

PRESS RELEASE

CIVIL COMPENSATION REMEDY EFFECTIVE FOR INADEQUATE DETENTION CONDITIONS

Zakutniy and Others v. Ukraine

ECHR 254 (2026) 15.10.2026

Press release issued by the Registrar of the Court



The case of [Zakutniy and Others v. Ukraine](#) (application no. 52652/20 and 7 others) concerned the effectiveness of the compensatory remedy available under national law in respect of complaints concerning inadequate conditions of detention.

In today's Chamber judgment¹ in the case, the European Court of Human Rights held, unanimously, that there had been no violation of Article 13 (right to an effective remedy) of the European Convention on Human Rights. The Court found that, despite certain shortcomings, a civil claim for compensation brought under Articles 1173 and 1174 of the Civil Code could, in principle, be regarded as effective. Accordingly, where a complaint regarding inadequate conditions of detention was made, applicants were expected to make use of that legal avenue before lodging their complaints with the Court.

The Court also found that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment). In particular, while the national courts had acknowledged that seven of the applicants had been held in inadequate conditions of detention, the amounts of compensation awarded to them had been so low that they retained their victim status.

The Court held that Ukraine was to pay the applicants between 5,000 and 20,397 euros (EUR) in respect of non-pecuniary damage and, to four of the applicants, between EUR 500 and 2,900 in respect of costs and expenses.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

PRINCIPAL FACTS AND COMPLAINTS

The applicants are eight Ukrainian nationals. They had all been detained for varying periods in conditions that they alleged had been inhuman and degrading.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

They lodged civil claims under Articles 1173 and 1174 of the Civil Code of Ukraine with the national courts seeking compensation for non-pecuniary damage, complaining, in particular, of overcrowding, insufficient lighting and ventilation, inadequate sanitary facilities, exposure to passive smoking, a lack of toiletries, poor quality food and bed linen, and the limited size of outside exercise areas. Seven of the eight applicants had their claims allowed but were awarded compensation in amounts significantly lower than those sought. The fourth applicant had his claim dismissed.

Relying, in particular on Articles 3 (prohibition of inhuman or degrading treatment) and 13 (right to an effective remedy) of the Convention, the applicants complained of inadequate conditions of detention and alleged that they had no effective legal avenue in that regard.

OUTCOME

REASONING OF THE COURT

In 2020 in the case of [Sukachov v. Ukraine](#) the Court had found a structural problem concerning conditions of detention in Ukraine and had indicated the general measures required to reduce overcrowding and improve material conditions. Today's case concerned the compensatory remedy available under Ukrainian law rather than the preventive remedy. The Court's findings were therefore without prejudice to its earlier conclusions in *Sukachov* in that regard.

Conditions of detention

The national courts had found that the conditions of detention of seven of the eight applicants had been inadequate. Therefore, the national authorities had been obligated to provide redress. However, the applicants had been awarded compensation in amounts which were significantly lower than those generally awarded by the Court in similar Ukrainian cases. There were no exceptional circumstances which could justify the domestic courts' decision to award compensation at such a low level. The redress afforded was therefore inadequate and those applicants did not lose their victim status in relation to their complaint under Article 3 of the Convention.

As regards the remaining applicant, he had been held in the same facility at around the same time as three of the other applicants. As his compensation claim had been dismissed by the national courts, he could therefore also claim to be a victim of the alleged violation.

The Court took note of the domestic courts' assessment of the applicants' conditions of detention and having made its own assessment in respect of the fourth applicant had found that there had been a violation of Article 3.

Effective remedy

The Court pointed out that despite the *Sukachov* pilot judgment dating back to January 2020, the Ukrainian authorities had not yet taken sufficient legislative and administrative measures to address the systemic issues of inadequate conditions of detention. However, the Court welcomed the progress made by the Ukrainian judiciary, in particular the Supreme Court, in the development of a compensatory remedy on the basis of the 2004 Civil Code. The national case-law showed an emerging trend towards alignment with the standards of the Convention as regards, in particular, accessibility and the examination of the substance of complaints, although the adequacy of compensation awarded remained a significant shortcoming. The Court did not wish to disregard those efforts.

In analysing whether a claim for compensation under Articles 1173 and 1174 of the Civil Code could, in principle, be regarded as an effective domestic remedy, the Court assessed this

procedure under the relevant principles established in its case-law. It concluded that the remedy at issue was accessible; did not put an excessive burden of proof on the claimants; in principle, complied with the requirement of reasonable length and that national courts had shown themselves to be capable of providing a genuine examination of complaints of inadequate conditions of detention in accordance with Convention standards. The determination of compensation fell within the discretion of the national judges and there was no statutory ceiling or other legal obstacle preventing them from allowing claims in full where the circumstances of the case justified it. Accordingly, the fact that some detainees had been awarded relatively low amounts in the past did not necessarily mean that similarly low awards would be made in the future.

The Court concluded that a civil claim for damages under Ukrainian law could now be regarded, in principle, as an adequate means of obtaining compensation for persons who considered that they had been held in inadequate conditions of detention and who were no longer held in such conditions. Accordingly, where a complaint under Article 3 was made in that regard applicants were expected to make use of that remedy before lodging their complaints with the Court.

Applying those conclusions to the case at issue, the Court found that, although seven of the applicants had been awarded compensation that had been manifestly insufficient, and the remaining applicant's claim had been dismissed on formalistic grounds, the civil remedy in question could be regarded as effective in principle. The low level of compensation awarded to seven of the applicants had been taken into consideration by the Court when it concluded that they could still be victims of the alleged violation of Article 3.

There had therefore been no violation of Article 13.

PROCEDURE AND COMPOSITION OF THE COURT

The applications were lodged with the European Court of Human Rights between 20 October 2020 and 5 March 2024.

Judgment was given by a Chamber of seven judges, composed as follows:

Kateřina Šimáčková (the Czech Republic), *President*,
María Elósegui (Spain),
Andreas Zünd (Switzerland),
Diana Sârcu (the Republic of Moldova),
Mykola Gnatovskyy (Ukraine),
Sébastien Biancheri (Monaco),
Nicholas Emiliou (Cyprus),

and also Victor Soloveytchik, *Section Registrar*.

The judgment is available only in English.

The Court's judgments finding a violation are binding on the State concerned. The [Committee of Ministers](#) of the Council of Europe, the executive body of the Council of Europe, supported by the [Department for the Execution of Judgments of the European Court of Human Rights](#), is responsible for supervising their implementation.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.