



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

FIFTH SECTION

CASE OF SKLYARENKO v. UKRAINE

(Application no. 18277/18)

JUDGMENT

STRASBOURG

30 April 2026

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

In the case of Sklyarenko v. Ukraine,

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

Georgios A. Serghides, *President*,

Gilberto Felici,

Diana Sârcu, *judges*,

and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the application (no. 18277/18) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 30 March 2018 by a Ukrainian national, Mr Anatoliy Volodymyrovych Sklyarenko (“the applicant”), who was born in 1981, lives in Semypolky and was represented by Mr D. V. Yagunov, a lawyer practising in Kyiv;

the decision 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 parties’ observations;

Having deliberated in private on 2 April 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns the applicant’s complaints that he was attacked by detainees in a pre-trial detention centre where he worked and that the investigation into the attack has been lengthy and ineffective (Articles 3 and 13 of the Convention).

2. In 2005 the applicant started working as a junior prison officer at Kyiv Pre-trial Detention Centre no. 13 (“the SIZO”).

3. On 1 January 2017 he was attacked by a detainee in the SIZO.

4. In his application form the applicant stated that on 1 January 2017, while he had been opening cell doors, several detainees had hit him on the head and had “tortured him with an iron rod”. The applicant did not provide further details of the alleged torture. According to him, at the time the SIZO had been understaffed and for that reason he had been working alone. He had not been provided with the necessary medical assistance after the attack, neither by his colleagues nor by the ambulance doctors. The application form was accompanied by copies of documents issued by various domestic authorities in the applicant’s case.

5. According to the Government, on 1 January 2017 when the applicant was taking detainees for a walk, two detainees opened several cell doors, in particular, the door of cell no. 294, where P. was held. P. left his cell, approached the applicant and hit him twice on the head. At around 8 p.m. on the same day an ambulance took the applicant to a hospital where it was

established that he had been in a state of a sever alcoholic intoxication (1 gram of alcohol per litre of blood) and that he had had a closed cranial trauma. The applicant remained at the hospital for about a month. On 13 March 2017 he underwent a surgery for cranial trauma.

I. INTERNAL INVESTIGATION INTO THE INCIDENT

6. On 3 January 2017 the head of the SIZO appointed a committee to conduct an internal investigation into the incident.

7. The committee questioned P. who said that he had left his cell through a food hatch and hit the applicant twice on the head. P. said that he had seen prison officers D. and Y. in the corridor during his altercation with the applicant.

8. The committee also questioned Y. and D., who stated that on 1 January 2017 they, together with the applicant, had opened the door of a cell and let three detainees – M., Var. and K. – into the corridor, M. had cut his arm with a blade and Var. and K. had opened the food hatches in the doors of two other cells. P. and two other detainees had immediately escaped from their cells through the food hatches. Y. and D. had started to close the hatches and had noticed that the applicant had fallen on the ground. When questioned, the applicant stated that he had been taking the detainees for a walk and had been hit from behind and had lost consciousness.

9. On 2 March 2017 the committee concluded that the applicant, D., Y. and their manager had failed to comply with the instructions governing their professional activities, which had resulted in the incident. In particular, the applicant had been drunk at the workplace. In order to prevent similar incidents in the future, the committee recommended imposing disciplinary sanctions on D., Y. and their manager.

10. The head of the SIZO imposed the sanctions and ordered additional training sessions for staff to prevent similar incidents.

II. INVESTIGATION BY THE POLICE AND THE MINISTRY OF JUSTICE

11. On 2 January 2017 the police launched a criminal investigation under Article 345 § 3 of the Criminal Code (inflicting bodily injury on a law-enforcement officer performing his or her professional duties).

12. On the same date the police requested medical documents concerning the applicant's state of health, examined the scene of the incident and questioned witnesses present during the event.

13. P. was questioned and he said that he had left his cell through a food hatch and hit the applicant on the head.

14. Y. was questioned and gave the same statements as he had given to the committee (see paragraph 8 above). He added that P. and Var. had been standing next to the applicant when he was lying on the floor.

15. On 3 January 2017 the police forensic experts conducted a number of forensic medical examinations. It was established that the blood found on the corridor floor, the metal rod on the floor and on P.'s clothes could have belonged to the applicant. In the photos provided by the parties, it can be seen that the rod in question was actually a latch which was used to close a food hatch in the cell doors.

16. The applicant was questioned and stated that he had been hit on the head by a detainee in the presence of another officer around 3 p.m. on 1 January 2017.

17. Detainee K. refused to testify.

18. An ambulance doctor, the SIZO paramedic and the ambulance driver were questioned. According to the paramedic, on 1 January 2017 he found the applicant standing on the stairs alone and bleeding from his nose. The paramedic took the applicant to his office, provided him with the emergency care and called the ambulance. After the ambulance arrived, the paramedic left the room. When he came back the applicant was resting. The paramedic called an ambulance a second time because the applicant had started showing symptoms of cranial trauma. The ambulance took the applicant to a hospital.

19. On 5 January 2017 new legislation on investigating crimes in detention facilities entered into force. It provided that such crimes were to be investigated by the Central Interregional Department for the Execution of Criminal Punishments of the Ministry of Justice (hereinafter - "the Department for the Execution"). Nevertheless, the investigation in the applicant's case remained in the hands of the police.

20. On 6 and 11 January 2017, in his statements to the police, the applicant stated that on 1 January 2017 he, together with D. and Y., had intended to move P. from one cell to another. They had opened the cell and let P. and two other detainees into the corridor. The applicant had felt that he had been hit from behind with a hard object. He was not sure, but he thought that it had been P. who had hit him. The applicant pointed out that at that moment officer I. had been next to him and no other officers had been present. He also said that during the incident all the food hatches in the cell doors leading to the corridor had been locked and closed with latches.

21. On 20 January 2017 Var. was questioned and he stated that on 1 January 2017 the applicant had entered his cell and walked him, M. and K. into the corridor, where Var. had seen two other prison officers. Later on Var. had seen that M. had cut his arm and that two cell doors had had open food hatches. Var. had observed P. escaping his cell through the food hatch before approaching the applicant and arguing with him. P. had then hit the applicant in the face with his hand. Var. had approached the applicant and had hit him once in the jaw, after which the applicant had fallen on the floor backwards

and lost consciousness. The other two officers had been watching the scene and had not intervened. Once the applicant had regained consciousness the other two officers had taken him away. Var. had heard a noise and believed that the applicant had fallen again after D. and Y. had taken him away. Approximately fifteen minutes later, additional prison officers had arrived and put all the detainees back in their cells.

22. On 22 January 2017 D. was questioned and he confirmed Y.'s statements (see paragraph 14 above).

23. Between February and May 2017, the police questioned additional witnesses and received the applicant's medical records from the hospital.

24. Additional witnesses were questioned in May and June 2017. Detainee P. was questioned and he repeated his previous statement (see paragraph 13 above).

25. On 25 July 2017 a forensic medical examination assessed the severity of the applicant's injuries and found that his cranial trauma could have resulted from falling and hitting the floor. The injuries on the front of his head could have resulted from being punched with a blunt object, such as a fist.

26. In July 2017 the applicant was questioned and he said that he had been taking detainees for a walk and had been hit from behind. After that he had lost consciousness, regaining it at the hospital.

27. On 29 September 2017 Y. and D. were questioned and they reported that they had seen how P. had inflicted bodily injury on the applicant on 1 January 2017.

28. On 8 November 2017 the Department for the Execution opened a criminal investigation into the incident under Article 127 of the Criminal Code (torture committed repeatedly or by a group of persons upon prior conspiracy).

29. On 16 November 2017 the Department for the Execution questioned M. and he had confirmed the statements given by Var. (see paragraph 21 above).

30. Y. was questioned and he stated that he had not seen P. hit the applicant; he had seen the applicant lying on the ground and had later assumed that he had been hit by P.

31. On 10, 23 and 27 November 2017 the Department for the Execution summoned the applicant who failed to respond to the summons.

32. On 27 November 2017 detainee R. was questioned and he stated that he had not seen the incident because he had been sleeping.

33. On 30 November 2017 the applicant was questioned by the Department for the Execution and he stated that he had been attacked by a detainee and did not remember what had happened next. He also said that neither the staff at the SIZO nor the ambulance staff had provided him with the necessary medical assistance.

34. On 11 December 2017 P. refused to testify before the Department for the Execution.

35. No investigative actions were taken between December 2017 and June 2018. In June and August 2018, the Department for the Execution unsuccessfully tried to establish the whereabouts of K. On 21 June 2018 the Department for the Execution summoned the applicant, who, however, failed to respond.

36. On 24 July 2018 the legislation mentioned above (see paragraph 19 above) was repealed by a decision of the Constitutional Court.

37. In August 2018 Y. was questioned again and he confirmed that he had not seen P. hit the applicant. It is unclear whether Y. was questioned by the police or the Department for the Execution.

38. On 10 September 2018 a reconstruction of the events was conducted, during which the applicant stated that he had been accompanying P. down the corridor and had suddenly been hit from behind. It is unclear whether the reconstruction was conducted by the police or the Department for the Execution.

39. No investigative actions were taken between September 2018 and 17 July 2019 when the two investigations, under Article 345 and Article 127 of the Criminal Code, were merged into one and entrusted to the Shevchenkivskyy District Police Department.

40. Between 17 July 2019 and 17 December 2020 on seven occasions the investigators instructed the relevant police department to establish the whereabouts of D. and Y. No other investigative measures were taken during this period.

41. On 17 December 2020 the investigation was entrusted to the Main Department of the National Police of Kyiv.

42. In March 2021 D. was questioned and he said that he, together with the applicant, had let P. out of his cell. D. had noticed that a detainee had started to escape his cell through the food hatch. D. had approached the hatch and closed it. He turned around and had seen the applicant on the ground. D. said that he had not seen how the applicant had been hit.

43. From March to September 2021 the police unsuccessfully tried to establish whereabouts of K., Y., R., Var. and M. No other investigative measures were taken during this period.

44. On 20 October 2021 the police summoned the applicant, who, however, failed to appear.

45. Between October 2021 and 19 December 2022, the police unsuccessfully tried to establish whereabouts of K., R., P., Ch., Var., M., Y., D., and the applicant. No other investigative measures were taken during this period.

46. On 19 December 2022 the criminal investigation under Article 127 of the Criminal Code was closed, as it had been established that the attack had not been committed upon prior conspiracy. The decision was not appealed against and became final. The investigation under Article 345 continued, however, no investigative measures were taken until 4 August 2023 when the

police ordered the relevant unit to establish whereabouts of R., V., D., Ko., and Y.

47. In 2023 the police again questioned Var. and M. who confirmed their earlier statements. Several former SIZO detainees were also questioned, and they said that they had not witnessed the incident on 1 January 2017. The criminal proceedings remained pending as of February 2024 when the Government submitted to the Court their comments on the applicant's observations.

THE COURT'S ASSESSMENT

48. The applicant complained that the prison system in Ukraine was ineffective and had not ensured his safety in the workplace. In particular, he alleged that there had been a shortage of staff in the SIZO and that he had not been provided with sufficient training. In that regard, he relied on Articles 2 and 3 of the Convention under their substantive limbs. He also complained, relying on Article 13 of the Convention and under the procedural limbs of Articles 2 and 3 of the Convention, that his complaints had not been effectively investigated at the domestic level.

49. The Court, being the master of 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), will examine these complaints solely under the substantive and procedural limbs of Article 3 of the Convention.

I. ALLEGED VIOLATION OF THE PROCEDURAL LIMB OF ARTICLE 3 OF THE CONVENTION

A. Admissibility

50. The Government submitted that the applicant had abused his right of application because he had not informed the Court that after the incident, he had been provided with medical assistance by the SIZO paramedic. It was only in November 2017 that the applicant had raised his complaint concerning medical assistance before the domestic authorities. The Government further submitted that the applicant had intentionally misled the Court by stating in his application form that he had been alone when the incident had happened. Moreover, as the investigation is still pending, the applicant's complaint is premature.

51. The applicant submitted that from January 2017 to November 2018 all investigative actions had been conducted by the police, contrary to the new legislation on crimes in detention facilities (see paragraph 19 above). For that reason, all the evidence collected during that period could not be used by the prosecutors and taken into consideration by the courts. The Government had hidden from the Court the fact that the applicant had been tortured with a

metal rod by P. and two other detainees who had wanted “to join the highest level of the informal prison hierarchy among the adults”.

52. The Court considers that the fact that the applicant’s submissions before the Court contradicted those before the domestic authorities in itself is insufficient for it to find that the applicant abused his right to lodge an application with the Court. In particular, the applicant submitted with his application form copies of documents which made it possible to establish what he had submitted in the course of the domestic investigation, and therefore it cannot be concluded that the applicant had intentionally misled the Court. The Government’s objection regarding the abuse of the right to individual application must be therefore rejected.

53. Furthermore, the Court considers that the remainder of the Government’s arguments relate closely to the merits of the applicant’s complaint and the Court will, therefore, examine them in the framework of its analysis of the merits. It concludes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. Accordingly, it must be declared admissible.

B. Merits

54. The Government submitted that the investigation into the incident had been opened quickly and had not been plagued by substantial delays imputable to the State, while the applicant had failed to cooperate with the investigation on several occasions. The applicant and the eyewitnesses had contributed to the length of the investigation by changing their accounts of the events. The applicant maintained his complaints.

55. Reviewing the facts of the present case in the light of the general principles established in its case-law (see *Kaverzin v. Ukraine*, no. 23893/03, § 118, 15 May 2012), the Court observes that the investigation started one day after the incident, on 2 January 2017, and has lasted for about eight years so far. In 2017 and 2018 the investigative authorities questioned the applicant, P., and the eyewitnesses, examined the scene and conducted forensic examinations. Nevertheless, no charges have ever been brought and the investigation remained pending as of 2024.

56. The Court observes that between September 2018 and March 2021 the investigative authorities tried to establish whereabouts of Y. and D. who had already been questioned before and no other investigative measures were taken (see paragraphs 38-42 above). From March 2021 until the end of 2022 the police tried to establish whereabouts of a number of witnesses. The Court notes that some of them had already been questioned before and that the significance of questioning the others remains unclear. In 2023 the police had again questioned the witnesses which had been questioned before and also several individuals who had no knowledge of the events (see paragraph 47

above). In these circumstances, the Court cannot but conclude that after September 2018 the investigative authorities have not taken any meaningful steps leading to establishment of the facts of the case and to identification and punishment of those responsible.

57. It is true that the applicant failed to report to the police on a number of occasions which contributed to the length of the proceedings. However, the Court notes that at that point the investigative authorities had already had at their disposal the applicant's statements given shortly after the incident, P.'s confessions and statements of a number of the eyewitnesses. The Court thus concludes that the responsibility for protraction of the investigation rests primarily with the domestic authorities.

58. In the light of the above considerations and having regard to the overall length of the investigation, which remains pending, the Court finds that the domestic authorities did not fulfil their obligation to conduct an effective investigation. Accordingly, there has been a violation of the procedural limb of Article 3 of the Convention.

II. ALLEGED VIOLATION OF THE SUBSTANTIVE LIMB OF ARTICLE 3 OF THE CONVENTION

59. The Government stated that the applicant's complaint was manifestly ill-founded. The applicant maintained his complaints. He noted that the State was responsible for the fact that P. had been able to escape through the food hatch.

60. The Court notes that in so far as understaffing is concerned, before the domestic authorities, the applicant himself acknowledged that during the attack he had been accompanied by two officers. The Court further notes that the internal investigation established that the incident had occurred owing to the applicant's failure to follow the instructions given for his duties, in particular that he had been drunk at the workplace (see paragraph 9 above).

61. The Court considers that the applicant failed to provide sufficient evidence for it to conclude that it was the State's fault that P. had attacked the applicant. It notes, in particular, that the applicant's assertion that he had not been provided with timely and appropriate medical assistance is not supported by any evidence. Moreover, the applicant only raised his complaint in that regard before the domestic authorities in November 2017.

62. It follows that the complaint under the substantive limb of Article 3 of the Convention is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

63. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning the lack of an effective investigation admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of the procedural limb of Article 3 of the Convention.

Done in English, and notified in writing on 30 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller
Deputy Registrar

Georgios A. Serghides
President