

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

FIFTH SECTION

DECISION

Application no. 19396/21
Vyacheslav Viktorovych TOFANYUK against Ukraine
and 2 other applications
(see appended table)

The European Court of Human Rights (Fifth Section), sitting on 2 July 2026 as a Committee composed of:

Andreas Zünd*, President*,
Vahe Grigoryan,
Sébastien Biancheri*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above 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 the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants and their details is set out in the appended table.

The applicants' complaints under Articles 3 and 13 of the Convention concerning the inadequate conditions of detention and the lack of any effective remedy in domestic law were communicated to the Ukrainian Government ("the Government"). In some of the applications, complaints based on the same facts were also communicated under other provisions of the Convention.

THE LAW

A. Joinder of the applications

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

B. Complaints under Articles 3 and 13 of the Convention (inadequate conditions of detention and lack of any effective remedy in domestic law)

The applicants complained that the material conditions of their detention were contrary to the requirements of Article 3 of the Convention. In particular, they submitted that they had suffered from a lack of personal space and fresh air, inadequate hygienic facilities, a lack of privacy when using the toilet, dirty and mouldy cells infested with insects and rodents, poor-quality food and potable water, and worn-out bedding and bed linen.

The Government submitted that the applicants had failed to exhaust domestic remedies, both preventive and compensatory. They further submitted that the applicants had been afforded 4.9, 4.1 and 4.9 sq. m of personal space, respectively, and that the toilet facilities had been separated from the living area by a wall and a door. According to the Government, the cells were regularly disinfected, potable water and food complied with the applicable standards, the cells were equipped with ventilation, the applicants had daily outdoor exercise in equipped yards, and they were provided with bed linen and toiletries. In support of their submissions, the Government relied on prison records and cell measurements, contracts and reports concerning water and food testing and disinfection services, as well as a logbook recording the distribution of linen and toiletries to prisoners. Lastly, they provided colour photographs of the applicants' cells, showing renovated, clean and well-lit rooms with adequate furniture.

In reply, the applicants maintained their complaints, either not addressing the Government's arguments or claiming that they were insufficient to rebut the alleged violation of Article 3 of the Convention.

The Court does not consider it necessary to rule on the Government's objection concerning the exhaustion of domestic remedies, since the applications are in any event inadmissible for the following reasons.

The Court notes that, in the present case, the Government provided submissions refuting the applicants' complaints of overcrowding, lack of privacy when using the toilet and other aspects of their conditions of detention. Those submissions were supported by appropriate evidence (compare *Ukrayinskyy and Others v. Ukraine*, nos. 48751/19 and 41 others, §§ 69-75, 2 April 2026). Although in respect of applicant in application no. 19396/21 the Government provided only the general area of the cell –

14.8 sq. m for three detainees – without deducting the space occupied by the sanitary facility, the available photographs do not suggest that the sanitary facility reduced the applicant's personal space to less than 4 sq. m. Having regard to all the available material and the parties' arguments, the Court finds that the applicants failed to substantiate their allegations or to contest the Government's arguments that their cells were not overcrowded and that their conditions of detention did not amount to inhuman or degrading treatment. Accordingly, the Court cannot establish that the applicants suffered from severe overcrowding of the kind capable, in itself, of entailing a violation of Article 3 of the Convention (see *Muršić v. Croatia* [GC], no. 7334/13, 20 October 2016). Nor can it find that the cumulative effect of the other aspects of the detention complained of by the applicants reached the threshold of severity required to characterise the treatment as inhuman or degrading within the meaning of Article 3 (see *Bokor v. Portugal* (dec.), no. 5227/18, § 34, 10 December 2020).

It follows that the applicants' complaints under Article 3 of the Convention concerning their conditions of detention are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

Applicants in applications nos. 19396/21 and 2212/25 also complained of inadequate conditions in other cells in which they had been held before lodging the present applications – more than ten years earlier in respect of the former and seven months earlier in respect of the latter. These complaints are therefore out of time and must be rejected pursuant to Article 35 § 4 of the Convention.

Under Article 13 of the Convention, the applicants complained of the lack of an effective remedy in respect of their conditions of detention. The Court reiterates that, according to its established case-law, Article 13 applies only where an individual has an "arguable claim" to be the victim of a violation of a Convention right (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131, and *Narcisio v. the Netherlands* (dec.), no. 47810/99, 27 January 2005). Having regard to its findings above concerning the applicants' complaints under Article 3 of the Convention about their conditions of detention, the Court concludes that those complaints are not "arguable" for the purposes of Article 13, particularly so in view of the evidence presented by the Government. It follows that the complaint under Article 13 is also manifestly ill-founded and must also be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Remaining complaints

In application no. 15010/25 the applicant also raised complaints under Article 5 §§ 1 and 4 of the Convention concerning his arrest without a prior court order and the domestic courts' alleged failure to address his arguments in that regard. Having regard to the dates of the final domestic decisions,

namely 27 November 2024 and 16 December 2024, and the date on which the application was lodged with the Court, these complaints fall outside the four-month time-limit and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention. Lastly, this applicant's complaint under Article 5 § 5 concerning the lack of compensation must be rejected, as that provision presupposes that a violation of one of the preceding paragraphs of Article 5 has been established, either by a domestic authority or by the Court (see *Vachev v. Bulgaria*, no. 42987/98, § 78, ECHR 2004-VIII (extracts)).

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 27 August 2026.

Viktoriya Maradudina	Andreas Zünd
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Articles 3 and 13 of the Convention (inadequate conditions of detention and lack of any effective remedy in domestic law)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration
1.	19396/21 28/03/2021	**Vyacheslav Viktorovych TOFANYUK** 1974	Rybiy Sergiy Mykolayovych Dnipro	Vinnytsya Detention Facility 16/03/2001 pending
2.	2212/25 31/12/2024	**Vitaliy Vitaliyovych STANISHEVSKYY** 1983	Pustyntsev Andriy Vitaliyovych Dnipro	Zhytomyr Detention Facility no. 8 03/03/2020 pending
3.	15010/25 05/05/2025	**Oleksandr Oleksandrovych PROTSENKO** 1985	Pavlyshyn Yuriy Mykolayovych Odesa	Odesa Pre-Trial Detention Facility 25/11/2024 to 21/01/2025