

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

FIFTH SECTION

CASE OF BILOUS v. UKRAINE

(Application no. 20068/21)

JUDGMENT

STRASBOURG

3 September 2026

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



In the case of Bilous v. Ukraine,

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

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

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 20068/21) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 9 April 2021 by a Ukrainian national, Mr Fedir Valentynovych Bilous ("the applicant"), who was born in 1974 and is detained in Zhytomyr, and was represented by Ms O. Preobrazhenska, a lawyer practising in Strasbourg;

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

the decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

the decision to reject the Government's objection to the examination of the application by a Committee;

Having deliberated in private on 2 July 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns an alleged lack of adequate facilities for a wheelchair-bound detainee and the alleged hindrance by the prison authorities of his effective exercise of the right of individual application under the Convention.

2. The applicant is a life prisoner with a recognised second-degree disability, being partially paralysed and reliant on a wheelchair. Since 27 April 2012 he has been detained in a two-person cell in Zhytomyr Prison no. 8, save for the period from 4 August to 11 September 2019, when he underwent inpatient treatment outside the facility. The prison was not adapted to the needs of persons with disabilities, which effectively precluded the applicant from engaging in any out-of-cell activities, except for visiting the bathhouse once every two weeks, to which he was carried by his cellmate, Mr R. As regards the cell, the applicant alleged that it was cramped and damp, lacked ventilation, heating and hot water, had no proper toilet partitioning, and provided insufficient access to natural light and fresh air. He further

complained that the drinking water, food, clothing and medical care were inadequate.

3. Following the communication of the complaints above to the respondent Government, the applicant alleged that he had been subjected to pressure by the prison administration to withdraw his application. He stated that between 2 January and 27 March 2023, he had been threatened by the prison rehabilitation officer, Mr G., and subjected to repeated and excessive searches of his cell and the seizure of his personal belongings. During that period, the applicant went on a hunger strike and on three occasions cut his veins. On 7 March 2023 he informed his representative of the above-mentioned events during a video call, and on 11 March 2023 a non-governmental organisation (NGO) acting on his behalf lodged a complaint with the Ukrainian Parliament Commissioner for Human Rights, alleging that the applicant had been persecuted in connection with his application to the Court. On 16 March 2023 the applicant inserted a metal spike into his chest, as a result of which he was hospitalised for two days. Lastly, the applicant alleged that an attempt had been made to transfer him to a "worse" cell and that, after he had refused the transfer, his cellmate had twice been placed in a punishment cell, leaving the applicant without any assistance for several days. Various aspects of these allegations were supported by written statements from seven other detainees held in Zhytomyr Prison no. 8, including his cellmate, Mr R.

4. The Government submitted that each month, two "planned" searches and one "general" search had been carried out in the applicant's cell, without any scope or dates being specified. They indicated, however, items discovered and seized during two of those searches: on 20 January 2023 a sharpened metal plate, a frying pan, an electric kettle, a roll of adhesive tape, two partially filled cans of paint, 5 kg of flour and a pair of Bluetooth headphones; and on 29 January 2023 a used mobile phone with a charger, a screwdriver and a homemade tattoo machine. Furthermore, the prison administration drew up reports in respect of each incident of self-injury. According to those reports, the applicant had stated that he had acted in protest against the searches of his cell, whereas the administration had concluded that his conduct had been attributable to a lack of discipline, adherence to criminal traditions and an attempt to exert pressure on the administration in order to obtain unspecified "benefits not provided for by law". Following each incident, the applicant received a confidential visit from a local prosecutor, however, the prosecutor's findings and any measures taken were not communicated to the Court. In response to the NGO's complaint, mentioned above, the prison administration conducted an internal investigation, but the related report of 4 April 2023 was likewise not submitted to the Court. The Government nevertheless referred to that report, asserting that the applicant had refused to provide comments. They also submitted certificates from the Ukrainian Parliament Commissioner for

Human Rights and the Regional Prosecutor's Office, indicating that the applicant had never lodged complaints with those authorities in respect of any pressure.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

A. Admissibility

5. The Court notes at the outset that it is common ground between the parties that the applicant has been detained in Zhytomyr Prison no. 8 since 27 April 2012, save for the period from 4 August to 11 September 2019, which he spent in Bucha Prison Hospital. Although in his further observations the applicant alleged that the material conditions in the hospital had likewise been inadequate, he failed to provide any details or supporting evidence. That complaint, in so far as it concerns that period, must therefore be declared inadmissible as unsubstantiated.

6. As regards the period preceding the transfer to the medical facility, the Court reiterates that a period of detention should be regarded as a "continuing situation" for the purposes of compliance with the six-month rule if the detention was effected in the same type of detention facility in substantially similar conditions. Short periods of absence during which a detainee was taken out of the facility for interviews or other procedural acts would have no incidence on the continuous nature of the detention. However, an applicant's release or transfer to a different type of detention regime, either within or outside the facility, would put an end to the "continuing situation" (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 78, 10 January 2012; *Eskerkhanov and Others v. Russia*, nos. 18496/16 and 2 others, § 31, 25 July 2017; and, for example, *Cloşcă and Others v. Romania* [Committee], nos. 54609/15 and 2 others, §§ 11 and 13, 8 October 2020). In the present case, having regard to the interruption caused by the applicant's stay of five weeks in Bucha Prison Hospital, his complaint concerning the conditions of detention prior to 4 August 2019 is out of time and must be rejected pursuant to Article 35 § 4 of the Convention.

7. The Government submitted that the applicant had failed to exhaust domestic remedies, as he had not sought compensation before the civil courts for the damage allegedly sustained as a result of inadequate conditions of detention. However, the Court has held that a compensatory remedy is effective only once the impugned conditions of detention have ended (see *Sukachov v. Ukraine*, no. 14057/17, § 113, 30 January 2020). In the present case, the Government did not indicate that the applicant had been transferred or released or that the conditions of his detention had improved

prior to the lodging of his application with the Court. The objection must therefore be rejected.

8. The Court therefore notes that the complaints under Articles 3 and 13 of the Convention in respect of the period of detention in Zhytomyr Prison no. 8 since 11 September 2019 are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

9. The general principles concerning inadequate conditions of detention were summarised in *Muršić v. Croatia* ([GC] no. 7334/13, §§ 96-101, 20 October 2016) and, as regards Ukraine, in the leading cases of *Melnik v. Ukraine* (no. 72286/01, 28 March 2006) and *Sukachov* (cited above). The Court has also held that detaining a disabled person in a prison where he could not move around and, in particular, could not leave his cell independently amounted to degrading treatment (see *Vincent v. France*, no. 6253/03, § 103, 24 October 2006). Similarly, leaving a person with a serious physical disability to rely on his cellmates for assistance with using the toilet, bathing and getting dressed or undressed contributed to a finding that the conditions of detention amounted to degrading treatment (see *Mircea Dumitrescu v. Romania*, no. 14609/10, §§ 56-65, 30 July 2013, and *Semikhvostov v. Russia*, no. 2689/12, §§ 84-85, 6 February 2014). Moreover, the Court has already found a violation in respect of Ukraine on account of the absence of adequate facilities for a wheelchair-bound detainee and his dependence on other inmates for his basic needs (see *Vagapov v. Ukraine* [Committee], no. 35888/11, §§ 42-50, 19 March 2020).

10. In the present case, there was no significant discrepancy between the parties' submissions as to the amount of living space afforded to the applicant. The Government acknowledged that, at least as of January 2023, he had shared a 5.9 sq. m cell with another detainee, thus having less than 3 sq. m of personal space. They further submitted that his other cells had measured between 5.4 sq. m and 6.6 sq. m; however, no records were available as to their actual occupancy, and no information was provided concerning the exact periods of the applicant's detention in those cells. The applicant, for his part, submitted that since 2012 he had been detained in a two-person cell with another detainee, and since June 2012 with Mr R., save for two short periods of ten days and five days which Mr R. had spent in solitary confinement, but he did not specify the precise dates. It may therefore be inferred that, apart from those two short periods, the applicant was afforded between 2.9 sq. m and 3.3 sq. m of personal space.

11. As regards the applicant's remaining grievances beyond overcrowding, the Government – who possess, or ought to possess, the most

comprehensive knowledge of the events at issue – submitted only a certificate issued by a prison official in January 2023 containing general information on the applicant's conditions of detention. No primary evidence capable of rebutting the applicant's specific allegations (see paragraph 2 above) was provided, nor were the photographs allegedly annexed to that certificate submitted to the Court (see, for example, *Sparysh and Kutsman v. Ukraine* [Committee], nos. 49709/18 and 49870/18, § 14, 12 September 2024).

12. The Court further considers that the conditions of the applicant's detention cannot be assessed independently of his disability. It is undisputed that the applicant, a wheelchair-bound person suffering from complete paralysis of the lower body and other health problems, has been detained in an ordinary detention facility not adapted to the needs of wheelchair users. In particular, areas outside his cell, including the exercise yard and the bathhouse, were inaccessible to him in his wheelchair, as were any other out-of-cell activities. The Government confirmed that the installation of wheelchair ramps was not technically feasible and that, where necessary, inmates were moved with the assistance of other prisoners. As a result, the applicant spent virtually 24 hours a day in his cell, confined to his wheelchair or his bed, unable to participate in outdoor activities or benefit from fresh air, and was obliged to wash himself in the in-cell sink. The use of the cell toilet, which was not equipped with any adapted facilities, was likewise difficult and required the assistance of his cellmate. No assistance with his daily routine was provided by the prison staff or medical personnel.

13. In the light of all the considerations above, the Court finds that the conditions of the applicant's detention, exacerbated by his disability, amounted to degrading treatment within the meaning of Article 3 of the Convention.

14. Lastly, having regard to its findings on admissibility in paragraph 7 above and in the absence of any specific submissions by the Government concerning the complaint alleging the lack of an effective domestic remedy, the Court sees no reason to depart from its well-established case-law on the matter (see *Melnik*, cited above, § 115, and *Sukachov*, cited above, § 125).

15. There has accordingly been a violation of Articles 3 and 13 of the Convention.

II. ALLEGED HINDRANCE OF THE RIGHT OF INDIVIDUAL PETITION UNDER ARTICLE 34 OF THE CONVENTION

16. When assessing whether a Contracting State has complied with the undertaking to abstain from any arbitrary interference with the effective exercise of the right of individual application under Article 34 of the Convention, the Court takes into account the nature of the alleged interference (see *Sergey Antonov v. Ukraine*, no. 40512/13, §§ 105-10, 22 October 2015), its purpose (see *Vladimir Sokolov v. Russia*, no. 31242/05,

§§ 80-81, 29 March 2011) and an applicant's vulnerability (see *Cotleț v. Romania*, no. 38565/97, § 71, 3 June 2003, and *Bogdan Shevchuk v. Ukraine*, no. 55737/16, § 49, 24 April 2025).

17. In the present case, the applicant alleged that the prison authorities had hindered the effective exercise of his right of individual application in four ways: by threatening him, subjecting him to excessive searches, attempting to transfer him to a less suitable cell and imposing disciplinary measures on his cellmate, who had been his only source of assistance.

18. The Court firstly draws strong inferences from the fact that no specific observations were provided by the Government in response to the applicant's allegations of verbal pressure and threats, despite the fact that he had identified the person allegedly responsible (see paragraph 3 above). As regards the searches, their number and manner differ in the parties' accounts and no information has been provided regarding the scope of searches in other cells or during other periods. The Court observes, however, that, in addition to clearly prohibited items, significant quantities of ordinary objects were seized, the prior presence of which could hardly have gone unnoticed. This indicates that the searches were reactive and unusually thorough rather than routine in nature. It further appears from the material before the Court that the applicant was offered a transfer to another cell on the fourth floor (his current cell being on the second floor), which would allegedly have enabled him to take daily walks in the exercise yard located there. The applicant declined that offer, stating that the cell was situated even further from the bathhouse, which was situated on the first floor. Lastly, the Government did not provide any information addressing the allegation that the applicant's cellmate had been subjected to disciplinary punishment in a biased manner, having been placed in a punishment cell for several days.

19. As regards the purpose of the above-mentioned measures, the Court does not have direct evidence demonstrating that the prison authorities sought to dissuade the applicant from pursuing his application under the Convention, apart from the chronological sequence of the events in question. However, that version of events was expressly and consistently advanced by the applicant both at the domestic level and before the Court. It was therefore for the respondent Government, who alone have access to information about persons within their control in custody, to provide information and evidence capable of casting doubt on the applicant's account. The Court notes in this connection that not only have certain allegations remained unaddressed, but important documents, including the internal investigation report, have also not been submitted to it.

20. Lastly, the applicant's extreme vulnerability and susceptibility to improper influence by the prison authorities play a crucial role in the present case (see *Shirkhanyan v. Armenia*, no. 54547/16, § 194, 22 February 2022). The Court notes in this regard that the applicant is a life prisoner, has only limited contact with the outside world and remains permanently under

the exclusive control of the prison authorities, who have at their disposal various means capable of aggravating his situation. Furthermore, his disability and reliance on external assistance for everyday needs mean that even measures directed at his cellmate could have a significant impact on him. In these circumstances, the Court views with caution the fact that the complaint lodged by the NGO concerning the alleged pressure exerted on the applicant by prison officers appears to have been merely forwarded to the same prison for investigation. Apart from the reports issued by that institution, no evidence from an authority enjoying a certain degree of independence has been submitted.

21. The foregoing considerations are sufficient for the Court to conclude that the applicant could reasonably have felt intimidated by the measures undertaken by the prison authorities following his recourse to the Court. Such conduct was capable of having a dissuasive effect and therefore amounted to undue interference with the effective exercise of the right of individual application.

22. The Court therefore finds that the respondent State has failed to comply with its obligations under Article 34 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. The applicant claimed 4,000 euros (EUR) in respect of non-pecuniary damage for each year of detention and an additional EUR 10,000 in respect of non-pecuniary damage resulting from the violation of Article 34 of the Convention. He also claimed EUR 2,000 in respect of costs and expenses incurred before the Court, to be paid directly into the bank account of his representative.

24. The Government contested the amounts as unsubstantiated.

25. The Court considers it reasonable to award the applicant EUR 12,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

26. Regard being had to the documents in its possession, its case-law and the repetitive nature of the part of the legal issues examined in this case, the Court considers it reasonable to award EUR 1,000 for costs and expenses in the proceedings before it, plus any tax that may be chargeable to the applicant, to be paid directly into the bank account of his representative, Ms Preobrazhenska.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints under Articles 3 and 13 of the Convention concerning the conditions of detention in Zhytomyr Prison no. 8 since 11 September 2019 and the absence of an effective domestic remedy in this connection admissible and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a breach of Articles 3 and 13 of the Convention;

3. *Holds* that the respondent State has failed to comply with its obligations under Article 34 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts**,** to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be transferred directly to the account of the applicant's representative, Ms Preobrazhenska;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

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

Martina Keller Deputy Registrar	Andreas Zünd President