

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

FIFTH SECTION

# CASE OF ZAKUTNIY v. UKRAINE

*(Applications nos. 52652/20 and 7 others –*
*see appended list)*

JUDGMENT

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| Art 3 (substantive) • Degrading treatment • Inadequate conditions of detention<br>Art 13 (+ Art 3) • Civil claim for damages, in principle, an effective compensatory remedy for inadequate conditions of detention<br><br>Prepared by the Registry. Does not bind the Court. |

STRASBOURG

15 October 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 Zakutniy and Others 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,
Sébastien Biancheri,
Nicholas Emiliou*, judges*,
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

eight applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by eight Ukrainian nationals, whose details are set out in the Appendix;

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

the parties' observations;

Having deliberated in private on 22 September 2026,

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

## INTRODUCTION

1. The case concerns complaints relating to inadequate conditions of detention and the alleged ineffectiveness of the domestic compensatory remedy in respect of such complaints. The applicants relied on Articles 3, 6 and 13 of the Convention.

## THE FACTS

2. Information relating to the applications, including details of the applicants and their representatives, are set out in the Appendix.

3. The Government were represented by their Agent, Ms M. Sokorenko.

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

5. The applicants, who had all been detained for varying periods in conditions that they alleged to have been inhuman and degrading, lodged civil claims with the domestic courts seeking compensation for non-pecuniary damage. They complained, in particular, of overcrowding, insufficient lighting and ventilation, inadequate sanitary facilities, exposure to passive smoking, a lack of toiletries, poor quality of food and bed linen, and the limited size of outdoor exercise areas. In support of their claims, they relied on monitoring reports by the Parliamentary Commissioner for Human Rights and the Court's case-law under Article 3 of the Convention. With

the exception of the fourth applicant, the domestic courts allowed their claims but awarded amounts significantly lower than those sought.

6. A summary of each application is provided below.

## I. THE FIRST APPLICANT

7. The first applicant was detained in Dnipro Detention Facility no. 4 from 14 June 2013 to 6 September 2014.

8. On 15 June 2018 he lodged a civil claim against the detention facility and the State Treasury under Articles 1173 and 1174 of the Civil Code, seeking 120,000 Ukrainian hryvnias (UAH) in respect of non-pecuniary damage (case no. 204/4295/18). He alleged that the conditions of his detention had been contrary to Article 3 of the Convention. In particular, he complained of insufficient personal space, inadequate ventilation and exposure to tobacco smoke, poor sanitary conditions, the lack of hot water and basic hygiene items, inadequate bedding and mattresses, poor food and limited access to bathing facilities. He also submitted that his repeated oral complaints to the prison authorities and the supervising prosecutor had remained without effect. In their observations, the defendants argued that the detention facility formally qualified as a State "institution" rather than a State "organ", and that the special liability regime provided for the latter by Articles 1173 and 1174 was therefore inapplicable (see these Articles cited in paragraph 38 below). Instead, they contended that the general provisions of the Civil Code on tort liability, requiring proof of intent or negligence, should apply. The detention facility also disputed the applicant's allegations concerning the material conditions and maintained that the conditions had complied with the applicable domestic standards. It should be noted that, although the claim was lodged almost four years after the end of the period of detention complained of, none of the parties raised any issue concerning the limitation period.

9. On 20 December 2018 the Krasnogvardiiskyi District Court of Dnipropetrovsk, having examined the parties' submissions and heard two witnesses, endorsed the defendants' argument and dismissed the claim on the grounds that an inappropriate legal remedy had been chosen since the liability regime provided in the provisions of the Civil Code relied on by the applicant did not apply to the detention facility. It considered that the claim fell instead to be examined under the general rules on tort liability and found that the applicant had failed to establish the unlawfulness of the conduct complained of and the requisite causal link, and had not sought a separate finding that the acts or omissions of the detention facility or its officials had been unlawful. As regards the applicant's personal space, the court noted that it complied with the domestic minimum of 2.5 sq. m per detainee, while that minimum was below the standard recommended by the European Committee for the Prevention of Torture and Inhuman or

Degrading Treatment or Punishment (CPT). That decision was upheld by the Dnipropetrovsk Court of Appeal. The Court of Appeal likewise noted that the domestic minimum standard was below the CPT standard and referred to the Court's case-law in which the lack of sufficient personal space in detention had been recognised as a systemic problem capable of raising an issue under Article 3 of the Convention. It nevertheless agreed that there were no grounds for awarding compensation in the circumstances of the case. However, on 22 April 2020 the Supreme Court allowed an appeal lodged by the applicant and quashed the lower courts' decisions. It held that the special regime of State liability under Articles 1173 and 1174 applied to the acts or omissions of any entity or official exercising public authority. It further observed that the detention facility formed part of the State criminal-executive service and, in exercising its statutory powers, performed law-enforcement functions of the State. It further found that the applicant had had less than 4 sq. m of personal space, the minimum standard recommended by the CPT, and, referring to the Court's case-law concerning the lack of sufficient personal space in detention and having regard to the prolonged period during which the applicant had been held in such conditions, concluded that his detention had been degrading to his dignity. Having regard to the circumstances of the case and the requirements of reasonableness and fairness, the court awarded the applicant UAH 4,000 (approximately 136 euros (EUR) at the material time).

10. On 17 June 2020 the applicant obtained an enforcement order but did not present it to the State Treasury for execution and, accordingly, did not receive the compensation awarded.

## II. THE SECOND APPLICANT

11. The second applicant was detained in Dnipro Detention Facility no. 4 from 18 May 2012 to 3 March 2015.

12. On 26 September 2018 he lodged a civil claim against the detention facility, the State Treasury and the Ministry of Justice under Articles 1173 and 1174 of the Civil Code, seeking UAH 270,000 in respect of non-pecuniary damage (case no. 204/7119/18). He alleged that the conditions of his detention had been contrary to Article 3 of the Convention. In particular, he complained of insufficient personal space, inadequate ventilation and exposure to tobacco smoke, poor sanitary conditions and sanitary facilities, the lack of hot water and basic hygiene items, inadequate bedding, poor food and limited access to bathing facilities.

13. On 22 April 2019 the Krasnogvardiiskyi District Court of Dnipropetrovsk, having heard two witnesses, dismissed the claim. One of the witnesses stated that three detainees had been held in a cell designed for two persons, while the other described shortcomings concerning personal space, hygiene, sleeping and resting arrangements, access to fresh air and

food. The court, however, treated their evidence critically on the ground that they had an interest in the outcome of the proceedings and found that the applicant had failed to provide sufficient evidence of inadequate conditions of detention or of the non-pecuniary damage allegedly resulting from them. It further held that the detention facility was a State institution rather than a State authority and that Article 1174 of the Civil Code was therefore inapplicable, with the claim falling to be examined under the general rules on tort liability. On 9 October 2019 the Dnipropetrovsk Court of Appeal upheld that decision. It noted that the personal space available to the applicant complied with the domestic minimum of 2.5 sq. m, while that minimum was below the standard recommended by the CPT and constituted a systemic problem capable of raising an issue under Article 3 of the Convention. It nevertheless agreed that the applicant had not sufficiently substantiated his allegations concerning the conditions of detention and their consequences.

On 17 June 2020 the Supreme Court allowed an appeal lodged by the applicant and quashed the lower courts' decisions, finding that Articles 1173 and 1174 of the Civil Code had been incorrectly interpreted. It held that the fact that the detention facility was formally a State institution did not exclude the State's liability and observed that the facility formed part of the State criminal-executive service and performed law-enforcement functions of the State. It further noted that the Convention and the Court's case-law constituted a source of law in Ukraine and referred to the CPT standard of at least 4 sq. m of personal space per detainee and to the Court's case-law concerning overcrowding in detention. Referring to the factual circumstances concerning the applicant's conditions of detention, which it considered to have been established by the lower courts on the basis of the evidence examined, including overcrowding and the other material shortcomings described above, the Supreme Court concluded that those conditions had degraded the applicant's dignity over a prolonged period and amounted to treatment contrary to Article 3 of the Convention. Referring to its case-law, the Supreme Court awarded the applicant UAH 5,000 (approximately EUR 165 at the material time).

14. The second applicant did not apply for an enforcement order and, accordingly, did not receive the compensation awarded.

## III. THE THIRD APPLICANT

15. The third applicant was detained in Dnipro Detention Facility no. 4 from 10 February 2012 to 5 March 2016.

16. On 24 July 2018 he lodged a civil claim against the detention facility and the State Treasury under Articles 1173 and 1174 of the Civil Code, seeking UAH 230,000 in respect of non-pecuniary damage (case no. 204/5396/18). He alleged that the conditions of his detention had been

contrary to Article 3 of the Convention. In particular, he complained of insufficient personal space, inadequate ventilation and exposure to tobacco smoke, poor sanitary conditions, the lack of hot water and basic hygiene items, inadequate bedding and mattresses, poor food and limited access to bathing facilities. He also submitted that his repeated oral complaints to the prison authorities and the supervising prosecutor had remained without effect.

17. On 21 February 2019 the Krasnogvardiiskyi District Court of Dnipropetrovsk, having examined the parties' submissions and heard two witnesses, dismissed the claim on the grounds that an inappropriate legal remedy had been chosen. It nevertheless noted that the personal space available to the applicant complied with the domestic minimum of 2.5 sq. m per detainee, while that minimum was below the standard recommended by the CPT. Referring to the Court's case-law, it further observed that the lack of sufficient personal space constituted a systemic problem capable of raising an issue under Article 3 of the Convention. On 25 September 2019 the Dnipropetrovsk Court of Appeal upheld that decision. It confirmed that the personal space available to the applicant had not been less than the domestic minimum of 2.5 sq. m and agreed with the first-instance court that Articles 1173 and 1174 of the Civil Code were inapplicable to the detention facility. On 10 February 2021 the Supreme Court allowed an appeal lodged by the applicant and quashed the lower courts' decisions on the ground that they had incorrectly concluded that the applicant had chosen an inappropriate legal remedy. It held that the detention facility's separate legal personality and its formal classification as a State institution rather than a State authority did not preclude the State's liability for damage caused by inadequate conditions of detention. Referring to the CPT standard of at least 4 sq. m of personal space per detainee and to the Court's case-law concerning overcrowding in detention, the Supreme Court concluded that the conditions in which the applicant had been held for a prolonged period had been degrading to his dignity. It awarded the applicant UAH 5,000 (approximately EUR 150 at the material time) in respect of non-pecuniary damage.

18. On 20 May 2021 the applicant obtained an enforcement order but did not present it to the State Treasury for execution and, accordingly, did not receive the compensation awarded.

## IV. THE FOURTH APPLICANT

19. The fourth applicant was detained in Dnipro Detention Facility no. 4 from 18 April 2014 to 16 July 2016.

20. On 22 August 2018 he lodged a civil claim against the detention facility and the State Treasury, with the Ministry of Justice participating as a third party, under Articles 1173 and 1174 of the Civil Code, seeking UAH 160,000 in respect of non-pecuniary damage (case no. 204/6292/18).

He alleged that he had been held in overcrowded cells, affording him between 2.5 and 3.6 sq. m of personal space, and that those conditions had been further exacerbated by numerous other shortcomings. In particular, he complained of inadequate ventilation and exposure to tobacco smoke, poor sanitary conditions, lack of privacy when using the toilet, the presence of vermin and mould, lack of basic hygiene items, inadequate bedding, poor food and limited access to bathing facilities. He also alleged that his repeated oral complaints to the prison authorities and the supervising prosecutor had remained without effect. After lodging the claim, neither he nor his representative attended the hearing, having requested that the case be examined in their absence. They did not request the examination of any witnesses.

21. On 15 January 2019 the Krasnogvardiiskyi District Court of Dnipropetrovsk dismissed the claim on the grounds that an inappropriate legal remedy had been chosen, essentially for the same reasons as in the cases of the first, second and third applicants. It held that the detention facility was a State institution with separate legal personality rather than a State authority and that Articles 1173 and 1174 of the Civil Code, which provided for State liability, were therefore inapplicable. It did not make a finding as to whether the material conditions of the applicant's detention had been contrary to Article 3 of the Convention. The applicant appealed, relying on three examples of domestic case-law, one of which was irrelevant and the other two ran counter to his position. On 27 August 2019 the Dnipropetrovsk Court of Appeal dismissed his appeal and endorsed the first-instance court's reasoning as regards the legal status of the detention facility and the inapplicability of Articles 1173 and 1174. On 25 November 2020 the Supreme Court dismissed the applicant's appeal on points of law and upheld the lower courts' decisions. It likewise held that the detention facility was a separate legal entity which was responsible for its own obligations and that the special State-liability regime under Articles 1173 and 1174 did not apply. The Supreme Court did not examine whether the conditions of the applicant's detention had attained the threshold of severity required by Article 3 of the Convention. The applicant was not required to pay any court fees.

## V. THE FIFTH APPLICANT

22. The fifth applicant was detained in the maximum-security wing of Gorodyshche Detention Facility no. 96 from 13 March 2012 to 10 October 2020.

23. Prior to lodging a civil claim, the applicant had recourse to the administrative courts. On 17 September 2018 he challenged the inaction of the detention facility administration in failing to ensure adequate conditions of detention (case no. 1740/2432/18). On 23 May 2019 the Rivne

Regional Administrative Court allowed his claim, finding that his living conditions and sanitary facilities in detention did not comply with the applicable standards under domestic and international law. In reaching that conclusion, the court relied, in particular, on monitoring findings concerning poor natural lighting, inadequate ventilation and the poor technical condition of sanitary facilities in the cells, as well as shortcomings concerning the provision of sufficient personal space and outdoor exercise facilities. It also referred to the findings of the 2018 monitoring visit of the Parliamentary Commissioner for Human Rights, which called for the full reconstruction of the maximum-security sector, where life prisoners were being held in conditions incompatible with respect for human dignity. The court ordered the respondent authority to remedy those shortcomings within five months. On 18 September 2019 that decision was upheld on appeal and, on 29 April 2020, the Supreme Court partly allowed an appeal lodged by the detention facility and amended the reasoning of the lower courts' decisions by removing references to certain regulations which it considered inapplicable. It otherwise upheld those decisions, including the finding that the applicant's living and sanitary conditions had not complied with the applicable domestic and international standards and the order to remedy them.

24. On 27 July 2020 the applicant lodged a civil claim against the detention facility under Articles 1173 and 1174 of the Civil Code, seeking UAH 644,492 in respect of non-pecuniary damage (case no. 570/2918/20). He relied, in particular, on the findings made in the administrative proceedings and submitted that the inadequate conditions, including lack of personal space, inadequate lighting and other shortcomings, had caused him prolonged moral suffering. On 29 October 2020 the Rivne Local Court partly allowed the claim and awarded him UAH 101,010. It considered that the unlawfulness of the detention facility's failure to provide adequate conditions had already been established by the final judgment in the administrative proceedings and did not require further proof. It took the period from 13 March 2012 to 18 September 2019, when the administrative judgment became final, as the period during which his detention in inadequate conditions had been established in judicial proceedings. On 29 April 2021 the Rivne Court of Appeal, however, found the awarded amount to be excessive and reduced it to UAH 5,000 (approximately EUR 159 at the material time). It held that the applicant's rights had been violated by the detention facility's failure to provide adequate conditions and expressly characterised the conditions as degrading to his dignity and contrary to Article 3 of the Convention, but considered UAH 5,000 sufficient having regard to the nature of the violation, the circumstances of the case and the requirements of reasonableness and fairness. On 7 June 2022 the Supreme Court upheld that decision, dismissing the applicant's appeal. It agreed that the amount of UAH 5,000 had been

determined in accordance with the principles of reasonableness, balance and fairness and held that the applicant's arguments concerning the amount essentially sought a reassessment of the evidence.

25. On 18 September 2023 the applicant obtained an enforcement order, which has been pending before the State Treasury for execution since 12 December 2023.

## VI. THE SIXTH APPLICANT

26. The sixth applicant was detained in the maximum-security wing of Gorodyshche Detention Facility no. 96 from 19 September 2010 to 2 October 2018.

27. Like the fifth applicant, he first had recourse to the administrative courts, lodging an administrative claim on 7 March 2019 (case no. 460/520/19). He was granted leave to participate in the proceedings by videolink, and the court ordered the detention facility to provide information on the numbers, surface area and occupancy of his cells, as well as photographs of the cells and the outdoor exercise yard. On 22 May 2019 the Rivne Regional Administrative Court allowed his claim, finding that the applicant's living conditions and sanitary facilities in detention did not comply with the applicable standards under domestic and international law. In particular, the court relied on monitoring findings concerning deficiencies in sanitary facilities, access to fresh air and ventilation, natural and artificial lighting, the provision of minimum living space and the outdoor exercise yards. It further referred to the 2018 monitoring conclusion that the maximum-security sector required full reconstruction because life prisoners were being held there in conditions incompatible with respect for human dignity. The court found that the detention facility had failed to demonstrate that those deficiencies had been fully remedied during the applicant's detention. On 29 October 2019 that decision was upheld on appeal. On 16 April 2020 the Supreme Court partly allowed an appeal lodged by the detention facility and amended the reasoning of the lower courts' decisions by removing a reference to a regulation which it considered inapplicable. It otherwise upheld those decisions, including the finding that the applicant had been held in conditions which did not comply with the applicable domestic and international standards.

28. On 20 August 2020 the applicant lodged a civil claim against the detention facility and the Ministry of Justice under Articles 1173 and 1174 of the Civil Code, seeking UAH 450,000 in respect of non-pecuniary damage (case no. 570/3316/20). The State Treasury participated in the proceedings as a third party. The applicant relied, in particular, on the findings made in the administrative proceedings and alleged that throughout his detention he had been held in conditions which had degraded his human dignity and caused him non-pecuniary damage. Following an application by

the applicant, on 14 June 2021 the Rivne Local Court ordered a psychological examination to assess the extent of the non-pecuniary damage allegedly sustained as a result of the inadequate conditions of detention; that order was quashed on appeal on 28 October 2021. On 27 June 2022 the court partly allowed the claim and awarded the applicant UAH 5,000 (approximately EUR 130 at the material time). It relied on the findings made in the administrative proceedings concerning the detention facility's unlawful failure to provide adequate conditions and concluded that the applicant had been held in conditions which degraded his dignity and amounted to treatment contrary to Article 3 of the Convention. Having regard to the requirements of reasonableness and fairness, it considered UAH 5,000 to constitute appropriate compensation. The applicant participated in the hearing by videolink. On 27 October 2022 the Rivne Court of Appeal upheld that decision. It agreed that the unlawfulness of the detention facility's failure to provide adequate conditions had already been established in the administrative proceedings and that the award of UAH 5,000 was reasonable and fair. On 7 December 2022 the Supreme Court refused to open cassation proceedings in respect of the appeals lodged by the applicant and the Ministry of Justice. It noted that the value of the claim did not exceed 250 times the subsistence minimum for able-bodied persons and that the appeals did not rely on any of the statutory exceptions permitting cassation review of such cases.

29. On 25 November 2024 the State Treasury paid the awarded amount to the applicant.

## VII. THE SEVENTH APPLICANT

30. The seventh applicant was detained in the maximum-security wing of Gorodyshche Detention Facility no. 96 from 6 October 2008 to 16 October 2018.

31. He likewise had recourse to the administrative courts, lodging an administrative claim on 21 December 2018 (case no. 460/3144/18). On 26 April 2019 the Rivne Regional Administrative Court allowed his claim, declaring unlawful the detention facility's failure to take measures to bring his living and sanitary conditions into compliance with the applicable legal requirements during the period from 18 February 2010 to 8 February 2018. It found, in particular, that the conditions in the maximum-security wing did not comply with the standards established under domestic and international law. In reaching that conclusion, the court relied on monitoring findings concerning insufficient personal space, inadequate sanitary arrangements, insufficient access to fresh air and ventilation, inadequate natural and artificial lighting and deficiencies in the outdoor exercise yards. It also referred to the 2018 monitoring findings calling for the full reconstruction of the maximum-security sector because the conditions in which life prisoners

were held there were incompatible with respect for human dignity. That decision was upheld by the Eighth Administrative Court of Appeal on 21 November 2019 and, on 29 January 2021, the Supreme Court partly allowed an appeal lodged by the detention facility and amended the reasoning of the lower courts' decisions by removing references to certain regulations which it considered inapplicable. It otherwise upheld those decisions, including the finding that the detention facility had unlawfully failed to ensure adequate conditions.

32. On 9 October 2020 the applicant lodged a civil claim against the detention facility and the Ministry of Justice under Articles 1173 and 1174 of the Civil Code, seeking UAH 450,000 in respect of non-pecuniary damage (case no. 570/4094/20). The State Treasury participated in the proceedings as a third party. The applicant relied, in particular, on the findings made in the administrative proceedings and alleged that the inadequate conditions throughout his detention had degraded his dignity and caused him non-pecuniary damage. As in the sixth applicant's case, a psychological examination was ordered on 29 June 2021 but subsequently quashed on appeal on 28 September 2021. On 31 May 2022 the Rivne Local Court partly allowed the claim and awarded the applicant UAH 5,000 (approximately EUR 129 at the material time). It considered that the unlawfulness of the detention facility's failure to provide adequate conditions had already been established in the administrative proceedings and did not require further proof. It concluded that the applicant had been held for a prolonged period in conditions which degraded his dignity and amounted to treatment contrary to Article 3 of the Convention and, having regard to the requirements of reasonableness, fairness and proportionality, considered UAH 5,000 appropriate compensation. On 26 January 2023 the Rivne Court of Appeal upheld that decision, agreeing that the unlawfulness of the detention facility's conduct had already been established and that the amount awarded was reasonable and fair. On 1 March 2023 the Supreme Court refused to open cassation proceedings. It noted that the value of the claim, UAH 450,000, did not exceed 250 times the subsistence minimum for able-bodied persons and that the applicant's appeal did not rely on any of the statutory exceptions permitting cassation review of such cases.

33. The applicant did not seek an enforcement order and, accordingly, did not receive the amount awarded.

## VIII. THE EIGHTH APPLICANT

34. The eighth applicant was detained in Kyiv Pre-Trial Detention Facility from 29 June to 20 December 2017.

35. On 11 January 2023 he lodged a civil claim against the State Treasury, with Kyiv Pre-Trial Detention Facility participating as a third party, under Articles 1173 and 1174 of the Civil Code, seeking UAH 80,000 in respect of

non-pecuniary damage (case no. 757/6033/23). He alleged that the conditions of his detention had been contrary to Article 3 of the Convention. In particular, he complained of inadequate ventilation and exposure to tobacco smoke, insufficient heating and lighting, inadequate water supply and sanitary facilities, poor bedding and food, limited access to bathing and outdoor exercise, and inadequate medical facilities. He also submitted that his repeated oral complaints had remained without effect. On 7 March 2023 the Pecherskyi District Court of Kyiv partly allowed the claim and awarded the applicant UAH 5,000 (approximately EUR 130 at the material time). It noted that the applicant had been held in two cells with living areas of 16.1 sq. m for six places and 55.5 sq. m for twenty-two places, referred to the CPT recommendation of at least 4 sq. m of personal space in multi-occupancy accommodation and to the Court's case-law concerning inadequate conditions of detention, and concluded that the conditions complained of had degraded the applicant's dignity over a prolonged period and amounted to treatment contrary to Article 3 of the Convention. Having regard to the nature of the violations, the circumstances of the case and the requirements of reasonableness and fairness, it considered UAH 5,000 appropriate compensation. On 8 November 2023 the Kyiv Court of Appeal dismissed the appeals lodged by the applicant and the State Treasury and upheld that decision, which became final. It observed, however, that the material before it did not establish the actual occupancy of the cells or show that the applicant had had less than the domestic minimum of 2.5 sq. m of personal space, and that no other evidence had been produced to substantiate a number of his allegations concerning the material conditions. At the same time, it noted that the State Treasury had not disproved the first-instance court's findings concerning inadequate conditions and, having regard also to the principle that the applicant should not be placed in a worse position on appeal, found no grounds to set the award aside.

36. The applicant did not seek an enforcement order and, accordingly, did not receive the amount awarded.

# RELEVANT LEGAL FRAMEWORK AND PRACTICE

## I. RELEVANT DOMESTIC LAW

### A. Constitution of 1996

37. Article 55 guarantees to everyone the right to challenge in court the decisions, actions or omission of public authorities and officers and Article 56 guarantees to everyone the right to compensation for damage caused by their unlawful actions and decisions.

## B. Civil Code of 2003

38. The relevant provisions of the Civil Code provide as follows:

**Article 23 – Compensation for non-pecuniary damage**

"1. A person shall have the right to compensation for non-pecuniary damage suffered as a result of a violation of his or her rights.

2. Non-pecuniary damage shall include:

(1) physical pain and suffering sustained by an individual in connection with injury or other damage to health;

(2) mental suffering sustained by an individual as a result of unlawful conduct directed against him or her, members of his or her family or close relatives;

(3) mental suffering sustained by an individual in connection with the destruction of or damage to his or her property;

(4) damage to a person's honour and dignity, as well as to his or her professional reputation, or harm to the reputation of a legal entity.

3. Unless otherwise provided by law, non-pecuniary damage shall be compensated in money, other property or by other means.

The amount of monetary compensation for non-pecuniary damage shall be determined by the court, having regard to the nature of the violation, the extent of the physical and mental suffering, any deterioration in the person's abilities or loss of opportunities to realise them, the degree of fault of the person who caused the damage, where liability is fault-based, and other relevant circumstances. In determining the amount of compensation, the principles of reasonableness and fairness shall be taken into account."

**Article 257 – General limitation period**

"1. The general limitation period shall be three years."

**Article 1173 – Compensation for damage caused by a State organ, an organ of the Autonomous Republic of Crimea or a local self-government organ**

"1. Damage caused to an individual or a legal entity by unlawful decisions, actions or omissions of a State organ, an organ of the Autonomous Republic of Crimea or a local self-government organ in the exercise of their powers shall be compensated by the State, the Autonomous Republic of Crimea or the local self-government organ, irrespective of whether the organ was at fault."

**Article 1174 – Compensation for damage caused by officials of public authorities**

"1. Damage caused to an individual or a legal entity by unlawful decisions, actions or omissions of an official of a State organ, of an organ of the Autonomous Republic of Crimea or of a local self-government organ, in the exercise of his or her powers, shall be compensated by the State, the Autonomous Republic of Crimea or the relevant local self-government organ, irrespective of the fault of that official."

### C. Court Fees Act of 2011

39. Section 3(2) provides that no court fee is payable for lodging a claim seeking compensation for damage caused to a person by the unlawful decisions, actions or omissions of a State authority, an authority of the Autonomous Republic of Crimea or a local self-government body, or of their respective officials.

### D. The place of international treaties and the Court's case-law in the domestic legal system

40. Article 10 § 4 of the Code of Civil Procedure of 2004 and section 17 of the Execution of Judgments of the European Court of Human Rights Act of 2006 provide that the courts, when deciding cases, are to apply the Convention and Protocols and the Court's case-law of as a source of law.

41. Section 19 of the International Treaties Act of 2004 provides that international treaties are deemed part of domestic law and prevail over conflicting provisions of domestic legislation.

## II. RELEVANT DOMESTIC PRACTICE

42. The examples of relevant domestic case-law submitted by the Government, as well as more recent judgments available in the domestic judicial database, show that the Ukrainian courts have ruled on a number of claims by current and former detainees for compensation in respect of poor conditions of detention. In some cases, the claims were preceded by proceedings before the administrative courts aimed at establishing the unlawfulness of omissions on the part of the detention facility. Claimants relied on the tort-based civil liability of public authorities under Articles 1173 and 1174 of the Civil Code and sought compensation in respect of non-pecuniary damage. They provided detailed descriptions of their conditions of detention and, at times, photographs, witness statements from fellow detainees, certificates issued by the detention facility at their request, and reports by the Parliamentary Commissioner for Human Rights. The domestic courts examined those claims with reference to domestic standards, the Court's case-law under Article 3 of the Convention and the recommendations of the CPT. The amounts awarded ranged from EUR 0.27 to EUR 1.43 per day and appear to show a gradual upward trend.

43. Summaries of some relevant cases decided by the Ukrainian courts are set out below, arranged in chronological order according to the date of the final available decision on the merits in each case. One of the cases was a claim lodged by the eighth applicant concerning another period of his detention, which does not form part of his complaints before the Court (see paragraph 46 below).

44. In a judgment dated 11 March 2020 (case no. 204/5876/18) the Supreme Court partly allowed a claim lodged by an inmate against Dnipro Detention Facility no. 4 and the State Treasury. It found that the claimant had been held in inadequate conditions, in particular in overcrowded cells, and awarded him UAH 5,000 (approximately EUR 174 at the material time) in compensation for the period from 16 December 2013 to 25 March 2015.

45. In a judgment dated 26 May 2021 (case no. 204/8037/18) the Supreme Court partly allowed a claim lodged by an inmate against Dnipro Detention Facility no. 4 and the State Treasury. It found that the claimant had been held in cells offering less than 3 sq. m of personal space, such that the lack of personal space had been so severe as to give rise to a strong presumption of a violation of Article 3 of the Convention. Accordingly, the court awarded him UAH 4,000 (approximately EUR 119 at the material time) in compensation for the period from 21 August 2013 to 8 May 2014.

46. In a judgment dated 18 January 2024 (case no. 757/4731/23) the Kyiv Court of Appeal examined a claim lodged by the eighth applicant against the State Treasury and Vilnyanska Detention Facility no. 96. It found that the claimant had suffered as a result of overcrowding and various other shortcomings, amounting to a violation of Article 3 of the Convention. The court accordingly amended the first-instance court's decision, increasing the award from UAH 6,000 to UAH 25,000 (approximately EUR 607 at the material time) in respect of the period of detention from 3 March 2014 to 20 August 2016.

47. In a judgment dated 14 February 2024 (case no. 570/936/20) the Supreme Court allowed a cassation appeal by an inmate in proceedings against Gorodyshche Detention Facility no. 96. Referring to facts established by the administrative courts in separate proceedings and the Court's case-law, the court increased the award from UAH 10,000 to UAH 50,000 (approximately EUR 1,216 at the material time) for the period spent in inadequate conditions from 21 January 2010 to 21 November 2018.

48. In a judgment dated 26 June 2024 (case no. 757/36356/23) the Kyiv Court of Appeal partly allowed a claim lodged by an inmate against the State Treasury, the Ministry of Justice and the Department for the Execution of Criminal Sentences. It found that the claimant had suffered as a result of severe overcrowding in Kyiv Pre-Trial Detention Facility, in itself amounting to a violation of Article 3 of the Convention. The court awarded him UAH 30,000 (approximately EUR 694 at the material time) in compensation for the period of detention from 18 July 2017 to 31 December 2021.

49. In a judgment dated 23 October 2024 (case no. 204/2454/24) the Dnipro Court of Appeal upheld a first-instance decision partly allowing aclaim lodged by an inmate against Dnipro Detention Facility no. 4. It found that the claimant had been detained in cells offering less than 2.5 sq. m of personal space and that no evidence addressing his other grievances had been provided by the facility. The court awarded him UAH 5,000 (approximately

EUR 112 at the material time) in compensation for the periods of detention from 28 April to 25 June 2021, from 25 July to 10 August 2021, and from 9 to 13 September 2021, amounting to a total of 78 days.

50. In a judgment dated 4 March 2026 (case no. 686/22021/25) the Khmelnytskyy Court of Appeal upheld a first-instance decision partly allowing a claim lodged by an inmate against the Khmelnytskyy Pre-Trial Detention Facility. Referring to facts established by the administrative courts in separate proceedings, it found that the claimant had been held in inadequate conditions from 17 March 2017 to 31 March 2023 and awarded him UAH 50,000 (approximately EUR 991 at the material time).

51. In a judgment dated 11 March 2026 (case no. 757/29272/18) the Kyiv Court of Appeal partly allowed a claim lodged by an inmate against Gorodyshche Detention Facility no. 96, the Ministry of Justice and the Western Interregional Department for the Execution of Criminal Sentences and Probation. Referring to facts established by the administrative courts in separate proceedings, the court amended the first-instance court's decision, increasing the award from UAH 10,000 to UAH 50,000 (approximately EUR 980 at the material time) for the period spent in inadequate conditions from 27 November 2007 to 5 October 2017.

52. In a judgment dated 14 April 2026 (case no. 161/15100/25) the Lutsk Local Court of the Volyn Region partly allowed a claim lodged by an inmate against the Lutsk Pre-Trial Detention Facility and the State Treasury. Referring to reports by monitoring groups operating under the Parliamentary Commissioner for Human Rights, as well as to facts established by the administrative courts in separate proceedings, it found that the claimant had been held in inadequate conditions from 18 February 2020 to 27 May 2024 and awarded him UAH 50,000 (approximately EUR 985 at the material time). It should be noted that, in earlier administrative court proceedings, the Lutsk Regional Administrative Court, when determining the temporal scope of the claim, considered the applicant's detention to constitute a continuing situation and, accordingly, took into account the entire period, notwithstanding the six-month time-limit applicable to administrative claims.

## III. RELEVANT COUNCIL OF EUROPE MATERIAL

53. At its 1537th meeting on 15-17 September 2025 the Committee of Ministers of the Council of Europe adopted a decision (CM/Del/Dec(2025)1537/H46-43) on the execution of judgments of the Court against Ukraine in cases concerning inadequate conditions of detention and the lack of domestic remedies. The relevant parts read as follows:

> "The Deputies
>
> 1. recalling the long-standing structural problems of overcrowding, inhuman and/or degrading conditions of detention, nutrition and transportation and continued absence

of a Convention-compliant system of domestic remedies in this respect; stressing again that these deficiencies have serious implications and continue to put an additional, undue burden on the Convention system;

2. recalling further that in accordance with the European Court's indications under Article 46 in the *Sukachov* pilot judgment [no. 14057/17, 30 January 2020] Ukraine had to take measures aimed at reducing overcrowding and improving material conditions of detention, and introduce preventive and compensatory remedies by 30 November 2021, but the pilot judgment remains unenforced for nearly four years since the expiration of the deadline indicated by the Court;

...

*As regards general measures*

6. noted with interest the authorities' continued efforts to improve material conditions of detention, regretted nevertheless that the problem is reported to remain widespread in the majority of the detention facilities, and invited the authorities to vigorously pursue and further reinforce their work; ...

7. noted with interest the further decrease in the prison population and the initiatives aimed at addressing the problem of 23-hour stay of remand prisoners in their cells; noted with regret, however, the absence of the information on the measures to minimise the use of pre-trial detention and to increase the legal minimum standard of personal space for the remand detainees; exhorted the authorities to take rapid action to address these issues; ...

8. ... regretted that, despite their long overdue obligation, the authorities still have not progressed with putting in place a compensatory remedy complying with requirements of the *Sukachov* pilot judgment, the Court's case-law and the Committee's practice;

9. ... strongly encouraged [the authorities] to engage in consultations with the Secretariat with a view to bringing the envisaged legal mechanism, intended to serve as the compensatory remedy, in line with the Court's case-law and the Committee's practice;

...

11. decided to resume examination of these groups of cases at their September 2026 DH meeting at the latest."

54. Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules, adopted by the Committee of Ministers on 11 January 2006, at the 952nd meeting of the Ministers' Deputies and revised and amended by the Committee of Ministers on 1 July 2020 at the 1380th meeting of the Ministers' Deputies, deals with numerous aspects of material conditions of detention relevant to the present case[1].

55. The relevant excerpts from the CPT's General Reports are to be found in *Sukachov v. Ukraine* (no. 14057/17, § 27, 30 January 2020).

[1] See https://search.coe.int/cm?i=09000016809ee581.

# THE LAW

## I. JOINDER OF THE APPLICATIONS

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

## II. ALLEGED VIOLATIONS OF ARTICLES 3 AND 13 OF THE CONVENTION

57. The applicants complained of inadequate conditions of detention and alleged that they had no effective domestic remedy in that regard, in so far as the domestic courts had dismissed the fourth applicant's civil claim and had awarded insufficient compensation for non-pecuniary damage to the other applicants. They relied on Articles 3, 6 and 13 of the Convention. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 124, 20 March 2018), considers that the applicants' complaints fall to be examined solely under Articles 3 and 13 of the Convention, which read as follows:

**Article 3**

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

**Article 13**

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

### A. Admissibility

58. The Government submitted that the first, second, third, seventh and eighth applicants had failed to exhaust domestic remedies, as they had not applied to the State Treasury for payment of the amounts awarded by the domestic courts. The Government further argued that the fourth applicant's complaint was manifestly ill-founded. They maintained that he had failed to substantiate his claim and to participate effectively in the domestic proceedings, in that neither he nor his representative had attended the hearings and, unlike the other applicants, had submitted no requests to obtain evidence or to have witnesses examined.

59. The first, second, third, seventh and eighth applicants submitted that they had not applied for enforcement orders or, where such orders had been obtained, had not presented them to the State Treasury for execution, as this

would not have affected the amount of compensation awarded, which they regarded as inadequate. The fourth applicant, in his reply, did not address the Government's objection.

60. The Court notes at the outset that the question arises whether the applicants whose compensation claims were partly allowed can still be regarded as victims of a violation of Article 3. Although the Government did not raise this issue explicitly, they relied on the fact that seven of the applicants had been awarded compensation. The Court therefore joins this objection to the merits of the complaint under Article 3 of the Convention.

61. To the extent that the Government's objection in respect of the fourth applicant may be understood as a plea of non-exhaustion, the Court considers that it must be rejected, since his claim was examined on the merits by the domestic courts at all three levels of jurisdiction. Regarding the fact that the first, second, third, seventh and eighth applicants did not collect the pecuniary awards made in their favour, the Court observes that this is not an issue of exhaustion of domestic remedies but concerns the question whether those applicants can still claim to be victims of the alleged violation of Article 3 despite having been awarded compensation.

62. The Court further notes that the applicants' complaints under Articles 3 and 13 of the Convention are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and are not inadmissible on any other grounds. They must therefore be declared admissible.

## B. Merits

### *1. The parties' submissions*

63. The applicants maintained that the conditions of their detention in the respective detention facilities had been inadequate and that the domestic courts had failed to afford them appropriate redress.

64. The Government submitted that the degrading conditions of the applicants' detention, and thus a violation of their rights under Article 3 of the Convention, had been acknowledged at domestic level in respect of all applicants except the fourth applicant, who had failed to substantiate his claim. They further argued that the provisions of the Civil Code afforded persons detained in inadequate conditions a genuine opportunity to obtain compensation for any damage sustained, whether or not they had previously had recourse to the administrative courts to establish the unlawfulness of the acts or omissions complained of. In this connection, the Government relied on the development of domestic case-law in recent years, pointing to an increasing number of successful claims and higher awards of compensation, including in the case of the eighth applicant, whose fresh claim resulted in a significantly higher award than that obtained in his claim forming the basis of his application to the Court (see paragraphs 35 and 46 above). They emphasised the guiding role of the Supreme Court, whose case-

law provided direction to the lower courts and whose legal positions were binding. The Government further submitted that the Court's case-law, in so far as it allowed applicants to apply directly to the Court with complaints about inadequate conditions of detention without first making use of the above-mentioned remedy, had the effect of limiting the further development of that remedy. In their view, the fact that, in the domestic proceedings at issue the fourth applicant's claim had been dismissed and the other applicants' claims partly allowed was not in itself sufficient to render the remedy ineffective. The applicants had had an opportunity to submit arguments and evidence before independent courts, which had examined their claims thoroughly and within a reasonable time, with reference to criteria applied by the Court itself. Lastly, the Government maintained that the amounts awarded in respect of non-pecuniary damage had been fair and had reflected the circumstances of the cases. They submitted that, under the Ukrainian legal tradition, such awards were not intended to exceed what was necessary or to result in unjust enrichment, and that domestic law did not provide for fixed tariffs or specific methods for calculating such compensation.

*2. The Court's assessment*

**(a) Pilot judgment procedure and subsequent developments at the Court**

65. In *Sukachov v. Ukraine* (no. 14057/17, § 143, 30 January 2020) the Court applied the pilot-judgment procedure. It found, under Article 46 of the Convention, that there existed a structural problem concerning conditions of detention in Ukraine (ibid., §§ 135-43) and indicated the general measures required to reduce overcrowding and improve material conditions (ibid., §§ 145-52). It further called for the introduction of effective domestic remedies, both preventive and compensatory (ibid., §§ 153-60). The Court nevertheless decided not to adjourn the examination of similar cases, whether pending or future (ibid., § 161).

66. Since the adoption of that pilot judgment in 2020, the Court has registered more than 1,700 applications against Ukraine containing prima facie meritorious complaints about poor conditions of detention in various detention facilities. By May 2026 this structural problem had given rise to findings of violations of the Convention by the Court in over 800 applications. Most of the cases concerned problems of overcrowding and other recurrent shortcomings relating to the material conditions of detention, such as inadequate hygiene and sanitation, insufficient lighting and ventilation, the presence of insects and mould in cells, limited access to showers, restricted opportunities for daily outdoor exercise, lack of privacy when using sanitary facilities, and similar issues.

67. More than 700 similar applications against Ukraine were pending before the Court as of May 2026. Many of them had been lodged by

applicants whose unsatisfactory conditions of detention had come to an end before they applied to the Court, for example as a result of their transfer, release or an improvement in their conditions of detention. In more than 40 pending cases the Government raised a plea of non-exhaustion, arguing that the applicants concerned should first have made use of the available compensatory remedy.

**(b) Recapitulation of the relevant principles**

68. Given that the present case calls for an assessment, under both Articles 3 and 13 of the Convention, of the operation in practice of the domestic mechanism for affording redress in respect of allegedly inadequate conditions of detention, the Court considers it appropriate to begin by summarising the relevant principles established in its case-law under those provisions. These principles (see paragraphs 70-118 below) will guide the Court's assessment of the facts of the case and may also assist the domestic authorities, in particular the courts, beyond the circumstances of the present applications. In this connection, the Court reiterates that its judgments serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (see *Ireland v. the United Kingdom*, 18 January 1978, § 154, Series A no. 25; *Guzzardi v. Italy*, 6 November 1980, § 86, Series A no. 39; and *Karner v. Austria*, no. 40016/98, § 26, ECHR 2003-IX).

69. The Court emphasises that the scope of the present case is limited to issues arising in relation to the compensatory remedy available under Ukrainian law in circumstances as those of the applicants. Therefore, its findings are without prejudice to its earlier conclusions in *Sukachov* (cited above, § 144) regarding the respondent State's obligation to put in place an effective preventive remedy meeting the requirements set out in that judgment.

*(i) Material conditions of detention*

70. 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 and the victim's behaviour. While ill-treatment that attains a minimum level of severity to fall within the scope of Article 3 usually involves actual bodily injury or intense physical or mental suffering, even in the absence of these, where treatment humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, it may be characterised as

degrading and also fall within the prohibition of Article 3 (see *Sukachov*, cited above, § 84, with further references).

71. The Convention cannot stop at the prison gate (see *Hirst v. the United Kingdom (no. 2)* [GC], no. 74025/01, § 70, ECHR 2005-IX). The State must ensure that a person is detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject him or her to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his or her health and well-being are adequately secured (see *Sukachov*, cited above, § 85, with further references).

72. When assessing conditions of detention, account has to be taken of the cumulative effects of these conditions, as well as of specific allegations made by the applicant (see *Muršić v. Croatia* [GC] no. 7334/13, § 101, 20 October 2016). The Court often makes reference in that regard to the standards developed by the CPT and to the European Prison Rules. Various aspects of the material conditions of detention have been examined by the Court in numerous judgments.

(α) Overcrowding

73. Extreme lack of space in a cell weighs heavily in the assessment of whether conditions of detention are in breach of Article 3 of the Convention. The requirement of 3 sq. m of floor surface per detainee in multi-occupancy accommodation remains the relevant minimum standard for that assessment. The calculation of the available floor space should exclude the area occupied by in-cell sanitary facilities but include the space occupied by furniture (see *Muršić*, cited above, §§ 104, 110 and 114).

74. Thus, when a detainee has less than 3 sq. m of personal space in multi-occupancy accommodation, the lack of personal space is considered so severe that a strong presumption of a violation of Article 3 arises. The Government could, however, rebut that presumption by demonstrating that there were factors capable of adequately compensating for the scarce allocation of personal space. The strong presumption of a violation of Article 3 will normally be capable of being rebutted only if the following factors are cumulatively met: (i) the reductions in the required minimum personal space of 3 sq. m are short, occasional and minor; (ii) such reductions are accompanied by sufficient freedom of movement outside the cell and adequate out-of-cell activities; and (iii) the applicant is confined in what is, when viewed generally, an appropriate detention facility, and there are no other aggravating aspects of the conditions of his or her detention (ibid., § 138).

75. Where personal space is between 3 and 4 sq. m, the space factor remains a weighty factor in the assessment of the adequacy of conditions of detention. In such instances, a violation of Article 3 will be found if that factor

is coupled with other aspects of inappropriate physical conditions of detention, in particular, access to outdoor exercise, natural light or air, availability of ventilation, adequacy of room temperature, the possibility of using the toilet in private, and compliance with basic sanitary and hygiene requirements (ibid., § 139).

76. In cases where a detainee had more than 4 sq. m of personal space in multi-occupancy accommodation in prison and where, therefore, no issue with regard to the question of personal space arises, other aspects of physical conditions of detention (listed in paragraphs 77-94 below) remain relevant for the assessment of adequacy of a detainee's conditions of detention under Article 3 of the Convention (ibid., § 140). The Court emphasises that, while those other aspects may not, taken in isolation and save in extreme cases, attain the threshold of severity required under Article 3, their cumulative effect may give rise to an issue under that provision (see, for instance, *Zakharkin v. Russia*, no. 1555/04, §§ 125-26, 10 June 2010, and *Neshkov and Others v. Bulgaria*, nos. 36925/10 and 5 others, § 238, 27 January 2015).

(β) Access to natural light and artificial lighting

77. Limited access to natural light in a cell is a relevant factor in assessing whether conditions of detention comply with Article 3, having regard also to the CPT's recommendations in this regard (see *Lecomte v. Germany*, no. 80442/12, § 100, 6 October 2016). Natural light is a basic element of life which every prisoner is entitled to enjoy and must be sufficient to enable prisoners to read or work by it (see Rule 18.2 (a) of the European Prison Rules and paragraph 30 of the CPT's 11th General Report, as referred to in paragraphs 54 and 55 above). Thus, metal shutters, slats or plates fitted to cell windows, by depriving inmates of access to natural light, may seriously aggravate their situation (see *Yakovenko v. Ukraine*, no. 15825/06, § 87, 25 October 2007, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 153-54, 10 January 2012).

78. While artificial lighting should comply with recognised technical standards, the Court has already held that deprivation of sleep resulting from constant lighting may constitute a physical and psychological burden on a detainee relevant to the assessment under Article 3 of the Convention (see *Yakovenko*, § 85, and *Lecomte*, § 100, both cited above).

(γ) Lack of fresh air

79. Similar considerations apply to access to fresh air, whether through windows or an adequate air conditioning system, which is a key factor in preventing dampness, mould and the spread of disease (see *Ananyev and Others*, cited above, § 153, and *Story and Others v. Malta*, nos. 56854/13 and 2 others, § 114, 29 October 2015).

(δ) Inadequate temperature

80. At the same time, sufficient access to natural light and fresh air should not be confused with exposure to adverse outdoor conditions, such as extreme heat in summer, freezing temperatures in winter, strong winds or rain. Thus, detainees may find themselves in particularly harsh conditions where cell windows are fitted with shutters but lack glazing, with the result that they are exposed both to inadequate access to sunlight and ventilation and to low temperatures (see *Neshkov and Others*, § 239, and, for example, *Zakharkin*, § 125, both cited above).

(ε) Lack of or poor quality of beds and bedding

81. Every prisoner shall be provided with a separate bed and separate and appropriate bedding, which must be kept in good order and changed often enough to ensure its cleanliness (see Rule 21 of the European Prison Rules, as referred to in paragraph 54 above). Failure to meet that requirement has been taken into account by the Court where, for example, there was a shortage of sleeping places and inmates had to sleep in turns (see *Yakovenko*, cited above, § 85), or where mattresses were old, mouldy and smelly, and no sheets or towels were provided (see, for example, *Marouggas v. Greece* [Committee], no. 44689/16, § 6, 4 October 2018).

(στ) Infestation of cell with insects and rodents

82. Another relevant factor is infestation with cockroaches, rodents, fleas, lice, bedbugs or other vermin. The prison authorities should tackle such infestation by ensuring adequate disinfection facilities, detergent products, and regular fumigation and inspections of cells, in particular of bed linen, mattresses and areas used for storing food (see *Neshkov and Others*, cited above, § 243). For example, the absence of insect nets on windows, combined with constant lighting, may result in an intolerable presence of mosquitoes (see *Harakchiev and Tolumov v. Bulgaria*, nos. 15018/11 and 61199/12, § 32, 8 July 2014).

(ζ) Inadequate toilet facilities

83. Ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment (see paragraph 49 of the CPT's Second General Report, paragraph 55 above). For example, lavatory pans without a water trap and flush system, placed in the corner of the cell and either lacking any separation from the living area or separated by a single partition of one or one-and-a-half metres high is not only objectionable from a hygiene perspective but also deprives a detainee using the toilet of any privacy because he or she remains at all times in full view of other inmates sitting on the bunks, and also of prison guards looking through the peephole. This can take a particularly heavy toll on inmates

suffering from medical conditions affecting their digestive system (see *Neshkov and Others*, cited above, § 241, with further references; see also *Zakharkin*, cited above, § 126). Properly functioning toilet facilities should also prevent the spread of unpleasant odours (see *Iglin v. Ukraine*, no. 39908/05, §§ 28 and 53, 12 January 2012).

(η) No or restricted access to shower

84. Hygiene and cleanliness are integral not only to the respect which individuals owe to their bodies and to those with whom they share premises for long periods of time, but also to the preservation of health. The Court has frequently noted that access to a shower for only fifteen to twenty minutes once a week is manifestly insufficient for maintaining proper bodily hygiene. It has also taken into account the manner in which showering is organised, where detainees have been taken to shower halls in groups, one cell after another, and the number of functioning shower heads has been at times insufficient to accommodate them, with the result that no elementary privacy has been afforded (see *Ananyev and Others*, cited above, §§ 156 and 158, with further references). The European Prison Rules require that adequate facilities be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week or more frequently if necessary (see Rule 19.4, as referred to in paragraph 54 above).

(θ) Lack of toiletries

85. While prisoners are required to keep themselves, their clothing and their sleeping accommodation clean and tidy, the prison authorities must provide them with the means to do so, including toiletries and general cleaning implements and materials (see Rules 19.5 and 19.6 of the European Prison Rules, as referred to in paragraph 54 above). A prolonged lack of personal hygiene products in detention, such as a toothbrush, toothpaste and toilet paper, is incompatible with respect for human dignity. The possibility for a detainee to buy such items in the prison shop or to receive them by other means does not absolve the State of its obligations under the Convention (see *Melnītis v. Latvia*, no. 30779/05, § 75, 28 February 2012).

(ι) Insufficient quantity or poor quality of food

86. The Court has held that, where the food provided to a prisoner is clearly insufficient, this in itself raises an issue under Article 3 of the Convention (see *Dudchenko v. Russia*, no. 37717/05, § 130, 7 November 2017). The provision of adequate food to prisoners forms part of the national authorities' obligations; one full meal per day, with only bread for the rest of the day, cannot be regarded as sufficient to meet the body's essential needs over a protracted period (see *Kadiķis v. Latvia (no. 2)*, no. 62393/00, § 55,

4 May 2006). Specifically, failure to provide food in accordance with the general nutritional tables and menus in prison may put the health of detainees at risk where, for example, a poor diet leads to increased vulnerability to diseases such as tuberculosis (see *Rotaru v. Moldova*, no. 51216/06, § 37, 15 February 2011) or in the case of a breastfeeding mother held in prison (see *Korneykova and Korneykov v. Ukraine*, no. 56660/12, § 141, 24 March 2016). An issue relating to nutrition may also arise where the prison authorities refuse to provide a prisoner with a special diet prescribed by doctors for specific health issues (see *Ebedin Abi v. Turkey*, no. 10839/09, §§ 31-54, 13 March 2018). Lastly, this aspect may also be relevant to the treatment of prisoners during transport to court (see *Starokadomskiy v. Russia*, no. 42239/02, § 58, 31 July 2008).

87. On the other hand, in a case where food served to prisoners was regularly inspected by the prison doctor and the competent State authorities, and where prisoners were served three meals per day which did not appear substandard or inadequate, the Court did not consider that any issue arose under Article 3 of the Convention, irrespective of a prisoner's dissatisfaction with the food (see *Muršić*, cited above, § 166).

(ια) Restricted access to or poor quality of drinking water

88. Access to clean drinking water is a basic requirement of detention conditions and must be ensured at all times (see Rule 22.5 of the European Prison Rules, as referred to in paragraph 54 above; see also *A.L. (X.W.) v. Russia*, no. 44095/14, § 89, 29 October 2015).

(ιβ) Passive smoking

89. Exposure to passive smoking, although perhaps not sufficient in itself to lead to a finding of a violation of Article 3 of the Convention, may constitute a further aggravating factor where conditions of detention are otherwise inadequate (see *Sylla and Nollomont v. Belgium*, nos. 37768/13 and 36467/14, § 41, 16 May 2017). This issue arose in particular in circumstances where a prisoner was held for 23 hours per day for three years with cellmates who smoked and was also exposed to passive smoking in the prison infirmary and hospital despite his medical condition and contrary to medical advice (see *Florea v. Romania*, no. 37186/03, §§ 60-62, 14 September 2010).

(ιγ) Lack of requisite medical care

90. The mere fact that a detainee has been seen by a doctor and prescribed a certain form of treatment cannot automatically lead to the conclusion that the medical assistance was adequate (see *Hummatov v. Azerbaijan*, nos. 9852/03 and 13413/04, § 116, 29 November 2007). The authorities must also ensure that a comprehensive record is kept of the detainee's state of health and treatment while in detention (see *Khudobin v. Russia*,

no. 59696/00, § 83, ECHR 2006-XII), that diagnosis and care are prompt and accurate (see *Melnik v. Ukraine*, no. 72286/01, §§ 104-06, 28 March 2006, and *Hummatov*, cited above, § 115), and that, where required by the nature of the medical condition, supervision is regular and systematic and forms part of a comprehensive therapeutic strategy aimed at adequately treating the detainee's health problems or preventing their aggravation, rather than addressing them only on a symptomatic basis (see *Popov v. Russia*, no. 26853/04, § 211, 13 July 2006; *Hummatov*, cited above, §§ 109 and 114; and *Amirov v. Russia*, no. 51857/13, § 93, 27 November 2014). The authorities must further show that the necessary conditions were created for the prescribed treatment to be actually administered (see *Holomiov v. Moldova*, no. 30649/05, § 117, 7 November 2006, and *Hummatov*, cited above, § 116). Lastly, medical treatment provided within prison facilities must be appropriate, that is to say, at a level comparable to that which the State authorities have undertaken to provide to the population as a whole.

(ιδ) Lack of or insufficient physical exercise in the fresh air and other out-of-cell activities

91. In assessing conditions of detention under Article 3 of the Convention, particular attention must be paid to the availability and duration of outdoor exercise and to the conditions in which prisoners may take it. The prison standards developed by the CPT specifically refer to such exercise and consider it a basic safeguard of prisoners' well-being that all prisoners, without exception, should be allowed at least one hour of exercise in the open air every day (see *Neshkov and Others*, cited above, § 234, with further references; see also paragraph 48 of the CPT's Second General Report, as referred to in paragraph 55 above).

92. The physical characteristics of outdoor exercise facilities are also relevant. For instance, an exercise yard only 2 sq. m larger than the cell, surrounded by three-metre-high walls and with an opening to the sky covered by metal bars and a thick net, does not offer inmates proper opportunities for recreation and recuperation (see *Neshkov and Others*, cited above, § 236, with further references). By contrast, the Court has had regard to the availability of a spacious outdoor exercise area of 305 sq. m, which included a lawn and asphalted areas, offered protection from inclement weather and was equipped with various recreational facilities, such as a gym, a basketball court and a ping-pong table, where the applicant had the possibility of two hours' outdoor exercise per day (see *Muršić*, cited above, § 161).

93. More generally, sufficient freedom of movement and out-of-cell activities are capable of alleviating the situation created by the scarce allocation of personal space inside cells (ibid., § 138). The Court has frequently observed that limiting time outside the cell to one hour a day is a factor that further exacerbates the situation of prisoners, who otherwise remain confined to their cells for the rest of the time without any kind of

freedom of movement (see *Ananyev and Others*, cited above, § 151, with further references). The CPT and the European Prison Rules encourage the organisation of a satisfactory programme of purposeful activities, such as work, education, sport, cultural activities and hobbies, enabling prisoners to spend a reasonable part of the day – eight hours or more – outside their cells and to associate with each other (see Rules 27.6 and 27.7 of the European Prison Rules and paragraph 47 of the CPT's Second General Report, referred to in paragraphs 54 and 55 above).

(ιε) Other aspects

94. The Court may also take into account other aspects of the material conditions of detention, the list of which is not exhaustive. These may include, for example, the absence or inadequacy of furniture, clothing (see *Nazarenko v. Ukraine*, no. 39483/98, § 139, 29 April 2003), laundry facilities (see *Ukrayinskyy and Others v. Ukraine*, nos. 48751/19 and 41 others, §§ 13 and 76, 2 April 2026) or frequent transfers during detention (see *Todireasa v. Romania (no. 2)* (no. 18616/13, § 62, 21 April 2015).

*(ii) Compensatory remedy*

95. In cases where a breach of Article 3 of the Convention has already taken place, the State must be prepared to acknowledge the breach and provide some form of compensation. The respondent State must therefore have in place a compensatory remedy that can redress past breaches. Such a remedy is particularly important in view of the subsidiarity principle, so that aggrieved persons are not forced to refer to the Court complaints that require the finding of basic facts and the fixing of monetary compensation – both of which should, as a matter of principle and effective practice, be the domain of domestic courts (see *Ananyev and Others*, cited above, § 221, with further references).

96. The Court has accepted that compensatory redress may take different forms. In particular, it has regarded financial compensation as an adequate remedy (see *Stella and Others v. Italy* (dec.), nos. 49169/09 and 10 others, §§ 56-63, 16 September 2014, and *Draniceru v. the Republic of Moldova* (dec.), no. 31975/15, §§ 35-40, 12 February 2019). In *Draniceru*, the Court also accepted that a reduction in a person's sentence, calculated at a rate of three days for every ten days spent in inadequate conditions, could constitute adequate compensatory redress.

97. Accordingly, whenever a complaint is made about past breaches of Article 3 by inadequate conditions of detention, applicants are expected to make use of the available and effective compensatory remedy before lodging their complaints with the Court (see *Shmelev and Others v. Russia* (dec.), nos. 41743/17 and 16 others, § 119, 17 March 2020).

98. To be effective, a compensatory remedy must be accessible, prompt and sufficient. The relevant general principles are set out in *Neshkov and Others* (cited above, §§ 181, 184, 187, 188, 190, 285, 288, 290 and 299; see also *Shmelev and Others*, cited above, §§ 89-96). The Court will refer below only to those principles which are, or may be, of particular relevance in the Ukrainian context.

(α) Accessibility

99. Compensation should be accessible to any current or former inmate who has been held in inhuman or degrading conditions and has made an application to this effect (see *Neshkov and Others*, cited above, § 190). While the Court considers that the compensatory remedy in this context should normally be used within six months after the allegedly inadequate conditions of detention have ceased to exist, that consideration is without prejudice to the possibility that domestic law may provide for different arrangements for the exercise of remedies, including for a longer statutory time-limit for making use of a compensatory remedy. In such a case, recourse to that remedy will be governed by the relevant domestic arrangements and time-limits (see *Ulemek v. Croatia*, no. 21613/16, §§ 89-90, 31 October 2019, and *Sukachov*, cited above, § 113).

100. The procedural rules governing costs and expenses in cases concerning compensation for poor conditions of detention must not place an excessive burden on the inmate where his or her claim is justified (see *Neshkov and Others*, cited above, § 184). It is true that the "loser pays" rule pursues the legitimate aim of ensuring the proper administration of justice and protecting the rights of others by discouraging ill-founded litigation and excessive costs (see, for instance, *Klauz v. Croatia*, no. 28963/10, § 84, 18 July 2013). Thus, requiring unsuccessful claimants to bear the costs and expenses of the proceedings does not in itself render a compensatory remedy ineffective (see *Ulemek v. Croatia*, cited above, § 108). However, in one case, where the expert fees charged to the applicant exceeded the compensation awarded and, as a result of bringing proceedings and obtaining a finding of State responsibility for poor conditions of detention, the applicant ultimately found himself owing the State EUR 273, the Court found that the remedy had been deprived of its effectiveness (see *Barbotin v. France*, no. 25338/16, § 58, 19 November 2020). Likewise, in another case, where the applicant, having claimed EUR 23,600 in respect of non-pecuniary damage for a period of detention exceeding 19 months, was awarded only EUR 1,050 and was consequently ordered to pay EUR 940 in court fees calculated in proportion to the unsuccessful part of the claim, the Court found that he had suffered a disproportionate restriction on his right of access to a court (see *Stankov v. Bulgaria*, no. 68490/01, § 67, 12 July 2007).

(β) Burden of proof

101. The burden of proof imposed on a detainee should not be excessive. While he or she may be required to make a prima facie case and produce such evidence as is readily accessible, such as a detailed description of the impugned conditions, witness statements, or complaints to and replies from the prison authorities or supervisory bodies, it then falls to the authorities to refute the allegations. The authorities – who possess, or ought to possess, the most comprehensive knowledge of the events at issue – are expected to provide reliable information regarding the size of cells and the actual number of inmates, to produce digital evidence, such as photographs or video footage of detention premises, and to submit primary evidence capable of addressing specific complaints concerning inadequate temperature, mould in cells, lack of light and fresh air, poor quality of food and water, lack of privacy when using the toilet and similar matters (see *Ukrayinskyy and Others*, cited above, § 69, with further references).

102. Furthermore, a detainee should not be required to establish that specific officials have engaged in unlawful conduct, since poor conditions of detention are not necessarily due to failings on the part of individual officials, but often result from more wide-ranging factors (see the above-cited cases of *Ananyev and Others*, §§ 228-29; *Neshkov and Others*, § 184; and *Sukachov*, § 115).

103. Lastly, a finding that the conditions fell short of the requirements of Article 3 gives rise to a strong presumption that they have caused non-pecuniary damage to the detainee. The domestic rules and practice governing the operation of the remedy must reflect that presumption and should not make the award of compensation dependent on the detainee's ability to prove the existence of non-pecuniary damage in the form of emotional distress (see *Sukachov*, cited above, § 117).

(γ) Standard of review

104. The effective remedy required by Article 13 is one where the authority or court dealing with the case has to consider the substance of the Convention complaint. For a domestic remedy in respect of conditions of detention to be effective, the above-mentioned authority or court must review the acts or omissions alleged to have amounted to a breach of Article 3 of the Convention in line with the principles and standards laid down by this Court in its case-law under that provision, in particular those set out in some detail in paragraphs 73-94 above. A mere reference to Article 3 in the domestic decisions is not sufficient; the examination of the case must be consistent with the standards established in the Court's case-law (see *Neshkov and Others*, §§ 185-87, and *Sukachov*, § 116, both cited above).

105. Secondly, when examining claims of this type, domestic courts should not confine themselves to assessing compliance with specific statutory

or regulatory provisions governing conditions of detention, but must also have regard to the general prohibition of inhuman or degrading treatment laid down in Article 3 of the Convention. Otherwise, in the absence of a specific domestic-law rule governing a particular aspect of detention conditions – for example, a rule requiring toilets to be properly installed in each cell – the courts may find no unlawfulness and fail to examine whether that matter, taken alone or together with other aspects of the conditions in which the inmate was held, amounted to inhuman or degrading treatment (see *Neshkov and Others*, cited above, § 187). This is particularly important where certain domestic-law standards themselves, such as the minimum standard of 2.5 sq. m of personal space per detainee in pre-trial detention in Ukraine, have been found by the Court to be inadequate (see *Sukachov*, cited above, § 150). Accordingly, domestic courts should not treat the Convention merely as an aid to the interpretation of statutory provisions, especially where it is directly applicable in the domestic legal order and forms part of domestic law (see, for instance, *Neshkov and Others*, cited above, § 203).

(δ) Other procedural requirements

106. In addition, the procedural rules governing the examination of claims for compensation must comply with the principle of fairness enshrined in Article 6 § 1 of the Convention and the reasonable-time requirement (see *Neshkov and Others*, cited above, § 184). The manner in which the national courts deal with such cases, the extent to which the national authorities comply with the measures ordered, and the promptness with which any awards of compensation made in such proceedings are paid by the authorities may affect the Court's assessment of the effectiveness of the remedy (see *Shmelev and Others*, cited above, § 88). The Court has also stressed that when awarding compensation for non-pecuniary damage, the domestic courts have to justify their decision by giving sufficient reasons (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 204, ECHR 2006-V).

(ε) Amount of compensation

107. The level of compensation awarded at domestic level is a key factor in assessing the adequacy of a remedy for the purposes of Article 13 of the Convention (see *Atanasov and Apostolov v. Bulgaria*, no. 65540/16, § 64, 27 June 2017). Its insufficiency may lead to a finding of a violation of that provision (see, *mutatis mutandis, Karim Rhazali and Others v. France* (dec.), no. 37568/09, 10 April 2012). The Court is mindful that the task of making an estimate of damages to be awarded is a difficult one. It is especially difficult in a case where personal suffering, whether physical or mental, is the subject of the claim. The domestic courts should, in each case, attempt to assess the cumulative effect which the conditions of detention have on the applicant's well-being and determine the level of physical suffering,

emotional distress, anxiety or other harmful effects sustained by the prisoner by reason of his or her detention in those conditions (see *Nikitin and Others v. Estonia*, nos. 23226/16 and 6 others, § 197, 29 January 2019, with further references).

108. The level of compensation awarded in respect of non-pecuniary damage must not be unreasonable in comparison with the awards made by the Court in similar cases (ibid., § 197). In particular, in the context of prison overcrowding, the Court held in *Bizjak v. Slovenia* ((dec.), no. 25516/12, §§ 37-43, 8 July 2014) that compensation awarded by a national court amounting to approximately 30% of what the Court itself would have awarded did not appear unreasonable or disproportionate.

109. As regards specific amounts, the Court has, for example, accepted as sufficient the following levels of compensation for detention in conditions incompatible with Article 3 of the Convention:

(i) in *Stella and Others* (cited above, §§ 19 and 62), compensation under Italian law amounting to EUR 8 per day of detention;

(ii) in *Domján v. Hungary* ((dec.), no. 5433/17, § 28, 14 November 2017), having regard to the economic realities in Hungary, compensation ranging from EUR 4 to EUR 5.30 per day of detention;

(iii) in *Venken and Others v. Belgium* (nos. 46130/14 and 4 others, § 166, 6 April 2021), compensation of EUR 1,250 per year, corresponding to approximately EUR 3.40 per day, which the Court did not consider unreasonable.

By contrast, in *Draniceru* (cited above), the Court noted that Moldovan legislation did not set a minimum award but only a maximum, namely EUR 5.10 per day of detention in improper conditions. It found, however, no reason to conclude that the Moldovan courts would not "give full effect to the new domestic provisions or that they would fail to establish a coherent and uniform jurisprudence in this respect" (ibid., § 40).

110. Conversely, the Court has refused to accept that applicants had been afforded sufficient redress where the domestic awards were "incommensurably small" and did not "even approach the awards usually made by the Court in comparable circumstances" (see *Mironovas and Others v. Lithuania*, nos. 40828/12 and 6 others, § 99, 8 December 2015), for example:

(i) where domestic awards amounted to EUR 1.10 per day of detention in inadequate conditions in Romania (see *Polgar v. Romania*, no. 39412/19, §§ 55-57, 20 July 2021); and

(ii) where they amounted to between EUR 1 and EUR 2.60 per day of detention in Estonia (see *Nikitin and Others*, cited above, §§ 198-99).

In *Barbotin* (cited above), the Court found that an award of EUR 500 for four months of detention in France in conditions incompatible with human dignity, that is, approximately EUR 4 per day, was extremely modest, even though it reflected the average amounts usually awarded by the French

administrative courts at the material time. The Court noted that the amount was lower than the amounts subsequently awarded by the French courts following the development of their case-law (particularly after the *Conseil d'État*, in a decision of 3 December 2018, had awarded EUR 5,500 for 19 months of detention in such conditions) and represented only a very small proportion of what the Court itself might have awarded in comparable circumstances (ibid., § 57).

111. That said, in accordance with the principle of subsidiarity, a wider margin of appreciation should be left to the domestic authorities in assessing the amount of compensation to be awarded. That assessment should be carried out in a manner consistent with the domestic legal system and traditions and should take account of the ordinary living standards and general level of income in the State concerned, as well as the fact that a remedy within the national system is closer and more accessible than an application to the Court (see *Shmelev and Others*, § 91, and *Nikitin and Others*, § 197, both cited above).

112. The Court itself, as stated in the Practice Direction to the Rules of Court concerning just satisfaction claims, issued on 28 March 2007 and amended on 9 June 2022, takes account of local economic circumstances in the respondent State when calculating relevant amounts in respect of non-pecuniary damage:

> "14. ... In doing so, it has regard to the publicly available and updated macroeconomic data, such as that published by the International Monetary Fund (IMF). In view of these changing economic circumstances for the countries concerned, the amounts of awards made to injured parties in similar circumstances could vary in respect of different Respondent States and over a period of time."

113. In the light of the case-law and considerations set out above, and having regard to the current economic realities of Ukraine, the Court considers that the starting point for assessing an award in respect of non-pecuniary damage at domestic level in that State should be no less than EUR 2 per day of detention in conditions incompatible with Article 3 of the Convention. Any lower amount, save in exceptional circumstances, would risk undermining the very essence of such a domestic remedy and could, in some cases, allow the State to abuse the rights of those within their control with virtual impunity, thereby rendering the prohibition of torture and inhuman or degrading treatment, notwithstanding its fundamental importance, ineffective in practice.

(στ) Criteria affecting the assessment of damages

114. The length of stay in inadequate conditions of detention is an important factor in assessing the extent of non-pecuniary damage (see *Muršić*, cited above, § 181), and therefore daily, monthly or yearly rates are commonly used for that purpose. It is also known that an initial period of adjustment to poor conditions exacts a particularly heavy mental and physical

toll on the individual. For example, in *Ananyev and Others* (cited above), the Court found it appropriate to award the applicant EUR 6,000 for the first year of his detention in inhuman and degrading conditions and EUR 3,500 for each subsequent year, making a total award of EUR 13,000 (ibid., § 172).

115. In this connection, it should be noted that the relative brevity of the period in question does not automatically exclude the treatment complained of from the scope of Article 3 of the Convention if all other elements are sufficient to bring it within that provision (see *Neshkov and Others*, cited above, § 198). The Court has already found that even a very short period – 22 hours – spent in extremely poor conditions may give rise to a breach of Article 3 (see *Fedotov v. Russia*, no. 5140/02, §§ 20, 55, 67, 68 and 104, 25 October 2005).

116. Furthermore, in *Barbotin* (cited above), the Court endorsed the criteria applied by the French courts in their examination of a detainee's claim, including the issue of vulnerability, assessed having regard to his or her age, state of health, personality and, where applicable, disability (ibid., § 53). This factor may aggravate the suffering and frustration experienced by detainees, since vulnerable persons may be affected more severely by the same material conditions of detention, and this increased impact should therefore be taken into account in the assessment of compensation.

117. A decision to award lower or no compensation in respect of non-pecuniary damage can be justified only by exceptionally compelling and serious reasons (see *Ananyev and Others*, § 230, and *Neshkov and Others*, § 288, both cited above). For example, in *Samaras and Others v. Greece* (no. 11463/09, §§ 63-65 and 71, 28 February 2012), the Court found a violation of Article 3 on account of severe cell overcrowding throughout the entire period of detention (the detainees had less than 1 sq. m of personal space). However, it reduced its just satisfaction awards in respect of applicants whose conditions of detention had varied because, during certain periods, they had worked in prison workshops and had therefore been able to leave their cells for eight hours per day.

118. Lastly, the Court reiterates that, as it has held in a number of cases, financial or logistical difficulties, as well as the absence of any intention to humiliate or debase a detainee, cannot be relied on by the domestic courts as grounds for reducing the amount of compensation (see, among other authorities, *Mamedova v. Russia*, no. 7064/05, § 63, 1 June 2006, and *Ananyev and Others*, cited above, § 117).

#### (c) Application of the general principles to the present case

##### *(i) Article 3 of the Convention*

119. The Court will now examine whether the conditions of the applicants' detention were incompatible with Article 3 of the Convention

and, if so, whether they lost their victim status following their recourse to the compensatory remedy.

(α) Whether the applicants were subjected to treatment proscribed by Article 3

120. The Court observes at the outset that the domestic courts, referring to Article 3 of the Convention and the Court's case-law, found that the conditions of detention of all the applicants in the present case, except those of the fourth applicant, had been degrading. This was also acknowledged by the Government. Having regard to the relevant conditions as described by the applicants and established in the domestic proceedings, the Court sees no reason to disagree with the domestic courts' assessment.

121. As regards the fourth applicant, the Court notes that his description of the conditions of detention was similar to that of the other applicants and that he had been held in the same facility and during broadly the same period as the first, second and third applicants, as well as the applicant in *Sukachov* (cited above, § 9). In particular, the fourth applicant alleged, both at domestic level and in his submissions to the Court, that he had been held in overcrowded cells with between 2.5 and 3.6 sq. m of personal space per detainee, and that those conditions had been aggravated by numerous other shortcomings (see paragraphs 5 and 20 above). In the absence of any observations by the Government on the merits of the fourth applicant's complaint under Article 3, the Court has in its possession only the written pleadings submitted by the facility administration to the domestic courts. Those pleadings, however, were confined to general assertions of compliance with domestic standards and did not indicate the actual number of inmates, address specific complaints raised by the applicant or include any primary evidence. Such submissions have long been found by the Court to be insufficient to rebut a credible and reasonably detailed description by an applicant of allegedly degrading conditions of detention (see *Ukrayinskyy and Others*, cited above, § 69).

122. On the basis of the material before it, the Court considers that the conditions of the applicants' detention were inadequate and caused them hardship exceeding the unavoidable level of suffering inherent in detention, amounting to degrading treatment.

(β) Whether the applicants lost their victim status

123. The Court reiterates that it falls first to the national authorities to redress any alleged violation of the Convention. A decision or measure favourable to the applicant is not in principle sufficient to deprive him or her of victim status for the purposes of Article 34 of the Convention unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see *Scordino*, cited

above, §§ 179-80, and *Kurić and Others v. Slovenia* [GC], no. 26828/06, §§ 259-60, ECHR 2012 (extracts)).

124. The Court notes at the outset that neither of those conditions has been met in respect of the fourth applicant, whose compensation claim was dismissed by the domestic courts (see paragraph 21 above). This applicant can therefore still claim to be a "victim" of the alleged violation.

125. As regards the remaining applicants, the Court considers that the first condition for the loss of victim status, namely acknowledgment of a violation by the national authorities, has been fulfilled. The domestic courts expressly or in substance acknowledged that the applicants concerned had been held in inadequate conditions contrary to Article 3 of the Convention.

126. It remains to ascertain whether the amount of compensation awarded by the domestic courts was sufficient to compensate the applicants concerned for their grievances under Article 3. In making that determination, the Court will consider, on the basis of the material in its possession, what it would have done in the same position for the period taken into account by the domestic court in each case (see, *mutatis mutandis*, *Scordino*, cited above, § 211). Where compensation is not fixed by law but is determined, as in the present case, under the provisions governing civil tort liability, the domestic courts must also ensure that national law is applied in a manner compatible with the Convention and the Court's case-law (see *Atanasov and Apostolov*, cited above, § 64).

127. In the present case, seven of the applicants were awarded between EUR 129 and EUR 165 in respect of non-pecuniary damage for periods of detention ranging from five months and twenty-two days to ten years and eleven days, which amounts to approximately EUR 0.03 to EUR 0.75 per day. Those amounts are significantly lower than those generally awarded by the Court in similar Ukrainian cases (compare, for example, the appendices to *Ukrayinskyy and Others*, cited above, and *Vitkovskyy and Others v. Ukraine* [Committee], nos. 16595/23 and 8 others, 26 February 2026). Furthermore, they do not even approach the level of EUR 2 per day identified by the Court as the starting point for assessing an award at domestic level capable of satisfying the requirements of Article 13 of the Convention in the Ukrainian context (see paragraphs 109-110 and 113 above). The Court discerns no exceptional circumstances which could justify the domestic courts' decision to award compensation at such a low level. This is sufficient for the Court to conclude that the redress afforded was inadequate.

128. Accordingly, the Court finds that, in the circumstances of the present case, the applicants who obtained an acknowledgement of a violation by the national authorities cannot be considered to have lost their victim status in relation to their complaint under Article 3 of the Convention. The Government's objection in that regard, raised in substance, must therefore be dismissed.

129. The Court therefore finds that there has been a violation of Article 3 of the Convention.

*(ii) Article 13 of the Convention*

130. The Court observes at the outset that, at the time when the applicants lodged their applications, the unsatisfactory conditions of detention complained of had already come to an end. A compensatory remedy was therefore the only viable means by which they could obtain redress for their past placement in such conditions. It is therefore unnecessary to examine any preventive remedies.

131. The Court further notes that it has not yet been called upon to rule on the availability or effectiveness of a compensatory remedy for complaints under Article 3 of the Convention concerning conditions of detention in Ukraine (see, for instance, *Sukachov*, cited above, § 124).

132. Furthermore, the Court has previously distinguished between the effectiveness of a remedy in principle and its effectiveness in a particular case, including in relation to Article 3 (see, for example, *Nikitin and Others*, §§ 216-17, and *Barbotin*, § 57, both cited above), Article 6 (see *Oreb v. Croatia*, no. 9951/06, § 39, 23 October 2008), Article 8 (see *Polyakh and Others v. Ukraine*, nos. 58812/15 and 4 others, §§ 213-14, 17 October 2019) and Article 1 of Protocol No. 1 to the Convention (see *M.S.L., TOV v. Ukraine*, no. 18049/18, § 120, 16 October 2025). The Court will therefore first examine whether a claim for compensation under Articles 1173 and 1174 of the Civil Code could, in principle, be regarded as an effective domestic remedy, before turning to the manner in which that remedy operated in the applicants' cases.

(α) Effectiveness in principle

133. On the basis of the material in the case file, the Court is unable to establish whether all the domestic decisions cited in paragraphs 42-52 above have become final. However, having regard to the significant number of examples of domestic case-law available to it, the Court is able to make the following observations.

134. The Court will first define the scope of its examination of the compensatory remedy in question. It will focus primarily on civil claims for damages under Articles 1173 and 1174 of the Civil Code of Ukraine. It notes, however, that some claimants chose first to apply to the administrative courts in order to obtain a finding that the acts or omissions complained of were unlawful, before subsequently bringing a civil claim for compensation (see, for example, paragraphs 23, 27, 31, 47 and 50-52 above). That arrangement is not, as such, incompatible with the requirements of Article 13 of the Convention, provided that recourse to the administrative courts is not a prerequisite, whether in law or in practice, for bringing a civil claim.

Otherwise, the need to institute two successive sets of proceedings pursuing substantially the same aim may give rise to jurisdictional conflicts, place an unreasonable burden on claimants and lead to an excessive duration of the combined proceedings (see, *mutatis mutandis*, *Lukenda v. Slovenia*, no. 23032/02, § 70, ECHR 2005-X). Contracting States remain free to choose the course of action which they consider most practical and efficient for fulfilling their obligations under Article 13, as long as the remedy available complies with the requirements of that provision. In the present case, given that the civil claim appears to constitute a separate and independent remedy and was ultimately used by all the applicants, the Court's further findings will mainly concern the civil proceedings.

135. Firstly, as regards the accessibility of the remedy, the Court notes that domestic law provides for an ordinary three-year limitation period for civil claims, running from the date on which the injured party became, or ought to have become, aware of the damage. That time-limit does not appear unreasonable. Furthermore, the Court is satisfied, on the basis of the examples of domestic case-law cited above (see, for instance, paragraph 52 above), that the domestic courts are aware of the Court's case-law on continuing situations, under which the relevant limitation period starts to run from the date on which detention in inadequate conditions ended, notably after a detainee's release or transfer, except for short absences from the facility for interviews or other procedural measures (see *Iacov Stanciu v. Romania*, no. 35972/05, §§ 136-38, 24 July 2012; *Ananyev and Others*, cited above, §§ 75-78; and *Neshkov and Others*, cited above, § 199).

136. The Court further notes that the accessibility of the remedy is reinforced by legislative provisions exempting claimants from paying court fees in respect of claims for damages brought under the special regime of State liability (see paragraph 39 above). Such an arrangement removes a financial barrier for prisoners, who often lack sufficient funds, and thus contributes to the effectiveness of the domestic remedy for the purposes of Article 13 of the Convention.

137. The only example before the Court that undermines the accessibility of the remedy under Articles 1173 and 1174 of the Civil Code is the fourth applicant's case, in which the domestic courts interpreted the regime of State liability in a very restrictive manner, excluding the detention facilities from its scope owing to their being separate legal entities (see paragraphs 8 and 21 above). The Court observes that the respondent State's legal framework is characterised by a particularly extensive multiplication of public authorities endowed with separate legal personality, a feature which appears to go beyond what is commonly encountered in the administrative systems of many other Contracting States. While it is not for the Court to prescribe the manner in which States organise their administrative structures, it reiterates that such arrangements must not have the effect of rendering the exercise of Convention rights theoretical or illusory. Accordingly, where a claimant

seeks to engage the responsibility of the State in respect of acts or omissions attributable to public authorities, the existence of a plurality of legally distinct entities should not place an excessive burden on the claimant as regards the identification of the proper defendant. The Court has already held that, where a public entity is liable for damages, the State's positive obligation to facilitate identification of the correct defendant is all the more important (see *Plechanow v. Poland*, no. 22279/04, § 109, 7 July 2009, and *Georgel and Georgeta Stoicescu v. Romania*, no. 9718/03, § 71, 26 July 2011).

138. In that regard, the Court notes with satisfaction the reasoning adopted by the Supreme Court in a number of cases, including those concerning the first, second and third applicants, in which it criticised the above restrictive interpretation and decided the claims in the applicants' favour (see paragraphs 9, 13 and 17 above). It is true that the fourth applicant did not benefit from that approach. Moreover, his case cannot simply be regarded as an isolated error attributable to the manner in which he conducted the domestic proceedings: the restrictive interpretation was endorsed by the Supreme Court itself, notwithstanding other decisions delivered during the same period in which it had taken the opposite approach. The Court therefore accepts that there was a degree of inconsistency and consequent uncertainty in the domestic case-law at that stage. Nevertheless, having regard to the broader body of case-law before it, including subsequent decisions in which compensation claims of this kind were examined on their merits and allowed, the Court does not consider that this temporary inconsistency was sufficient to render the remedy inaccessible in principle. The Court reiterates in this regard that an effective remedy within the meaning of Article 13 does not mean a remedy which is bound to succeed, but simply an accessible remedy before an authority competent to examine the merits of a complaint (see *Nikitin and Others*, cited above, § 216). Therefore, the remedy in question may be regarded as accessible.

139. Secondly, as regards the burden of proof borne by the claimants, it does not appear to be excessive. In most of the examples of domestic case-law available to the Court, the claimants relied on evidence which was readily accessible to them, such as descriptions of the impugned conditions of detention and, in some cases, witness statements, certificates issued by the detention facility at their request, or reports by the Parliamentary Commissioner for Human Rights (see paragraph 42 above). It then fell to the authorities to refute the allegations in question.

140. The Court also attaches weight to the provisions of domestic law, in particular Articles 1173 and 1174 of the Civil Code, which provide for State liability for damage irrespective of the fault of its organs or officials (*незалежно від вини*). In the context of conditions of detention, the Court has frequently observed that poor conditions are often the result of wide-ranging systemic factors rather than of malicious intent or negligence on the part of individual prison staff (see *Ananyev and Others*, §§ 228-29, and

*Sukachov*, § 115, both cited above). Accordingly, a domestic legal framework under which the State's obligation to compensate may arise from the fact of a violation of an individual's rights, without requiring the claimant to prove fault on the part of a specific official, is conducive to the effectiveness of the remedy for the purposes of Article 13 of the Convention.

141. Thirdly, it is apparent from the examples of domestic case-law available to the Court that where the domestic courts examined the substance of complaints concerning conditions of detention, they were capable of doing so by reference to the standards established in the Court's case-law. In particular, the domestic courts did not confine their assessment to the formal lawfulness of the prison authorities' conduct under domestic statutory or regulatory provisions; rather, they addressed the substance of the claimants' complaints by referring to the prohibition of degrading treatment and treating Article 3 of the Convention as a directly applicable standard. They took into account such factors as personal space, sanitary conditions, access to natural light and ventilation, and the duration of exposure to the alleged effects. The Court does not overlook that in some proceedings the domestic courts did not examine all the factual allegations in detail, or disposed of the claims on other grounds. Nevertheless, viewed as a whole, the case-law before it demonstrates that the domestic courts were capable of providing a genuine examination of complaints concerning conditions of detention in accordance with Convention standards.

142. Fourthly, as regards procedural safeguards, the Court finds no indication, either in domestic law or in the examples of domestic case-law examined, of any prima facie grounds for doubting that judicial compensation proceedings concerning conditions of detention have provided a forum ensuring due process and effective participation by the aggrieved individuals.

143. Furthermore, in general, domestic proceedings of the type concerned do not appear to be excessively lengthy. Although the Court does not have sufficient information to assess the duration of the proceedings in the examples of domestic case-law cited in paragraphs 42-52 above, the proceedings concerning the applicants in the present case lasted no more than two years and seven months before three levels of jurisdiction. While this period was considerably longer for those applicants who chose first to have recourse to the administrative courts, reaching up to four years and two months for both sets of proceedings, the Court sees no indication that such a complex procedural course was required by law. It nevertheless considers it important that the respondent State streamline the relevant domestic practice so as to ensure that appropriate compensation is awarded within a single procedural framework and, where possible, without the need for applicants to pursue their claims through all three levels of jurisdiction.

144. Fifthly and lastly, as regards whether the claimants obtained adequate and sufficient redress, the Court reiterates that it is ready to accept lower levels of compensation at domestic level where the remedy in question,

compared with an application to the Court, offers other tangible advantages. A domestic remedy is, by its nature, closer and more accessible; it is generally faster and is conducted in the applicant's own language and legal environment (see *Apicella v. Italy* [GC], no. 64890/01, § 136, 29 March 2006). This approach reflects the principle of subsidiarity, now expressly referred to in the Preamble to the Convention, and inherent in the Convention system. The Court has consistently emphasised that it exercises a subsidiary supervisory role, while the primary responsibility for securing Convention rights rests with the Contracting States (see, for instance, *Garib v. the Netherlands* [GC], no. 43494/09, § 137, 6 November 2017, and *Guðmundur Andri Ástráðsson v. Iceland* [GC], no. 26374/18, § 250, 1 December 2020). The domestic courts are better placed to assess evidence, hear witnesses and take account of local conditions. In that context, it is legitimate to take into account the practical advantages inherent in domestic proceedings. While proceedings before the Court may, in some cases, result in higher awards, they are by their nature more formalised, resource-intensive and time-consuming, and remain exceptional within the overall system of human rights protection. The Convention mechanism cannot and should not be expected to replace national systems of redress. Accordingly, where the domestic legal order provides an accessible and functional mechanism for the protection of Convention rights, the Court is prepared to accept compensation awards that are lower than those it would itself make, provided that they do not appear unreasonable or disproportionate.

145. In the present case, the domestic courts applied the rules of civil tort liability under Ukrainian law and assessed the amount of compensation for non-pecuniary damage by reference to considerations of fairness and reasonableness. The Court further observes that the determination of compensation fell within the discretion of the domestic judges and that there was no statutory ceiling or other legal obstacle preventing them from allowing the claims in full. Accordingly, the fact that some detainees were awarded relatively low amounts in the past does not necessarily mean that similarly low awards will be made in the future. However, it appears from the examples of recent domestic case-law examined in paragraphs 42-52 above that the amounts awarded ranged from EUR 0.27 to EUR 1.43 per day. The Court notes with regret that those amounts fall below the level at which an award might, depending on the circumstances, start to be regarded as sufficient to afford redress for a violation of Article 3 of the Convention (see paragraph 113 above).

146. Nevertheless, for the reason set out below, the Court is prepared to accept that the domestic system should, as such, be regarded as effective in principle and to encourage its use and development, while leaving open the possibility of finding a violation in individual cases where the compensation awarded is inadequate.

147. As noted above, although the provisions of the Civil Code governing State liability have been in force since 2004, the Court has not yet had occasion to examine the effectiveness of this compensatory remedy in the context of conditions of detention in Ukraine. This appears to be due either to the fact that the applicants in previous cases were still being detained in the conditions complained of, so that a compensatory remedy alone, without a preventive remedy, would not have sufficed to redress the alleged violation, or to the fact that the Government had not, at the time, properly raised an objection of non-exhaustion of domestic remedies. Thus, since the first judgments concerning conditions of detention in Ukraine (see, for example, *Nevmerzhitsky v. Ukraine*, no. 54825/00, ECHR 2005-II (extracts)), and especially since 2017, when the Court introduced a fast-track procedure for grouped judgments in this area (see, for instance, *Malchenko and Others v. Ukraine* [Committee], no. 3001/06 and 6 others, 6 April 2017), applicants have had a direct and relatively prompt means of obtaining significant awards of compensation, without first being required to make use of domestic remedies.

148. Despite the considerable lapse of time since the delivery of the *Sukachov* pilot judgment on 30 January 2020, the Ukrainian authorities have still not taken sufficient legislative and administrative measures, as demonstrated by the Court's statistical data on newly lodged applications (see paragraphs 66-67 above) and acknowledged in the Committee of Ministers' latest decision (see paragraph 53 above).

149. In this context, the Court welcomes the progress made by the Ukrainian judiciary, in particular the Supreme Court, in the practical application of long-standing provisions of civil law and, consequently, in the development of a compensatory remedy in this area. In a situation where little appears to have been achieved at the legislative or administrative level, the domestic courts have demonstrated a certain capacity and willingness to contribute to addressing the problem of inadequate conditions of detention. As established above, a civil claim under Articles 1173 and 1174 of the Civil Code now offers a prompt and accessible means of enabling claimants to establish the relevant facts without an excessive evidential burden, have them assessed in the light of the standards of the Convention, obtain a finding of State liability and secure tailored financial compensation. The Court is mindful of the inconsistent outcome in the fourth applicant's case and, above all, of the persistently low level of compensation awarded. Apart from those matters, however, the material before it does not disclose other recurring shortcomings capable of undermining the functioning of the remedy as a whole. The Court is therefore of the opinion that the domestic case-law examined above shows 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

the compensation awarded remains a significant shortcoming. The Court does not consider it appropriate to disregard those efforts.

150. Furthermore, the nature of the development of case-law is such that, in order to establish consistent practice, the domestic courts must have a sufficient number of cases in which they can apply and refine the relevant principles. At present, however, that development is limited by the fact that many detainees have been able to bring their complaints directly before the Court without first making use of the domestic remedy.

151. The Court considers that the domestic courts must be given the opportunity to assume their primary role and address the systemic problem of inadequate conditions of detention in full before applications are lodged with the Court. This will encourage the further development of domestic case-law, in particular with regard to the amount and consistency of compensation awarded. Such an approach is in line with the Court's previous practice, when it has afforded respondent Governments a certain margin of confidence in respect of newly introduced remedies and recognised them as *prima facie* effective even without waiting for the development of extensive domestic case-law, thereby allowing the national courts, under the Court's guidance and ultimate supervision, to build up their own capacity (see *Draniceru*, § 40, and *Shmelev and Others*, §§ 115-19, both cited above).

152. In view of the foregoing, the Court considers that a civil claim for damages under Ukrainian law may now be regarded, in principle, as an adequate means of obtaining compensation for persons who consider that they have been held in inadequate conditions of detention and who are no longer detained in conditions alleged to be contrary to the Convention. Accordingly, where a complaint under Article 3 is made in that regard, applicants are expected to make use of that remedy before lodging their complaints with the Court.

153. The Court is prepared to reconsider its approach to the remedy in question should the practice of the domestic courts show, in the long term, that complaints are rejected on formalistic grounds, that the compensation awarded remains insufficient, that proceedings are excessively lengthy, or that they otherwise serve merely to delay rather than to ensure effective and full redress (see, for instance, *Shmelev and Others*, cited above, § 120, and *Polgar*, cited above, § 97). The Court retains jurisdiction to definitively review any complaints brought before it and, where applicants can still claim to be victims after making use of the domestic remedy, may award just satisfaction (see paragraph 160 below).

154. Lastly, the Court reiterates that it is for the Committee of Ministers to assess the general measures adopted by the respondent State in its domestic legal order with a view to putting an end to the violation found by the Court in its pilot judgment and, as far as possible, redressing its consequences (see *Stella and Others*, cited above, § 61).

(β) Effectiveness of the remedy in the present case

155. The Court has previously found no violation of Article 13 of the Convention in cases where a remedy was considered effective in principle, even though the amounts of compensation awarded to particular applicants in certain cases were too low to deprive them of victim status in respect of a violation of Article 3 (see, for example, *Zarb v. Malta*, no. 16631/04, §§ 50-51, 4 July 2006; *Shestopalov v. Russia*, no. 46248/07, § 73, 28 March 2017; *Artur Ivanov v. Russia*, no. 62798/09, § 40, 5 June 2018; *Nikitin and Others*, cited above, §§ 216-17; and *Dimitar Angelov v. Bulgaria*, no. 58400/16, § 81, 21 July 2020). However, where the inadequacy of compensation was accompanied by other structural shortcomings – such as a restrictive approach by the domestic courts to the calculation of limitation periods (see *Nikitin and Others*, cited above, §§ 208-10), an obligation on the detainee to pay expert fees exceeding the compensation awarded (see *Barbotin*, cited above, § 57), or the making of compensation conditional on the claimant's ability to prove fault on the part of the authorities and the unlawfulness of their actions (see, *mutatis mutandis, Roth v. Germany*, nos. 6780/18 and 30776/18, §§ 96-98, 22 October 2020) – the Court has found a violation of Article 13 of the Convention.

156. In the present case the fourth applicant's claim was dismissed on formalistic grounds (see paragraphs 21 and 137 above) and the other applicants were awarded manifestly insufficient amounts of compensation. Nonetheless, having regard to the case-law cited in the preceding paragraph, its finding above that the civil remedy in question may be regarded as effective in principle and the fact that the low level of compensation awarded to the concrete applicants was taken into consideration by the Court when it concluded that they could still claim to be victims of the alleged violation of Article 3, the Court considers that there has been no violation of Article 13 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

157. 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

158. The applicants submitted the following claims in respect of non-pecuniary damage: the first applicant, 7,000 euros (EUR); the second applicant, EUR 10,000; the third applicant, EUR 10,000; the fourth applicant, EUR 10,000; the fifth applicant, EUR 17,473; the sixth applicant,

EUR 16,264; the seventh applicant, EUR 20,397; and the eighth applicant, EUR 5,000.

159. The Government submitted that the applicants' claims were unsubstantiated.

160. The Court considers that where an applicant can still claim to be a victim after exhausting a domestic remedy, he or she may expect the Court to award just satisfaction in respect of the violation found. In *Giuseppe Mostacciuolo v. Italy (no. 2)* ([GC], no. 65102/01, §§ 137 and 143, 29 March 2006), the Court decided to award the difference between the amount obtained at national level and the amount which it considered sufficient to deprive the applicant of victim status. It therefore applied a reduction of approximately 55% in comparison with its usual awards of just satisfaction. In the present case, however, given that the further and prompt development of domestic case-law serves the interests of all parties, the Court does not consider it appropriate to apply such a reduction. Accordingly, for as long as the amounts awarded at national level fall short of what is required to afford adequate redress (see paragraph 113 above), the Court will award the difference between the amount obtained at national level and the full amount of just satisfaction which it would ordinarily award in comparable cases.

161. Making its assessment on an equitable basis, and taking into account the amounts already awarded by the respondent State, the Court considers it reasonable to award the amounts indicated in the Appendix.

162. The Court rejects the remainder of the claims under this head.

### B. Costs and expenses

163. Four of the applicants also claimed the following costs and expenses incurred before the Court:

– The third applicant claimed EUR 3,750, corresponding to 25 hours of legal work carried out by his representative, to be paid directly into the representative's bank account, and 10,000 Ukrainian hryvnias (UAH) in translation costs.

– The fifth, sixth and seventh applicants claimed EUR 1,200 each, corresponding to 12 hours of legal work carried out by their representative in respect of each applicant, to be paid directly into the representative's bank account.

164. The other four applicants did not claim any costs or expenses.

165. The Government considered the applicants' claims to be unsubstantiated. In particular, they submitted that some of the legal services claimed by the third applicant had been unnecessary, while those claimed by the other three applicants had not been specified in sufficient detail.

166. 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 amounts indicated in the Appendix.

## FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Joins* to the merits of the complaint under Article 3 of the Convention and *dismisses* the Government's preliminary objection of loss of victim status by the first, second, third, fifth, sixth, seventh and eighth applicants;

3. *Declares* the applications admissible;

4. *Holds* that there has been a violation of Article 3 of the Convention on account of the conditions of the applicants' detention;

5. *Holds* that there has been no violation of Article 13 of the Convention on account of the lack of an effective compensatory remedy for the applicants' complaint under Article 3 of the Convention;

6. *Holds*
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts indicated in the Appendix, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 15 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

| Victor Soloveytchik | Kateřina Šimáčková |
| --- | --- |
| Registrar | President |

# APPENDIX

List of cases:

| No. | Application no.<br>Date of introduction | Applicant's name<br>Year of birth | Representative's name and location | Amount awarded for non-pecuniary damage per applicant, plus any tax that may be chargeable (in euros) | Amount awarded for costs and expenses, plus any tax that may be chargeable to the applicant (in euros) |
|---|---|---|---|---|---|
| 1. | 52652/20<br>20/10/2020 | **Volodymyr Ivanovych ZAKUTNIY**<br>1977 | Oleksandr Anatoliyovych Ignatov<br>Dnipro | 3,400 | |
| 2. | 3536/21<br>16/12/2020 | **Sergiy Oleksandrovych KYYKO**<br>1980 | Oleksandr Anatoliyovych Ignatov<br>Dnipro | 6,200 | |
| 3. | 21602/21<br>14/04/2021 | **Kostyantyn Oleksandrovych TKACHENKO**<br>1976 | Vitaliy Viktorovych Savko<br>Dnipro | 7,400 | 2,700, to be paid directly into the bank account of the representative<br><br>200, to be paid to the applicant |
| 4. | 29177/21<br>25/05/2021 | **Yevgeniy Viktorovych ZHULAY**<br>1988 | Oleksandr Anatoliyovych Ignatov<br>Dnipro | 5,300 | |
| 5. | 51690/22<br>15/09/2022 | **Yaroslav Petrovych GALANDZHOVSKYY**<br>1987 | Kateryna Yuriyivna Voronyuk<br>Rivne | 7,300 | 500, to be paid directly into the bank account of the representative |
| 6. | 14635/23<br>06/03/2023 | **Oleksandr Teodosiyovych VOYTSOVYCH**<br>1976 | Kateryna Yuriyivna Voronyuk<br>Rivne | 7,400 | 500, to be paid directly into the bank account of the representative |
| 7. | 28207/23<br>30/06/2023 | **Oleksandr Mykhaylovych GAVRYLYUK**<br>1973 | Kateryna Yuriyivna Voronyuk<br>Rivne | 7,400 | 500, to be paid directly into the bank account of the representative |
| 8. | 12111/24<br>05/03/2024 | **Dmytro Ivanovych LEONTYEV**<br>1986 | Oleksandr Anatoliyovych Ignatov<br>Dnipro | 1,600 | |