



## Refusal to provide prisoner with free dentures breached his human rights

In today's **Committee** judgment in the case of **Benyukh v. Ukraine** (application no. 39150/20) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 (prohibition of inhuman or degrading treatment) and**

**a violation of Article 13 (right to an effective remedy) of the European Convention on Human Rights.**

The case concerned Mr Benyukh's dental treatment in detention, in particular a 19-month delay in providing him with dentures despite duty-of-care legislative provisions making them available free of charge to prisoners with an established need for them but no means to pay.

The Court found that those duty-of-care legislative provisions had been rendered ineffective by a combination of legislative, administrative and financial obstacles in Mr Benyukh's case. It had no reason to doubt that his lack of dentures had made eating painful, had changed his speech and his facial appearance, and had caused him distress, which had been further exacerbated by other medical conditions.

The judgment is final.

### Principal facts

The applicant, Oleksiy Anatoliyovych Benyukh, is a Ukrainian national who was born in 1974. He has been serving a sentence of life imprisonment since 1999 and is currently detained in Vinnytsya (Ukraine).

Mr Benyukh alleged that, during his time in prison, almost all of his teeth had been extracted for medical reasons. As a result, it was painful for him to eat, and he could not chew properly. His speech and facial appearance had also changed, which caused him humiliation and suffering. He had also been diagnosed with chronic gastroduodenitis and pancreatitis. His medical records contained no mention of tooth extractions or any indication of the need for dentures until 2019 when he was examined by a dentist, who diagnosed him with full maxillary and partial mandibular adentia (absence of teeth). The dentist recommended that he be fitted with dentures, and, on 22 October 2019, the prison medical facility asked the municipal authorities to consider providing him with dentures free of charge since he qualified for them under the legislation on medical care for prisoners, which guaranteed free dentures to prisoners who had no other means of obtaining any.

On 28 October 2019 the municipal authorities rejected the request, stating, on the one hand, that free dentures for prisoners were provided by healthcare institutions on a contractual basis and, on the other hand, that no such contract had been signed between the prison medical facility and the relevant municipal healthcare institutions. Moreover, costs related to prisoners' dentures were not included in the municipal budget. On 8 September 2020 the prison medical facility asked the municipal authorities to consider including such costs in the municipal budget but received no reply.

In March 2021 a non-governmental organisation (NGO), Youth with a Mission (Молодь з місією), offered to the prison authorities to provide a limited number of prisoners with free dental care. That offer was accepted. As a result, in May 2021 Mr Benyukh was examined by an NGO dentist, who confirmed his adentia diagnosis. After having some additional treatment, Mr Benyukh was fitted with dentures by the NGO in September 2021.

## Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, Mr Benyukh alleged that he had not been given adequate dental treatment in detention as he had been refused free dentures. He also raised a complaint under Article 13 (right to an effective remedy) concerning the lack of a legal avenue in Ukraine for his complaint.

The application was lodged with the European Court of Human Rights on 4 November 2020.

Judgment was given by a Committee of three judges, composed as follows:

María Elósegui (Spain), *President*,  
Andreas Zünd (Switzerland),  
Mykola Gnatovskyy (Ukraine),

and also Martina Keller, *Deputy Section Registrar*.

## Decision of the Court

### Article 3

The Court observed that the authorities had been aware that Mr Benyukh was in need of dentures since at least 22 October 2019. Despite the duty-of-care legislative provisions making dentures available free of charge to prisoners with an established need for them but no means to pay, Mr Benyukh had not been provided with any. The authorities gave the reason for that as the absence of a relevant framework and a lack of funding. Therefore, the Court found that the legislative provisions had been rendered ineffective by a combination of legislative, administrative and financial obstacles. Although Mr Benyukh had eventually – 19 months later – been fitted with dentures on the initiative of and at the NGO's expense, there was no indication that the authorities had played any part in that process beyond allowing Mr Benyukh to accept the help offered.

The Court had no reason to doubt that Mr Benyukh's lack of dentures had made eating painful, had changed his speech and his facial appearance, and had caused him distress, which had been further exacerbated by other medical conditions. The Court found, therefore, that there had been a violation of Article 3 of the Convention.

### Article 13

Having examined the material in the case file, and in the light of its well-established case-law (see *Melnik v. Ukraine*), the Court concluded that the complaint disclosed a violation of Article 13.

### Just satisfaction (Article 41)

The Court held that Ukraine was to pay the applicant 3,000 euros (EUR) in respect of non-pecuniary damage.

*The judgment is available only in English.*

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