disabilities and has held that this vulnerability must be duly taken into account when assessing whether the treatment or punishment concerned was incompatible with the standards of Article 3 (see *Keenan v. the United Kingdom*, no. 27229/95, § 111, ECHR 2001-III; *Rohde v. Denmark*, no. 69332/01, § 99, 21 July 2005; *Rivière v. France*, no. 33834/03, § 63, 11 July 2006; *Renolde v. France*, no. 5608/05, § 120, ECHR 2008 (extracts); *Bureš v. the Czech Republic*, no. 37679/08, § 85, 18 October 2012; *V v. the Czech Republic*, no. 26074/18, § 85, 7 December 2023; and *Spivak v. Ukraine*, no. 21180/15, § 174, 5 June 2025). Those considerations apply with particular force to persons residing in social-care institutions who depend on staff for their daily needs and whose ability to protect themselves, complain or obtain evidence may be significantly limited. In assessing compliance with Article 3, the Court must have regard to such persons' particular vulnerability and to the imbalance of power inherent in the relationship between residents and institutional staff.

47. The Court further reiterates that Article 3 imposes on the State not only a negative obligation to refrain from inflicting serious harm on persons within its jurisdiction but also positive obligations to take appropriate measures to ensure that they are not subjected to treatment contrary to that provision. Vulnerable individuals, in particular, are entitled to effective protection. The duty of protection assumes particular importance where a public service is entrusted with safeguarding the health and well-being of persons who are especially vulnerable and under the authorities' exclusive control; in such circumstances, special measures and safeguards may be required (see *X and Others v. Bulgaria* [GC], no. 22457/16, §§ 177-80, 2 February 2021).

48. Moreover, allegations of treatment contrary to Article 3 must be established by appropriate evidence. The Court applies the standard of proof "beyond reasonable doubt"; however, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or similar unrebutted presumptions of fact (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII, and *Bouyid*, cited above, § 82).

(ii) Application to the present case

(a) Alleged ill-treatment of the applicant

49. The Court notes at the outset that the domestic authorities acknowledged that the applicant, who had a mental health condition, sustained multiple injuries while residing in the Boarding House, a municipal institution (see paragraphs 5, 6 and 8 above). The domestic courts established that while staying in that institution, the applicant had been under the full control of the State (see paragraph 16 above).

50. The Court observes that the injuries sustained by the applicant were documented medically shortly after the events in question. Their existence has therefore been established by objective evidence. At the same time, the Court does not consider that the material before it enables it to establish beyond reasonable doubt that the applicant was beaten in the exact manner alleged by him. However, the existence of those injuries while the applicant was under the authority and control of the institution's staff gives rise to an obligation on the part of the Government to provide a satisfactory and convincing explanation for their origin and, in so far as force was used, to demonstrate that it was justified, strictly necessary and proportionate in the circumstances.

51. In that connection, the Court attaches particular importance to the deficiencies of the domestic investigation identified above (see paragraphs 38 to 42). While those deficiencies do not automatically prove the applicant's allegations, they resulted in the domestic authorities failing to examine in any meaningful manner whether the staff involved in the applicant's transfer had done everything reasonably possible to avoid the use of force and whether any force that was used had been justified and absolutely necessary in the circumstances. Nor was there any serious assessment of the proportionality of the intervention or of the extent to which the applicant's conduct necessitated the use of physical coercion.

52. In these circumstances, and having regard to the applicant's particular vulnerability and the fact that he sustained documented injuries while under the control of institutional staff, the Court finds that the Government have failed to discharge their burden of demonstrating that the interference with the applicant's physical integrity was strictly required by the situation and compatible with Article 3.

(b) Whether the authorities complied with their positive obligations under Article 3

53. The Court further considers that the positive obligations of the State in the circumstances of the present case required those responsible for the applicant's well-being during his stay in the Boarding House to do their best to secure his physical integrity and dignity. Accordingly, the Court is called upon to examine whether the staff of the institution did everything they could to deal with the situation in question – which by its nature had the potential to generate conflict – in the most professional and responsible way. From the facts of the case, it appears that the applicant was referred to the hospital by a psychiatrist and that he objected to being hospitalised (see paragraph 14 above). Such an objection could hardly be described as unpredictable and exceptional to the extent that it would have caught the staff off guard. From the facts of the case, it does not appear that the hospitalisation was a matter of particular urgency, that there was, therefore, legal basis and a need to proceed to a forceful transfer, or, assuming that there was such basis and need, that the person or persons entrusted with the applicant's hospitalisation were duly prepared for the possibility that he would not cooperate.

54. Moreover, as mentioned above, the findings of the investigation did not clarify whether the staff members involved in the applicant's hospitalisation had even been competent to deal with such a situation (see paragraph 18 above) or trained in restraining a person with mental health problems. Nor was it seriously investigated, let alone proved, that the force used against the applicant to "overcome his aggressive behaviour", as the investigator put it (see paragraph 17 above), had been justified and not excessive.

55. The Court considers that the conduct of the Boarding House personnel, who had been responsible for protecting his well-being and his rights, could indeed have given the applicant the impression, as he alleged, that because of his state of mental health they had taken advantage of his particular vulnerability and treated him without due regard or respect for his dignity and personal autonomy. In view of his vulnerability and complete dependence on those exercising authority over him, particular care was required in planning and carrying out measures involving coercion.

56. The Court therefore finds that the applicant, who belonged to a particularly vulnerable category of persons and was under the full control of the State, was not afforded a level of protection commensurate with his situation. He sustained multiple injuries in circumstances which have not been shown to have been either unavoidable or managed in a manner consistent with the State's obligation to protect his physical integrity and dignity.

57. Having regard to the foregoing considerations, the Court concludes that the domestic authorities fell short of both their negative and positive

obligations under Article 3 of the Convention. There has accordingly been a violation of the substantive aspect of that provision.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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."

A. Damage

59. The applicant claimed 7,000 euros (EUR) in respect of non-pecuniary damage.

60. The Government considered that claim unsubstantiated, given their position as to the admissibility of the present application. They further submitted that the claim was in any event excessive.

61. The Court awards the applicant the full amount claimed in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

62. The applicant also claimed EUR 9,414 for the costs and expenses incurred before the domestic courts and the Court (EUR 2,739 to Ms O. Semeniuk, and EUR 6,675 to Mr S.A. Zayets).

63. The Government considered that claim excessive and unsubstantiated. In particular, they noted that the case was not complex enough to call for representation by two lawyers.

64. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 5,000 covering the costs for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

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

4. *Holds*

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 7,000 (seven thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 5,000 (five thousand 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;

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

Done in English, and notified in writing on 17 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar	Kateřina Šimáčková President