



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

FIFTH SECTION

CASE OF LUTSENKO v. UKRAINE (No. 2)

(Application no. 29334/11)

JUDGMENT

STRASBOURG

11 June 2015

FINAL

11/09/2015

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Lutsenko v. Ukraine (no. 2),

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

Mark Villiger, *President*,

Angelika Nußberger,

Boštjan M. Zupančič,

Ganna Yudkivska,

Vincent A. De Gaetano,

André Potocki,

Aleš Pejchal, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 12 Mai 2015,

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

PROCEDURE

1. The case originated in an application (no. 29334/11) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Ukrainian national, Mr Yuriy Vitaliyovych Lutsenko (“the applicant”), on 6 May 2011.

2. The applicant was represented by Ms Valentyna Telychenko, Mr Igor Fomin and Mr Arkady Buschenko, lawyers practising in Kyiv. The Ukrainian Government (“the Government”) were represented by their then Agent, Mr Nazar Kulchytskyy, from the Ministry of Justice.

3. The applicant complained, in particular, under Article 3 of the Convention, about the material conditions of his detention in the Kyiv detention facility and that the medical care he had received was inadequate. He also alleged that he had been held in a small and poorly ventilated room while waiting for the hearings, and in a metal cage during the hearings themselves.

4. On 14 February 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant, Mr Yuriy Vitaliyovych Lutsenko, is a Ukrainian national who was born in 1964.

A. Background of the case

6. The applicant was the Minister of the Interior. He occupied this post from 2005 to 2006 and from 18 December 2007 to 11 March 2010. Since 27 August 2014 he has been the leader of the Bloc of Petro Poroshenko party.

7. On 2 November 2010 the General Prosecutor's Office (hereinafter "the GPO") instituted criminal proceedings against the applicant and another individual, Mr P., on suspicion of abuse of office under Article 191 § 3 of the Criminal Code. On 5 November 2010 the applicant was formally charged. On the same day he gave a written obligation not to abscond.

8. On 11 December 2010 the GPO instituted another criminal case against the applicant for exceeding his official powers under Article 365 § 3 of the Criminal Code, on the ground that he had arranged for the allocation of a one-room apartment to his driver, Mr P.

9. The two criminal cases were joined together.

10. On 13 December 2010 the GPO completed the investigation in the case and formally charged the applicant with both offences, having reclassified his actions specified in the first charge under Article 191 § 5 of the Criminal Code (misappropriation, embezzlement, and conversion of property by malfeasance).

11. On 26 December 2010 the applicant was arrested and detained in the Security Service Detention Centre (*Слідчий Ізолятор Служби Безпеки України*).

12. On 27 December 2010 the Pechersk District Court (*Печерський районний суд*) (hereinafter "the Pechersk Court") ordered that the preventive measure in respect of the applicant be changed from a written obligation not to abscond to remand in custody.

13. On 28 December 2010 the applicant was transferred to Kyiv Pre-Trial Detention Centre no. 13 (*Київський Слідчий Ізолятор №13*) (hereinafter "the SIZO").

14. On 17 May 2011 the GPO submitted the applicant's criminal case to the Pechersk Court which, on 27 February 2012, rendered a judgment sentencing the applicant to four years' imprisonment. The case received extensive attention in both national and international media which were present at court hearings. Photographs depicting the applicant behind metal bars were published soon after the court hearings.

15. On 7 March 2012 the applicant appealed, seeking the quashing of the first-instance judgment on the ground of lack of guilt.

16. On 16 May 2012 the Kyiv Court of Appeal (*Апеляційний суд міста Києва*) upheld the judgment of the Pechersk Court.

17. On 31 August 2012 the applicant was transferred to Mena colony in Chernihiv Region to serve his prison sentence.

18. In a judgment of 3 April 2013 the Higher Specialised Court of Ukraine for civil and criminal cases (*Вищий спеціалізований суд України з розгляду цивільних і кримінальних справ*) upheld the applicant's prison sentence slightly reducing the amount of compensation that he had to pay.

19. On 7 April 2013 the former President of Ukraine issued a decree of pardon in respect of a number of individuals, including the applicant, who was released the same day.

B. The applicant's health and the medical care provided to him

20. Prior to his arrest the applicant was diagnosed with diabetes mellitus type 2 and chronic gastritis and pancreatitis.

21. Upon his admission to the SIZO on 28 December 2010, the applicant was examined by the head of the medical unit and a duty doctor. He underwent clinical, laboratory and X-ray examinations. On the basis of those examinations and the applicant's anamnesis, he was diagnosed with symptomatic hypertension and it was recommended that his arterial pressure be constantly monitored. According to the applicant, the prison doctors did not pay attention to his chronic diseases which were mentioned in the medical report submitted to the Pechersk District Court and indicated orally by him on a number of occasions.

22. According to the Government, during the period from December 2010 to April 2011 the applicant was under constant supervision by doctors of the SIZO medical unit who visited him on 29, 30 and 31 December 2010, 1-9, 17 and 24 January, 10, 18 and 25 February, 1, 10 and 20 March and on 1 April 2011. During this period, no complaints were received from him and his state of health remained satisfactory. Doctors regularly measured his blood pressure and pulse rate and carried out his general examination. The applicant denied that he had not complained about problems connected with his state of health. According to him, during the three first months of his detention, he lost more than 20 kilograms, his low-grade fever and spastic stomach pain was constant.

23. Following the applicant's complaints about the deterioration of his health, on 24 February 2011, a private medical laboratory took blood samples from him for analysis. Inflammation was diagnosed as a result. The doctor who arrived at that conclusion presumed that it was probably a mixed viral and bacterial infection. A provisional diagnosis of rheumatoid arthritis was also made. For more specific diagnoses, further specialist examinations were required.

24. On 9 March 2011 the applicant was diagnosed with arthritis by SIZO doctors.

25. On 15 March 2011 a new blood analysis showed some negative changes in the applicant's immune system. His requests for examination by

the cardiologist/rheumatologist who issued the above conclusion were without success.

26. According to the Government, on 6 and 13 April 2011 the applicant was examined by the head of the SIZO medical unit. He complained of pain in the joints. He was diagnosed with symptomatic hypertension and generalised osteoarthritis, and blood pressure monitoring was recommended.

27. On 21 April 2011 the applicant went on hunger strike in protest at his continued pre-trial detention.

28. According to the Government, between 22 April and 10 May 2011 the applicant was under daily supervision by doctors of the SIZO medical unit. From time to time he complained of dizziness and general weakness. His state of health remained satisfactory during this period.

29. On 29 April 2011 the SIZO administration placed him in a solitary-confinement cell and demonstrated forced-feeding facilities (such as handcuffs, a mouth widener and a rubber tube). Those were apparently never applied to him.

30. According to the Government, on the same day, the applicant was examined by the head of the SIZO medical unit. He complained of heart pain, which he said was worse when he made turning movements. The applicant was diagnosed with symptomatic hypertension, generalised osteoarthritis, and myositis of the left major pectoral muscle. At the same time, he informed the doctor that he had eaten no food for several days and had only had tea without sugar and coffee with sugar. An analysis of the applicant's urine was carried out. There was a one-plus reaction for acetone. General monitoring of the applicant's state of health, of the acetone level in his urine, and of his blood pressure was recommended.

On 1 May 2011 the applicant was examined by a panel of doctors from the State Prison Service of Ukraine (*Державна пенітенціарна служба України*) (hereinafter "the SPS"). He was prescribed an "anti-starvation food mixture" (semolina or oatmeal, butter, sugar, milk, eggs, boiled meat, salt, and ascorbic acid, with a total caloric content of 1,638.5 kcal) and the following medication: NaCL solution, vitamins B1 and B6, and Riboxin solution. On the same date a general blood analysis, a blood sugar-level test and a urine acetone test were carried out for the applicant - (a "three-plus" reaction was obtained). On the same date the applicant consumed 500 ml of "anti-starvation food mixture".

On 2 May 2011 the SPS medical panel found his general state of health stable and held that positive progress was being made in overcoming

dizziness and general weakness. A urine test for acetone was carried out for the applicant (a “three-plus” reaction was obtained).

On 3 May 2011, upon another examination by the SPS medical panel, a urine acetone test was carried out for the applicant. A “three-plus” reaction was obtained. On the same date the applicant consumed 400 ml of “anti-starvation food mixture”. It was recommended that he undergo further biochemical and general blood tests, a general urine analysis, a blood-sugar-level test and a urine acetone test, and also ultrasonic examinations of his abdominal cavity and kidneys. Injections of Reosorbilact solution and of glucose in solution were given to the applicant.

On 4 May 2011 the SPS medical panel saw the applicant again. He was found to have moderate diffuse changes in the liver, chronic cholecystitis and chronic pancreatitis. On the same date the applicant consumed 500 ml of “anti-starvation food mixture”. Injections of Reosorbilact solution and of glucose in solution were given to the applicant.

31. On 5 May 2011 the applicant’s wife asked the SIZO administration to carry out medical examinations of her husband in her presence. By that time, the applicant had lost about fourteen kilograms in weight. On the same day, according to the Government, the applicant was examined by the SPS medical panel. A general blood test, a blood-sugar-level test and a test of the urine for acetone were carried out at the Dila Laboratory. The test results were low-grade positive. The applicant was diagnosed with chronic cholecystitis and chronic pancreatitis. It was also found that the applicant’s state of health reflected his starvation. On the same date, the applicant refused to eat food or to undergo fluid-maintenance therapy to restore the balance of water, protein, and electrolytes in the body.

32. On 6 May 2011 the applicant was transferred to the SIZO medical unit. According to the Government, he was examined by a panel of doctors from civilian medical institutions. He was diagnosed with hypertension of the 1st degree, cardiac insufficiency, type 2 diabetes mellitus in a mild form at the compensation stage, chronic cholecystitis in unstable remission, chronic pancreatitis in unstable remission, osteoarthritis without exacerbation, disseminated osteochondrosis of the spine, and thoracic kyphosis. It was recommended that the applicant: (1) undergo an exercise electrocardiography (ECG) test and ultrasonic examination of the heart in order to exclude ischaemic heart disease; (2) take antihypertensive medication (Prestarium Combi) when the blood pressure was higher than 140/90 mm Hg; take Metoprolol in order to stop the tachycardia which occurred when the pulse rate was higher than 100 beats per minute. The applicant received this medical treatment in full.

33. According to the Government, on 7 May 2011 he was once again examined by the SPS medical panel. A check test of the urine for acetone was carried out (a “two-plus” reaction was obtained) and a general urine test was also done for the applicant. The panel confirmed the previous

diagnosis. The applicant refused to consume any of the “anti-starvation food mixture” or to undergo fluid maintenance therapy.

On 8 May 2011 he was examined by a panel of doctors from Kyiv-based medical institutions of the Ministry of Health. The previous diagnosis was confirmed and it was additionally found that the applicant had chronic gastritis in unstable remission. The panel noted that the applicant’s hunger strike was significantly affecting his general state of health. Electrocardiography and echocardiography tests were carried out for the applicant. The urinary reaction for acetone was one-plus. The applicant was refusing to consume the “anti-starvation food mixture”. He was subjected to fluid-maintenance therapy with Aminoven. It was also recommended that the applicant broaden the variety of foods he ate, limiting the consumption of easily digestible carbohydrates (sugar, honey, and sweets); consistently take graduated physical activity; take Duphalac or Guttalax (to normalise bowel function) and probiotics (Lacium or Symbiter).

On 9 and 10 May 2011 the applicant was examined by the SPS medical panel. The urinary reaction for acetone was low-grade positive. He refused to consume “anti-starvation food mixture”. He was subjected to fluid-maintenance therapy with a physiological solution, vitamins B1, B6, C, Riboxin, and Reosorbilact.

34. According to the applicant, before 10 May 2011 his medical monitoring had been limited to measuring his blood pressure and weighing him, along with a superficial examination by the SIZO doctor.

35. On 10 May 2011 he was taken to the Kyiv Clinical Emergency Hospital (*Міська клінічна лікарня швидкої медичної допомоги*) (hereinafter “the Emergency Hospital”). On the following day, the management of the hospital informed the investigator that the applicant was suffering from chronic pancreatitis in the aggravated stage, chronic gastroduodenitis, cardiac-type neurocirculatory dystonia, and type 2 diabetes. His condition was evaluated as moderately serious.

36. On 18 May 2011 the deputy medical director of the Emergency Hospital gave additional details to the applicant’s wife as regards his health. In addition to the aforementioned diagnoses, he noted the following illnesses: chronic cholecystitis, gall bladder polyposis, autoimmune thyroiditis, euthyroidism, seborrheic dermatitis, myopia, osteochondrosis, chronic sinusitis, right-ear deafness, duodenal ulcer, gastric erosion and duodenogastric reflux.

37. On 23 May 2011 the applicant ended his hunger strike.

38. According to the Government, on 24 May 2011 he was examined by doctors of the SIZO medical unit. On the same date he ate gruel. He was also subjected to fluid-maintenance treatment with Aminoven and Pariet. Generally, although he continued to complain of general weakness, his condition improved considerably once he had ended the hunger strike.

The SIZO doctors saw the applicant also on the next day. They concluded that the applicant was suffering from the following illnesses: exacerbated chronic pancreatitis, chronic cholecystitis, gall-bladder polyposis, chronic duodenal ulcer, autoimmune thyroiditis, euthyroidism, type 2 diabetes mellitus, cardiac-type neurocirculatory dystonia of medium severity, seborrheic dermatitis, cervical osteochondrosis, toxic-dyscirculatory encephalopathy of endogenic origin (degree I-II), duodenal ulcer, papillomatous gastropathy, and gastric erosions. On the same date the applicant ate gruel and drank water and carrot juice. The applicant underwent fluid-maintenance treatment and anti-ulcer treatment.

On 26 and 27 May 2011 the doctors of the SIZO medical unit confirmed the previous diagnosis. The applicant received fluid-maintenance and anti-ulcer treatment and underwent a urine test (which indicated no acetone), a blood test for sugar, and biochemical analysis of the blood. A consultation with a gastroenterologist was also scheduled for the applicant.

On 28 May 2011 the applicant was examined by a panel of doctors from civilian medical institutions. As a result of the examination, the panel found the applicant's general state of health to be satisfactory. The applicant was diagnosed with the following conditions: peptic duodenal ulcer, post gastrointestinal haemorrhage condition, erosive gastritis, and mild post haemorrhagic anemia. It was recommended that he receive anti-ulcer treatment as an in-patient basis at a gastroenterology clinic. If it was impossible to arrange in-patient treatment for him, he would have to continue to take Pariet; again undergo a fibrogastroscopy with biopsy, a general blood test, electrolytes (potassium, phosphorus, fecal occult blood test) and eat five small meals a day, sticking to a diet with a high protein content.

39. According to the applicant, on 28 May 2011 he was examined in the SIZO and diagnosed with a duodenal ulcer in the progressing phase, gastrointestinal bleeding, erosive gastritis, and toxic-metabolic encephalopathy. Moreover, all his previously diagnosed diseases were confirmed.

40. According to the Government, on 29 May 2011 he was examined by SIZO doctors, who confirmed the previous diagnoses. He continued to receive the anti-ulcer treatment and multiple small-portion meals.

41. On 30 May 2011 the applicant underwent a urine acetone test, which revealed no acetone, a blood test for sugar, and a general blood test. The examination results confirmed the previous diagnoses.

42. On 31 May and 1 June 2011 he was examined by SIZO doctors who confirmed the previous diagnoses. Analyses of his blood and urine were carried out. He continued to receive the anti-ulcer treatment and appropriate diet.

43. On 8 June 2011 the governor of the SIZO informed the President of the Pechersky Court of some further diagnoses regarding the applicant's

health, established during his examination of 28 May 2011, and sought leave for him to be examined in the Emergency Hospital. According to the Government, the letter was sent to the court only on 9 June 2011.

44. In his reply of 14 June 2011 the judge of the Pechersk Court stated that the court did not object to the applicant's being examined in a civilian hospital. A copy of this letter was sent to the Convoy Service of the Ministry of the Interior with a request for escorted transport for the applicant.

45. On 23 June 2011 the Convoy Service replied that the applicant's medical care was the responsibility of the SIZO administration.

46. On 24 June 2011 the applicant's wife and his legal representative made a new request to the court that he be hospitalised. They alleged that the applicant had constant stomach pain and had lost more weight, 24 kg in total. On 29 June 2011 the judge replied that the court had no objection.

47. According to the Government, from 2 June to 2 July 2011 the applicant was examined daily by SIZO doctors. In line with the instructions given following the previous examination by the medical panel, the applicant had regular clinical, biochemical, and general blood tests and urine analyses (these took place on 7, 8, 15, 18, 19, and 30 June 2011). The applicant was receiving anti-ulcer treatment, the recommended diet, and the prescribed outpatient treatment. During this period, the above-mentioned diagnoses remained valid. Furthermore, on 24 June 2011 the doctors found that his peptic duodenal ulcer had begun to cicatrise, which indicated a gradual improvement in his state of health.

48. According to the Government, the court gave its permission for the applicant's examination at the Emergency Hospital on 14 July 2011.

49. On 15 July 2011 the applicant was examined at the Emergency Hospital. Fibrogastroscopy and ultrasonic scans were performed for the applicant. The examination revealed that he had esophageal varicose veins with 1st degree dilatation, moderate portal hypertensive gastropathy, chronic cholecystitis, gall-bladder polyposis, chronic pancreatitis, and urolithic diathesis. It was recommended that the applicant undergo a biochemical blood test, a general blood test, analyses for hepatitis B, C, and D antibody titers, abdominal ultrasonic scanning with Doppler sonography. According to the applicant, he did not receive any of the prescribed medicines.

50. On 21 July 2011, blood samples were taken from the applicant in the presence of his lawyer for complex liver function tests (hepatitis B, C, and D). At the applicant's request, in order to ensure an objective analysis, the samples were sent to two laboratories: Eurolab and Synevo.

51. On 22 July 2011 the applicant underwent abdominal ultrasonic scanning with Doppler sonography at the Emergency Hospital. On the basis of the examination, the following diagnosis was made: signs of diffuse damage to the liver in a chronic hepatitis pattern, portal hypertension of the P' degree, splenomegaly of the 1st degree, and chronic cholecystitis. In

pursuance of the recommendation, the applicant was tested for hepatitis B, C, and D markers, and liver function tests were done.

52. On 23 July 2011 the applicant was prescribed the following medication: Ursofalk, Essentiale Forte, Primer, Chophtol, and Duspatalin.

53. According to the Government, from 2 to 30 August 2011 the applicant was under daily supervision by SIZO doctors. His state of health remained unchanged. He continued complaining of discomfort in the upper abdomen. He received the medical treatment prescribed for him earlier.

54. On 30 August 2011 two senior civilian doctors examined the applicant in the SIZO. They diagnosed cirrhosis of the liver supposedly triggered by the earlier hunger strike. Furthermore, two internal haemorrhages were noted. It was recommended that the applicant undergo a more thorough examination in a specialist civilian hospital. In the meantime, he needed to get proper nutrition.

55. According to the Government, on 2 September 2011, following a court decision, the SIZO was visited by a panel of doctors (gastroenterologists, an endoscopist, and an ultra-sonographer). The applicant refused to be medically examined, to have blood samples taken, or to undergo ultrasonic examinations and fibrogastroduodenoscopy, which had been recommended by the medical panel.

56. On 6 September 2011 a commission of the Ministry of Health examined the applicant in the SIZO. It recommended that he undergo examination with special equipment so that specific diagnoses could be made.

57. On 7 and 8 September 2011 blood samples and faeces were taken from the applicant for laboratory tests.

58. On 13 September 2011 the applicant's wife again requested the Pechersk Court to allow her husband to be hospitalised and given proper treatment.

59. On 15 September 2011 the applicant was hospitalised and examined in the Kyiv City Diagnostic Centre, which diagnosed the initial signs of portal hypertension, as well as signs of chronic cholecystitis, angiomyolipoma of the right kidney, and parenchymatous cyst of the left kidney. On the same date the applicant underwent an abdominal ultrasonic scan, which discovered signs of gall-bladder polyps and pancreatic diffuse changes, and confirmed the aforementioned kidney pathologies.

60. On 20 September 2011 the applicant underwent a colonoscopy which showed sigmoid colon diverticulitis. On the same day a newly appointed commission of the Ministry of Health examined him and diagnosed fatty liver disease. Dietetic therapy, mineral-vitamin complex, proton pump blockers and hepato-protectors were prescribed.

61. According to the Government, on 22 September 2011 the applicant consulted a haematologist. In view of a decreased number of white blood cells (leukocytes) and thrombocytes in his blood, it was recommended that

he again undergo a general blood test at two independent laboratories, to be identified by the Ministry of Health. Once the results of those examinations were known it was recommended that the applicant again consult a haematologist.

62. On 23 September 2011 the applicant's blood samples were sent to the laboratory for a general blood test. On 26 September 2011, following the haematologist's recommendation, a blood sample was sent to the Sinevo laboratory for a coagulation profile test.

63. On 28 September 2011 the applicant again consulted the haematologist. The results of the previous examinations led the doctor to find that he had no blood system disorders.

64. On 24 October 2011 the applicant completed the course of medical treatment prescribed by the panel of doctors from civilian medical institutions on 20 September 2011.

65. On 29 September 2011 it was proposed that he undergo a liver biopsy, which he declined.

According to him, the biopsy is a surgical intervention, after which the patient should stay in the medical institution under medical supervision for a period the doctor considers necessary to monitor any post-operative complications. However, the applicant was not provided with guarantees that the medical care would be adequate and that he would stay in the hospital after the biopsy. He considered that removing him immediately to the SIZO would hurt his state of health. Besides, the applicant feared that proper medical care would not be provided to him in the SIZO if there were complications after the biopsy. He referred in this connection to his previous experience.

66. On 4 October 2011 the applicant's relatives brought him the proton pump blockers and hepato-protectors which had been prescribed by the Ministry of Health commission specialists as early as 20 September 2011.

67. According to the Government, on 2 November 2011 the applicant was examined by SIZO doctors. When examined, he complained of general weakness, dragging pain in the right hypochondrium, and discomfort in the upper abdomen and in the intestine area. He was diagnosed with fatty liver disease, signs of incipient portal hypertension, erosive haemorrhagic helicobacter-associated gastritis, and diverticular disease of the sigmoid colon. As the applicant had completed the prescribed course of outpatient treatment, it was proposed that he undergo laboratory and instrumental tests. The applicant submitted a written statement refusing to undergo fibrogastroduodenoscopy and rectosigmoidoscopy.

68. On 3 November 2011 blood samples were taken from the applicant for laboratory examination at the Kyiv diagnostic centre. In particular, he underwent clinical, general, and biochemical blood tests and a coagulation profile test.

69. On 5 November 2011, upon a court decision, the applicant was examined by a panel of doctors from civilian medical institutions. He was diagnosed with the following conditions: fatty liver disease, signs of incipient portal hypertension, chronic helicobacter associated gastritis, and diverticular disease of the sigmoid colon. It was recommended that the applicant undergo an abdominal ultrasound scan, a faecal occult blood test, and a faecal analysis for helminth eggs and protozoa, consult a urologist, receive diet-based treatment, take a mineral-vitamin complex, and continue to take proton-pump inhibitors.

70. On 8 November 2011 the applicant underwent abdominal ultrasonic scanning at the Kyiv City Diagnostic Centre. He was diagnosed with gall bladder polyp signs, moderate pancreatic changes, angiomyolipomas of the right kidney, and small cysts of the left renal sinus. However, he refused to consult a urologist.

71. On 9 November 2011 he received a parcel with the necessary medication.

72. According to the Government, during November 2011 the applicant's state of health remained satisfactory. From time to time he complained of general weakness, discomfort in the large intestine area, and pain in the right hypochondrium. During that period, he was examined daily by doctors of the SIZO medical unit, and regularly provided with the prescribed medical treatment. The diagnosis remained unchanged.

However, the applicant continued to complain of periodic discomfort in the large intestine area. He received the medical treatment prescribed by the panel of doctors from civilian medical institutions on 5 November 2011.

73. On 14 December 2011 the applicant was examined by a panel of doctors from civilian medical institutions. The results of the earlier examinations led the doctors to diagnose the applicant with the following conditions: fatty liver disease, signs of incipient portal hypertension, chronic helicobacter-associated gastritis, irritable bowel syndrome, and diverticular disease of sigmoid colon, but no signs of blood disorder were found. The doctors recommended that the applicant undergo some additional examinations: electrocardiography, irrigoscopy, and an analysis of faeces for dysbiosis, to determine pancreatic (faecal) elastase, and a faecal occult blood test. Also, the applicant was prescribed the following medical treatment: diet-based treatment; Spasmomen or Meteospasmyl; Posterisan suppositories; Kreon; Validolum, to stop pain in the stomach; Chophytol, to continue to take from 19 December 2011. However, on 19 December the applicant on his own initiative refused to start the medical treatment prescribed.

74. In early January 2012 the applicant complained to the SIZO administration of stomach and intestinal pains.

75. On 5 and 14 January 2012 he underwent various laboratory tests in respect of his chronic gastrointestinal diseases, and on 11 January 2012 an ultrasonic examination of his abdominal cavity was conducted.

76. On 19 January 2012, during a court hearing, the applicant complained that he did not feel well. An ambulance was therefore called. The doctor diagnosed exacerbation of chronic pancreatitis and administered some medication to the applicant. The applicant's overall state of health was assessed as satisfactory.

77. On 20 January 2012 the applicant was examined by a panel of medical specialists delegated by the Ministry of Health which established the following diagnoses: fatty liver disease (steatosis), signs of incipient portal hypertension, chronic helicobacter-associated gastritis, irritable bowel syndrome, and diverticulosis of sigmoid colon. While the commission acknowledged a deterioration of the applicant's health due to "nutrition-regime disturbance and psycho-emotional overload", it found his health generally satisfactory and not warranting in-patient treatment in a specialist civilian hospital. The physicians recommended normalisation of the nutrition regime and reduction of the psycho-emotional pressure. They also prescribed some medication.

78. On 23 January 2012 the Ministry of Health delegated another panel, of three gastroenterologists, to examine the applicant in the SIZO. The doctors found him to be in a generally satisfactory state of health, and concluded that he did not require hospitalisation. They also specified the medication to be administered to the applicant, and repeated the earlier recommendation regarding his nutritional needs.

79. On 24 February 2012 the applicant was examined by a panel of doctors from civilian medical institutions. They noted that his state of health had improved. The applicant was diagnosed with fatty liver disease (steatosis), signs of incipient portal hypertension, chronic helicobacter-associated gastritis, irritable bowel syndrome, and diverticulosis of sigmoid colon. It was advised that he receive rational nutrition diet, continue to take Duspatalin and take Kreon, Valeriana extract, and suppositories with belladonna. The applicant received that medication in full.

80. On 6 April 2012 he was transferred from the SIZO to the Emergency Hospital for further examination.

81. According to the applicant, despite numerous check-ups, there was no proper medical treatment or medicine available to him in the SIZO. He received proper medical treatment in the Emergency Hospital on 10 May 2011 and 6 April 2012, but was discharged from the hospital on 23 May 2011 and 20 April 2012 respectively, upon an arbitrary decision by the Prison Service authorities, rather than upon a decision of the doctors treating him at the hospital. He was provided with medication which was incompatible with his general state of health, and although they treated his

immediate health problem they contributed to the deterioration of his general state of health.

C. Material conditions of the applicant's detention in the SIZO

82. Upon his admission to the SIZO, the applicant was placed in cell no. 158, measuring 8.58 square metres. He shared the cell with one or two other inmates. According to him, the cell had poor ventilation and lacked personal hygiene facilities. Its walls had mould traces. Furthermore, there was no access to drinking water. Except for period from 28 April to 8 May 2011 (see paragraph 110 below), he shared this cell with two other detainees.

83. According to the Government, the cell had a proper ventilation system and natural lighting. The applicant had had daily exercise in the fresh air, except on days when lengthy court hearings were held. He was permitted to receive drinking water from relatives. He was allowed to take a shower once or twice a week.

84. From 8 to 10 May 2011, the applicant was held in cell no. 257 in the SIZO medical unit, which measured 23.21 square metres.

85. From 10 to 23 May 2011 he was a patient in the Emergency Hospital.

86. On 23 May 2011 the applicant was transferred to cell no. 260, measuring 22.32 square metres, in the SIZO medical unit, which he shared with another person. He remained there until 1 July 2011.

87. On 1 July 2011 he was transferred to cell no. 158, which he shared with another inmate.

88. On 27 March 2012 he was moved to cell no. 136.

89. On 6 April 2012 the applicant was transferred to the Emergency Hospital. He returned to cell no. 136 on 20 April 2012.

D. Conditions of the applicant's detention during the court hearings

90. From the documents provided by the Government, in particular the minutes of the hearings held before the Pechersk Court (see annex), it appears that between 23 May 2011 and 16 February 2012 the court held seventy-nine hearings at which the applicant was present. At the hearing of 27 February 2012, it pronounced the judgment convicting the applicant. During thirty-five hearings, the court did not withdraw for deliberation on intermediate procedural issues but at least one break was announced, during twelve hearings the court both withdrew to deliberate and announced at least one break, and eleven hearings were interrupted by deliberations on intermediate procedural issue of the court but otherwise were carried out without a proper break. On 14 and 19 July, 22 August and 29 September 2011, 17, 27 and 31 January, 1, 2, 6, 7, 9, 14 and 15 February 2012 the court

announced breaks for lunch. However, on 14 July 2011 the applicant had been removed from the courtroom for the rest of the hearing because of his improper behavior before the lunch break was announced.

Moreover, eighteen hearings were carried out without any deliberation and the court did not announce any break. In particular, on 12 October 2011 the hearing lasted two hours and 51 minutes, on 18 October 2011 it took three hours and 36 minutes, and on 16 and 21 November 2011 the hearings lasted almost three hours.

91. The applicant continued his hunger strike up to 23 May 2011. He was informed beforehand that the preliminary hearing would be held on that day. According to him, he was woken up at 4.30 a.m. to be taken to the court building for a hearing which started at about 11 a.m. He had to wait in a small convey room of about 1.5 square metres. Overall, for about twelve to fourteen hours, he was allegedly held without food and drinking water, in poorly ventilated premises. On the same day, he terminated the hunger strike, which had lasted for about a month.

92. According to the Government, this information was incorrect. The applicant left the hospital at 7 a.m., reaching the court-house at 7.20 a.m. At 10.30 a.m. he was transferred to the courtroom.

93. According to the applicant, he was brought to the court hearing with an open bleeding stomach ulcer, although this condition required immediate hospitalisation. After the eight-hour hearing he was driven to the SIZO. He was transferred to the medical unit of the SIZO only after he had lost consciousness. Despite this, no treatment was recommended for him. Late at night the applicant's state of health suddenly worsened.

94. According to the Government, as long as the applicant was in hospital, his health was under constant supervision by medical specialists there. In the event that his state of health did not permit him to take part in a hearing, this would be notified by the medical staff and the applicant would not then have been conveyed to the court hearing.

95. According to the applicant, he suffered from the absence of drinking water and nutrition, as well as the lack of rest, during the later court hearings too, while being kept in a metal cage in the courtroom.

96. On 20 January 2012 the applicant, in his request under Rule 39 of the Rules of Court, which was subsequently not granted, maintained that on 17 and 18 January 2012 the Pechersk Court had held the hearings daily despite his complaints of deteriorating health and acute pain in his stomach. According to him, the hearings had lasted from 9 a.m. until 6:30 p.m. usually with one thirty-minute break. On 19 January 2012 the court hearing had lasted from 9 a.m. until 11:30 p.m. The applicant stated that after having left the SIZO, he had not been provided with any food or water until

his return. Moreover, on 19 January 2012 the court called the ambulance for him four times.

97. According to the information submitted by the Government, on the days of the hearings detainees received food packs from the prison authorities: the applicant refused these in writing on 1 December 2011 and 11, 19 and 20 January 2012, noting that he had his own food supply.

98. The Government submitted tables of the schedule of the hearing days (see annex) containing the information about the time when the applicant was put in the car and reached the courtroom, when the hearings started and were closed and the time when the applicant was put in the car and arrived back in the SIZO. They also submitted the minutes of the court hearings held before the Pechersk Court.

II. RELEVANT DOMESTIC LAW

99. Criminal Code 2001

Article 365. Exceeding authority or official powers

“1. Exceeding authority or official powers, namely the intentional commission of acts by an official which go manifestly beyond the scope of the rights and powers vested in him or her and which cause serious damage to the State or the public interest or to the lawful interests, rights and freedoms of natural or legal persons

shall be punishable by ...

2. Exceeding authority or official powers combined with violence or use of a weapon, or combined with humiliating acts or acts causing pain to the victim, provided that such acts do not fall within the scope of torture

shall be punishable by ...

3. Acts as described in paragraphs 1 or 2 of this Article, if they have caused grave consequences

shall be punished by imprisonment for seven to ten years with a prohibition of up to three years on occupying certain posts or carrying out certain activities.”

100. Code of Criminal Procedure 1961

Article 148. Purpose and grounds for the application of preventive measures

“Preventive measures shall be imposed on a suspect, accused, defendant, or convicted person in order to prevent him from attempting to abscond from an inquiry, investigation or the court, from obstructing the establishment of the truth in a criminal case or pursuing criminal activities, and in order to ensure the execution of procedural decisions.

Preventive measures shall be imposed where there are sufficient grounds to believe that the suspect, accused, defendant or convicted person will attempt to abscond from the investigation and the court, or if he fails to comply with procedural decisions, or obstructs the establishment of the truth in the case or pursues criminal activities ...”

Article 165-2. Procedure for selection of a preventive measure

“At the pre-trial investigation stage a non-custodial preventive measure shall be selected by a body of inquiry, investigator [or] prosecutor.

If a body of inquiry [or] investigator considers that there are grounds for remand in custody [it or] he shall, with the prosecutor’s consent, submit an application to the court. A prosecutor is entitled to submit a similar request. When considering the matter the prosecutor shall familiarise himself with all the material containing grounds for remand in custody, check whether the evidence was lawfully obtained and whether it is sufficient to bring charges [against the suspect].

The application shall be considered within seventy-two hours of the arrest of the suspect or accused.

If the application concerns the remand in custody of a person who is at liberty, the judge shall have the power to issue a warrant for the arrest of the suspect or accused and his escort to the court. In such a case, the detention shall not exceed seventy-two hours, or, if the person concerned is outside the locality in which the court operates, [the detention] shall not exceed forty-eight hours from the time the arrested person is brought to the locality.

Upon receipt of an application, the judge who is assigned [to the case] in accordance with Article 16-2 of this Code shall study the materials of the criminal case file submitted by the inquiry team, investigator [or] prosecutor, question the suspect or accused, and, if necessary, obtain explanations from the person dealing with the case, hear the prosecutor, [and] the defence lawyer if [the latter] has appeared before the court, and deliver an order:

- (1) refusing the preventive measure, if there are no grounds for its application;
- (2) ordering the remand in custody of the suspect or accused.

The court shall only decide on the remand in custody of a person in his absence if that person is on the international wanted list. In such cases, after the arrest of the person and no later than forty-eight hours from the time of his transfer to the place where the proceedings are pending, the court, with the participation of the person [concerned], shall consider [whether to] apply a preventive measure in the form of remand in custody or [whether to] change [such a measure], and shall issue an order accordingly.

If the court has refused to remand the suspect [or] accused in custody, it shall have the power to apply a non-custodial preventive measure to him or her.

The court’s order may be appealed against to the court of appeal by the prosecutor, suspect/accused, his counsel or representative within three days of its delivery. The introduction of an appeal shall not suspend the execution of the court’s order.

If remand in custody necessitates a review or additional information concerning the character of the arrested person or other circumstances of importance in order for a decision to be taken on this issue, the judge may extend the period of detention for up to ten days, or, at the request of the suspect/accused, for up to fifteen days, and shall issue an order accordingly. Whenever it is necessary to decide this issue in respect of a person who has not been arrested, the judge may defer consideration of the matter for up to ten days and take measures to ensure his/her good behaviour during this time or may order the arrest of the suspect or accused for this period.”

**Article 274. Selection, discontinuation and change
of a preventive measure by a court**

“In the course of consideration of a case the court may issue a ruling changing, discontinuing or selecting a preventive measure in respect of a defendant, if there are grounds for this.

The procedure for selecting detention as a preventive measure shall be governed by the relevant provisions of Chapter 13 of the Code.”

101. Health Care Act 1992

Section 6. Right to health care

“Every citizen of Ukraine has a right to health care, which includes:

(a) living standards, including food, clothing, accommodation, medical services and care which are necessary for maintaining a person’s health;

(b) qualified medical and/or welfare assistance, [which] includes the free choice of a doctor [and] methods of treatment in accordance with a doctor’s recommendations ...

(e) correct and timely information about his/her state of health and the state of health of the population, including potential risk factors and the scale of their severity;

(f) compensation for injuries to health;

(g) the right to an independent medical examination if a person disagrees with the conclusions of state medical experts, and a prohibition on enforced treatment or any [other] activities which might violate a person’s rights and freedoms ...”

102. Pre-Trial Detention Act 1993

Section 7. Security in pre-trial detention facilities

“[Detainees’] belongings, as well as deliveries and incoming parcels addressed to them, shall be subject to inspection ...”

Section 11. Welfare and Medical Care of Persons in Custody

“Persons remanded in custody shall be provided with living conditions which comply with sanitary and hygiene requirements.

The standard space available to a person in a cell cannot be less than 2.5 square metres ...

Those under arrest under the regulations of the Cabinet of Ministers are entitled to free food, a personal sleeping space, bedding, and other necessities. Where appropriate they shall be provided with clothing and shoes

Health care and rehabilitation services, ... are organised and provided in accordance with the Health Care Act.

Orders granting medical treatment to persons under arrest, using hospitals, and examinations by doctors shall be determined by the [State Prison Service] of the Ministry of Defence and the Ministry of Health.”

103. Order of the Ministry of the Interior of Ukraine, Ministry of Justice of Ukraine, General Prosecutor’s Office, Supreme Court of Ukraine, State

Security Service of 16 October 1996 No. 705/37/5/17-398 1-3/503/239
 “Approval of the Instruction on procedures for escorting and holding in courts of accused (convicted) persons at the request of judicial authorities”

“Pursuant to the Law of Ukraine “Internal Forces of the Ministry of the Interior of Ukraine” ... an ORDER:

1. To approve the Instruction “Approval of Instruction on procedure for escorting and holding in courts of accused (convicted) persons at the request of judicial authorities” (enclosed) ...

Instruction : Approval of Instruction on Procedure for Escorting and Holding in Courts of Accused (Convicted) persons at the request of judicial authorities ...

In courtrooms accused persons are to be held in an area equipped with a wooden bench and wooden barrier one metre in height, both of which to be bolted to the floor ... In every judicial institution up to 50% of courtrooms in which criminal cases are considered are to be equipped with metal bars separating accused persons from the body of the court and the citizens present ...

Bars are to be fitted to the windows of those courtrooms.”

III. RELEVANT MATERIALS OF THE COUNCIL OF EUROPE

104. Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules, adopted on 11 January 2006 at the 952nd meeting of the Ministers’ Deputies (“the European Prison Rules”) Which provide a framework of guiding principles for conditions of detention and health services. The relevant extracts from the Rules read as follows:

“Allocation and accommodation ...

18.1 The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.

18.2 In all buildings where prisoners are required to live, work or congregate:

a. the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;

b. artificial light shall satisfy recognised technical standards; ...

18.4 National law shall provide mechanisms for ensuring that these minimum requirements are not breached by the overcrowding of prisons.

18.5 Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation ...

Hygiene

19.1 All parts of every prison shall be properly maintained and kept clean at all times.

19.2 When prisoners are admitted to prison the cells or other accommodation to which they are allocated shall be clean.

19.3 Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy.

19.4 Adequate facilities shall 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) in the interest of general hygiene.

19.5 Prisoners shall keep their persons, clothing and sleeping accommodation clean and tidy.

19.6 The prison authorities shall provide them with the means for doing so including toiletries and general cleaning implements and materials.

19.7 Special provision shall be made for the sanitary needs of women.

Clothing and bedding

20.1 Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate.

20.2 Such clothing shall not be degrading or humiliating.

20.3 All clothing shall be maintained in good condition and replaced when necessary.

20.4 Prisoners who obtain permission to go outside prison shall not be required to wear clothing that identifies them as prisoners.

21. Every prisoner shall be provided with a separate bed and separate and appropriate bedding, which shall be kept in good order and changed often enough to ensure its cleanliness ...

Health care

39. Prison authorities shall safeguard the health of all prisoners in their care.

Organisation of prison health care

40.1 Medical services in prison shall be organised in close relation with the general health administration of the community or nation.

40.2 Health policy in prisons shall be integrated into, and compatible with, national health policy.

40.3 Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

40.4 Medical services in prison shall seek to detect and treat physical or mental illnesses or defects from which prisoners may suffer.

40.5 All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner for that purpose.

Medical and health care personnel

41.1 Every prison shall have the services of at least one qualified general medical practitioner.

41.2 Arrangements shall be made to ensure at all times that a qualified medical practitioner is available without delay in cases of urgency ...

41.4 Every prison shall have personnel suitably trained in health care.

Duties of the medical practitioner

42.1 The medical practitioner or a qualified nurse reporting to such a medical practitioner shall see every prisoner as soon as possible after admission, and shall examine them unless this is obviously unnecessary ...

42.3 When examining a prisoner the medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to ...

b. diagnosing physical or mental illness and taking all measures necessary for its treatment and for the continuation of existing medical treatment ...

f. isolating prisoners suspected of infectious or contagious conditions for the period of infection and providing them with proper treatment ...

43.1 The medical practitioner shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with health care standards in the community, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed ...

Health care provision

46.1 Sick prisoners who require specialist treatment shall be transferred to specialised institutions or to civil hospitals when such treatment is not available in prison.

46.2 Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide the prisoners referred to them with appropriate care and treatment.”

105. The relevant extracts from the Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 21 September 2009 (published on 23 November 2011) read as follows:

“5. Conditions of detention of the general prison population

a. pre-trial establishments (SIZOs)

i) the SIZO in Kyiv

100. The SIZO in Kyiv occupies a complex of buildings in one of the central areas of Kyiv. Some of the detention buildings had been constructed some 140 years previously. Three smaller, more recent blocks provided accommodation for sentenced working prisoners, women and juveniles. A new block for women was in the process of construction, but that process had virtually been halted due to lack of resources.

With an official capacity of 2,950 places, on 8 September 2009 the establishment was holding 3,440 inmates, including 217 women and 69 juveniles. The vast majority of the inmate population was on remand. The establishment was also holding 297 inmates awaiting the outcome of their appeal (including 41 life-sentenced prisoners), 93 prisoners in transit and 100 sentenced inmates assigned to work in the prison’s general services and maintenance. Further, there were 11 inmates who had been

subject to forensic psychiatric assessment and who were awaiting a final decision concerning their criminal responsibility. The prisoner population comprised 210 foreign national prisoners (of whom 170 were from countries of the Commonwealth of Independent States).

Since 2001, following amendments to the CC, a section referred to as an “arrest house” had been set up for first-time offenders serving sentences of up to 6 months ...

103. Material conditions prevailing in the section for women were somewhat better [than those in the section for men]. In particular, the cells were less overcrowded (e.g. 6 inmates in a cell measuring 8 m²; 16 prisoners in a cell measuring 27 m²). The cells had good access to natural light, but ventilation was inadequate and prisoners complained that in the summer the cells became very hot. The in-cell sanitary annexes were fully partitioned and had both cold and hot water taps. Some of the cells had been decorated by the inmates themselves and gave a homely impression ...

104. The section for sentenced working prisoners provided the best conditions of detention in comparison with the other sections. The dormitories were adequately lit, well ventilated and clean. They were suitably furnished (beds, tables and chairs or stools, some shelves and lockers) and inmates could have their own radio or television. Further, the section comprised a sports hall, a spacious “club” where prisoners could watch films and play table tennis, and a chapel.

105. The prison did not provide inmates with personal hygiene products other than soap. As mentioned in paragraph 88, access to the shower was limited to once a week.

As regards food, prisoners were provided with three meals a day. The quantity of the food appeared to be sufficient, but many prisoners complained about its poor quality and lack of variety. In particular, there was no fresh fruit, eggs or milk (not even for juvenile prisoners). To supplement their diet, prisoners relied to a great extent on food parcels from their families and purchases from the prison shop ...

The SIZO had a library with a collection of some 27,000 books. The delegation was surprised to learn that remand prisoners were not allowed to receive books (other than the Bible) or newspapers from outside. The CPT would like to receive the Ukrainian authorities’ comments concerning this prohibition.

The only regular out-of-cell activity was outdoor exercise of one hour per day, which took place in a series of exercise yards located on the top of the accommodation blocks. By virtue of their size and configuration, these high-walled, bare areas (measuring between 16 and 60 m²) did not allow prisoners to exercise themselves physically.

The CPT recommends that the Ukrainian authorities make strenuous efforts to offer organised out-of-cell activities (work, recreation/association, education, sport) to prisoners at the Kyiv SIZO. Further, the Committee recommends that steps be taken to construct more appropriate exercise yards which allow prisoners to exert themselves physically, as well as indoor and outdoor sports facilities ...

6. Health care

a. introduction

123. In the course of the 2009 visit, the delegation was informed of a proposal to set up a working group to study the transfer of prisoners’ health care to the Ministry of Health. The CPT can only encourage this initiative, which is consistent with the remarks made in paragraph 142 of the report on its 1998 visit, namely that a greater involvement of the Ministry of Health in the provision of health-care services in

prison will help to ensure optimal health care for prisoners, as well as implementation of the general principle of the equivalence of health care with that in the outside community. The Committee wishes to be informed of the action taken on the above-mentioned proposal.

In this context, the CPT also wishes to stress the need for continued professional training for prison health-care staff, with a view to enabling them to perform their duties satisfactorily. The Committee would like to be informed of the national policy in this respect.

124. The reports on previous visits by the CPT to Ukraine contain a number of recommendations, comments and requests for information in the area of provision of health care to prisoners. Despite efforts made by the Ukrainian authorities in recent years and the goodwill and commitment of health-care staff at the penitentiary establishments visited, the provision of health care to inmates remains problematic, due to the shortage of staff, facilities and resources. During the visit, the delegation heard a number of complaints from prisoners at the establishments visited concerning delays in access to a doctor, lack of medication, and the inadequate quality of care.”

106. The relevant extracts from the Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 29 November to 6 December 2011 [CPT/Inf (2012) 30] read as follows:

“... 48. On the occasion of this visit and in the light of reports recently received by the CPT, the delegation also examined in detail the health care being provided to certain persons who were being held at the Kyiv SIZO and, in particular, Mr Valeriy IVASHENKO, Mr Yuriy LUTSENKO and Ms Yulia TYMOSHENKO.

In this connection, the CPT would like to stress that the role of medical members of a visiting delegation is not that of a treating doctor; their task is to assess the quality of health care and, more specifically, the access to medical treatment of detained persons. The Committee also wishes to recall that the prison authorities are responsible for the health care of all prisoners; all efforts possible must be made to ensure that a precise diagnosis is promptly established and that adequate treatment required by the state of health of the person concerned is provided to all prisoners.

The CPT must express its concern that in respect of each of the three above-mentioned persons, considerable delays occurred – for various reasons – in arranging specialised medical examinations outside the SIZO. Problems of this kind have repeatedly been observed by the CPT during all previous visits to the Kyiv SIZO as well as to other penitentiary establishments in Ukraine. The Committee urges the Ukrainian authorities to take all the necessary measures to ensure that in future, all prisoners who are in need of specialist treatment/examinations are transferred to an outside hospital without undue delay.”

IV. OTHER RELEVANT INTERNATIONAL MATERIALS

107. On 9 June 2011 the European Parliament adopted a resolution on Ukraine. The relevant part of the resolution reads as follows:

“The European Parliament,

... G. whereas 12 former high-ranking officials from the Tymoshenko government are in pre-trial detention, including the former Interior Minister, Yuri Lutsenko, one of the leaders of the People's Self-Defence Party, who has been charged with abuse of office and misappropriation of funds and was arrested on 26 December 2010 for alleged non-cooperation with the prosecution, ...

H. whereas Mr Lutsenko was not released from pre-trial detention when his trial opened on 23 May 2011, despite the fact that detention for alleged non-cooperation in the investigation of his case is an extremely disproportionate measure,

I. whereas a preliminary report of the Danish Helsinki Committee for Human Rights on the Lutsenko ... trials has listed massive violations of the European Convention on Human Rights ...

1. Stresses the importance of ensuring the utmost transparency in investigations, prosecutions and trials, and warns against any use of criminal law as a tool to achieve political ends;

2. Is concerned about the increase in selective prosecution of figures from the political opposition in Ukraine as well as the disproportionality of measures applied ...

3. Reminds the Ukrainian authorities that the principle of collective responsibility for the decisions of the government does not permit the prosecution of individual members of the government for decisions that were taken collegially ... ”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE CONDITIONS OF DETENTION

108. The applicant complained about the material conditions of his detention in the SIZO. He relied on Article 3 of the Convention, which reads as follows:

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

A. Admissibility

109. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

110. The Government submitted that on his arrival in the SIZO on 28 December 2010, the applicant had been kept in cell no. 158, measuring 8.58 square metres, where he had remained until 8 May 2011, sharing it with two other persons and having thus at his personal disposal 2.86 square metres. However, in connection with the hunger strike from 28 April to 8 May 2011 the applicant was held in this cell alone. From 8 to 10 May 2011 he had been held in the SIZO medical unit in cell no. 257, measuring 23.21 square metres. Between 10 and 23 May 2011 the applicant had been hospitalised. Having returned to the SIZO on the latter date, he had been placed in the SIZO medical unit in cell no. 260, measuring 22.32 square metres. As he was sharing this cell with another person, he had had at his disposal 11.16 square metres. Finally, from 1 July 2011 to 6 April 2012 the applicant was again detained in cell no. 158 which, during this period of time, he was sharing with another person, having therefore at his personal disposal 4.29 square metres. The Government submitted photographs of these three cells.

111. The Government further stated that the applicant had had an opportunity to receive drinking water and bedding from his relatives, but the SIZO had also been properly supplied with bedding. In any case, the applicant had not complained on this account to the SIZO administration. Moreover, since his admission until 23 May 2011, when his case had been sent to the Pechersk Court, the applicant had had the right to daily exercise in the fresh air. After that date he had had exercise, except on those days when lengthy court hearings had been held.

The Government concluded that the conditions of the applicant's detention complied with the requirements of Article 3 of the Convention.

112. The applicant submitted that upon his admission to the SIZO he had been placed in cell no. 158, measuring 8.58 square metres, which had previously been used for detainees who had been expecting the execution of a death sentence. The cell had only cold water. Instead of a proper toilet there was only a hole in the floor, which was not separated from the rest of the cell, which moreover was poorly ventilated, and therefore had a strong odor of human excrement. The cell was cold and damp, the temperature never rising above 16° C.

The applicant had been allowed to take a shower once or twice a week. He had not been in this cell from 8 to 10 May 2011, when he had been transferred to cell no. 257 in the SIZO medical unit, from 10 to 23 May 2011, when he had been in the Emergency Hospital, and from 23 May to 1 July 2011, when he was once again in the SIZO medical unit, in cell no. 260. Accordingly, he had spent a total of 408 days in cell no. 158. He had shared this cell with one or two co-detainees.

113. The applicant added that on 27 March 2012, prior to the visit of the members of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, he had been transferred to cell no. 136, which was equipped with a proper toilet bowl and a LCD TV set. He was also placed in this cell on 20 April 2012, after his discharge from the Emergency Hospital.

2. The Court's assessment

114. The Court notes at the outset that the parties' observations cover the period from 28 December 2010 to 20 April 2012 (see paragraphs 110, 112 and 113 above). It will therefore limit its examination of the conditions of the applicant's detention to this period of time.

115. It reiterates that Article 3 enshrines one of the fundamental values of a democratic society. The Convention prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances or the victim's behaviour (see, for instance, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

116. If a person is detained, the State must ensure that the conditions are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him 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 health and well-being are adequately ensured by, among other things, providing him with the requisite medical assistance (see *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI). Moreover, when assessing conditions of detention, account has to be taken of the cumulative effects of those conditions and the duration of the detention (see *Ostrovar v. Moldova*, no. 35207/03, § 80, 13 September 2005).

(a) The period from 28 December 2010 to 8 May 2011

117. The Court observes that the applicant was brought to the SIZO on 28 December 2010 and put in cell no. 158 measuring 8.58 square metres

where he remained until 8 May 2011 (see paragraphs 82, 110 and 112). Except for the period from 28 April to 8 May 2011 (see paragraph 110 above), he shared this cell with two other detainees, having therefore at his personal disposal 2.86 square metres. Moreover, given that the cell also contained sanitary facilities, furniture and fittings, the floor area available to the applicant had been further reduced.

118. In the light of its jurisprudence (see, e.g., *Melnik v. Ukraine*, no. 72286/01, § 103, 28 March 2006; *Iglin v. Ukraine*, no. 39908/05, §§ 51-52, 12 January 2012; and *Zinchenko v. Ukraine*, no. 63763/11, § 66, 13 March 2014), the Court finds that the lack of personal space afforded to the applicant in detention during the relevant period itself raises an issue under Article 3 of the Convention.

119. Regard being had to the above considerations, the Court considers that the conditions of the applicant's detention in cell no. 158 in the Kyiv SIZO during the period from 28 December 2010 to 28 April 2011 were degrading.

120. There has accordingly been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in the detention facility from 28 December 2010 to 8 May 2011.

(b) The periods from 28 April to 10 May 2011, from 23 May 2011 to 6 April 2012 and on 20 April 2012

121. The Court notes that during the remaining part of his stay in the Kyiv SIZO the applicant had more than four square metres of individual space at his disposal (see paragraphs 86, 110, 112 and 113 above) and that at that time there was no shortage of sleeping places in the cells concerned. The Court does not have any information about the size of cell no. 136 but the applicant does not raise any complaint in this respect. As during the relevant period of time the size of the cells by itself does not raise an issue under the Convention, the Court will have to determine whether the cumulative effect of other aspects of the physical conditions of the applicant's detention was such as to amount to inhuman and/or degrading treatment in breach of Article 3 of the Convention.

122. The Court accepts in this respect that the applicant could have experienced certain problems on account of the material aspects of his detention in the cells in question. At the same time, it is unable to determine whether such drawbacks affected him in any significant way. Nor is there any evidence that the internal lighting or ventilation systems were deficient. Moreover, the applicant was allowed a one-hour period of outdoor exercise daily. Windows in the cells were not fitted with metal shutters or other devices preventing natural light from penetrating into the cells, and the applicant did not complain that the cells were not additionally equipped with artificial lighting.

123. As regards sanitary and hygiene conditions, the Court noted, having assessed the material evidence presented by the parties including the photographs submitted by the Government (see paragraph 110 above), that the table, the lavatory pan, the fridge and the bed were located inside the applicant's cells, sometimes very close to each other. However, from the material in its possession, the Court can establish neither the condition of the toilet – except for cell no. 260 - nor whether it was separated from the rest of the cells. Cold running water was normally available in the cells and detainees, including the applicant, had access to showers at least once every seven days. The Court adds that the applicant admitted that the conditions in cell no. 136 were adequate.

124. The Court is of the opinion that taking into account the cumulative effect of these conditions, they did not reach the threshold of severity required to characterise the treatment as inhuman or degrading within the meaning of Article 3 of the Convention (see *Fetisov and Others v. Russia*, nos. 43710/07, 11248/08, 27668/08, 31242/08, 52133/08 and 6023/08, §§ 137-138, 17 January 2012).

125. The Court therefore concludes that there has been no violation of Article 3 of the Convention on account of the applicant's detention in the detention facility from 28 April to 10 May 2011, from 23 May 2011 to 6 April 2012 and on 20 April 2012.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE MEDICAL TREATMENT PROVIDED TO THE APPLICANT

126. The applicant further complained that the medical care he received was inadequate, and that this was a breach of Articles 2 and 3 of the Convention.

127. The Court, being the master of characterisation to be given in law to the facts of the case, considers that the applicant's complaint should be examined under Article 3 of the Convention.

A. Admissibility

128. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

129. The Government maintained that upon his admission to the SIZO the applicant had been examined by the head of the medical unit and a doctor on duty. He had undergone clinical, laboratory and X-ray examinations, and had been diagnosed with symptomatic hypertension. Moreover, from the extract of his outpatient card it appeared that in 2010 the applicant had been suffering on a number of occasions from gastritis, fatty hepatosis, dyskinesia of the bladder, chronic pancreatitis at the incomplete remission stage, diabetes mellitus and pancreatic insufficiency.

130. Referring to the chronology of the treatment of the applicant, the Government noted that during the period preceding his hunger strike the applicant had not submitted any complaint regarding his medical treatment. His health deteriorated as a result of his hunger strike, when all the illnesses from which he had previously been suffering reappeared. New conditions, such as an ulcer, also appeared. According to the Government, the national authorities had taken all necessary measures to reduce possible consequences and influence on the applicant's organism. Thus, during his hunger strike, the applicant had been examined by the doctors on a daily basis, necessary laboratory researches aimed at monitoring of consequences of hunger strike had been conducted, and measures had been taken which were intended to reduce the consequences of the hunger strike. Moreover, the applicant had been repeatedly offered a food compound.

131. The Government further stated that one of the reasons which had to a large extent contributed to the appearance of new illnesses had been the psychological and emotional burden to which the applicant had been subjected as the result of having been in detention and the criminal proceedings against him. Hence, the national authorities could not bear responsibility for the appearance of these illnesses, as it was not connected with the provision of medical treatment in the SIZO or with the material conditions of detention in the SIZO. The Government underlined that the

applicant had received regular and appropriate medical treatment for the new conditions which had appeared. He had been examined by SIZO doctors, he had been repeatedly examined by medical commissions numbering the best specialists from civilian hospitals, had received everything he had been prescribed and had had all the indicated examinations; when necessary he had been admitted to a civilian hospital. The Government considered that the medical treatment provided to the applicant had complied with Article 3 of the Convention.

132. The applicant submitted that the failure to provide him with adequate medical care, such as proper examination and treatment of his diseases, concealment of his true state of health, as well as his arbitrary discharge from the hospital and forced attendance at the court hearings despite his poor state of health, all proved that there had been a breach of the Government's positive obligation to prevent prisoners' suffering which exceeded the unavoidable level of suffering inherent in detention. The failure of the Government to provide him with adequate medical care proved that he had received inhuman treatment and the intention of the Government was to create feelings of despair and inferiority in him and to humiliate and belittle him, as well as to prove his vulnerability. Such treatment of the applicant is in breach of Article 3 of the Convention.

2. The Court's assessment

133. The Court reiterates that when assessing the adequacy of medical care in prison, it must reserve, in general, sufficient flexibility in defining the required standard of health care, which must accommodate the legitimate demands of imprisonment but remain compatible with human dignity and the due discharge of its positive obligations by the State. In this regard, it is incumbent upon the relevant domestic authorities to ensure, in particular, that diagnosis and care are prompt and accurate (see *Hummatov v. Azerbaijan*, nos. 9852/03 and 13413/04, § 115, 29 November 2007; *Melnik v. Ukraine*, no. 72286/01, §§ 104-106, 28 March 2006; *Yevgeniy Alekseyenko v. Russia*, no. 74266/01, § 100, 8 January 2009; *Gladkiy v. Russia*, no. 3242/03, § 84, 21 December 2010; *Khatayev v. Russia*, no. 56994/09, § 85, 11 October 2011; and, *mutatis mutandis*, *Holomiov v. Moldova*, no. 30649/05, § 121, 7 November 2006), and that,

where necessitated by the nature of a medical condition, supervision by proficient medical personnel is regular and systematic, and involves a comprehensive therapeutic strategy aimed at successfully treating the detainee's health problems or preventing their aggravation (see *Hummatov*, cited above, §§ 109 and 114; *Sarban v. Moldova*, no. 3456/05, § 79, 4 October 2005). The mere fact of a deterioration in an applicant's state of health, albeit capable of raising, at an initial stage, certain doubts concerning the adequacy of the applicant's treatment in prison, cannot suffice, by itself, for the finding of a violation of the State's positive obligations under Article 3 of the Convention, if, on the other hand, it can be established that the relevant domestic authorities have in a timely fashion provided all reasonably available medical care in a conscientious effort to hinder development of the disease in question (see, among many others, *Jashi v. Georgia*, no. 10799/06, § 61, 8 January 2013).

134. Turning to the present case, the Court notes that it transpires from the voluminous case-file materials and submissions by the parties that the applicant's health received considerable attention from the domestic authorities. The applicant was examined by doctors immediately upon admission to the SIZO. He underwent clinical, laboratory and X-ray examinations. On the basis of those examinations, he was diagnosed with symptomatic hypertension. Moreover, it cannot be disregarded that according to his medical record he had already been suffering from gastritis, hepatitis, dyskinesia of the bladder, chronic pancreatitis at the incomplete remission stage, diabetes mellitus, and also from pancreatic insufficiency, before his detention (see paragraphs 20 and 129 above).

135. The Court observes that during his detention in the SIZO, the applicant was under regular supervision by doctors of the SIZO medical unit and the SPS medical panel. Moreover, the applicant was examined by civilian doctors and received proper medical treatment in the Emergency Hospital during two hospitalisations.

136. The Court further observes that the applicant was on hunger strike for 33 days (see paragraphs 27 and 37 above) and lost weight considerably. On 8 May 2011 the medical panel noted that the hunger strike was significantly affecting the applicant's general state of health (see paragraph 33 above). During the period when he was refusing to consume food, the applicant was examined by doctors on a daily basis. Later on, necessary laboratory tests aimed at monitoring the consequences of the applicant's hunger strike were conducted, and measures were taken to reduce those consequences. The applicant was repeatedly offered a food compound. As regards the new illnesses which could have been caused by the hunger strike,

the applicant had been constantly receiving adequate medical treatment.

137. These considerations enable the Court to conclude that the domestic authorities afforded the applicant comprehensive, effective and transparent medical assistance.

138. However, the Court does not overlook the fact that despite their knowledge of the applicant's difficult state of health, the national authorities failed to assure his rapid transfer to the hospital in order to carry out complementary medical examinations recommended by the doctors on 28 May 2011 (see paragraph 38 and 43 above). The Court observes in this respect that while the judge had given his approval for the applicant's transport on 14 June 2011 (see paragraph 44 above), the applicant was driven to the hospital only on 15 July 2011 (see paragraph 49 above). However, taking into account the character of the medical examination, the Court does not consider that the inaction of the national authorities reached the threshold of Article 3 of the Convention (see, *a contrario*, *Kupczak v. Poland*, no. 2627/09, §§ 58-68, 25 January 2011).

139. There has accordingly been no violation of Article 3 of the Convention.

III. ALLEGED VIOLATIONS OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE CONDITIONS OF THE APPLICANT'S DETENTION ON HEARING DAYS IN THE LIGHT OF THE STATE OF HIS HEALTH

140. The applicant further complained about the conditions of his detention during court hearings, in particular that he had been held in a small and poorly ventilated room waiting for the hearings and that he had not been provided with drinking water or food and had had no opportunity to rest.

A. Admissibility

141. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Parties' submissions

142. The Government maintained that during most of the eighty hearings held in the applicant's criminal case, breaks had been announced. Of the thirty-four hearings during which breaks had not been announced there had only been seven which had finished after 1 p.m., and none of them had lasted until the end of the working day. Of the remaining forty-six hearings, twenty-five had had one break, ten had had two breaks, six had had three breaks, and the hearing of 30 June 2011 had had five breaks. These breaks had lasted from ten minutes to one or two hours.

143. The Government further submitted that on the days when the Pechersk Court hearings had been held the applicant had left the SIZO between 7 and 8 a.m., most often after 7.30 a.m., as the court hearings usually started at 9 a.m. They emphasised that he had always been able to have breakfast. Moreover, the court hearings had usually ended at about 6.20 p.m., but if the applicant reached the SIZO before 3 p.m. he could have a walk in the fresh air. Besides, as the applicant was consuming only his own food, he was not restricted to eating at the times when food was provided in the SIZO. Accordingly, he always had the opportunity to have a proper meal after his return to the SIZO.

144. The Government also maintained that the applicant had sufficient sleeping hours, while they admitted that on one occasion the hearing before the Pechersk Court had ended at 11.16 p.m. and that the applicant had reached the SIZO only at 11.30 p.m. However, as there was no hearing on the next three days he had had sufficient time to recover.

145. The Government further explained that during his detention the applicant had refused to consume the food prepared in the SIZO and to receive ready-to-eat food packs, as he had been provided with his own food by his relatives. Accordingly, he had had the opportunity to receive and consume food on hearing days. This was corroborated by a letter from the president of the Pechersk Court, who confirmed that the applicant had been allowed to consume food during breaks in the court hearings. The Government added that even if the applicant had not received food from his relatives, the national legislation set out a procedure for nourishment for individuals being escorted to court to attend hearings. In particular, on 13 and 19 October 2011 and 19 January 2012, despite the applicant's refusal, lunch had been delivered to the court in accordance with the national legislation. Moreover, the court had announced breaks for lunch at the request of the applicant, other accused or their lawyers on 14 July 2011, 19 January and 1, 2, 6, 7, 9, 14 and 15 February 2012. The Government also noted that on 19 July 2011 and 6 February 2012 the applicant had been granted a one-hour break to consume food, as the medical recommendation was that he must eat three times per day.

146. In respect of the court hearing held on 23 May 2011, the Government admitted that the applicant must have been in a weakened condition because of his hunger strike, and that therefore the court hearing and escort procedures would not have been easy for him. Nevertheless, the medical staff had not indicated that his state of health would not be compatible with his appearance in court. The Government also maintained that the court hearing had started at 11 a.m. and had lasted about four hours, which was a comparatively short period of time. During the hearing two breaks had been announced by the court, of one hour and half an hour respectively. The Government stated that the applicant had had the opportunity to consume food and drink water. Moreover, he had not sought to have the hearing postponed so that he could be provided with medical treatment, or be given time to rest or eat. The hearing had ended at 3.09 p.m., and the applicant had been driven back to the SIZO, where he had been placed in the medical unit. Besides, there were no hearings for the next six days, so the applicant had sufficient time to rest.

147. Within the Rule 39 procedure (see paragraph 96 above) the Government submitted, *inter alia*, that at the hearing of 17 January 2012, which started at 9:09 a.m. and ended at 5:55 p.m., the court announced two technical breaks and a break for lunch which lasted from 1:11 to 1:55 p.m. Moreover, the court was in the deliberation room from 9:39 to 10:25 a.m. On 18 January 2012 the hearing began at 9:12 a.m and ended at 2:15 p.m. during which the court announced a break to have a rest and lunch from 12:19 to 12:39 p.m. Furthermore, the hearing held on 19 January 2012 started at 9:09 a.m. and ended at 11:16 p.m. During the hearing, the court announced six breaks lasting from 1:20 to 2:05 p.m., from 2:14 to 3:56, from 4:30 to 4:37, 4:40 to 5:26 p.m., from 5:27 to 5:40 and from 8:32 to 8:49 p.m. In addition, the court deliberated from 5:50 to 6:04 p.m. The Government further noted that the court hearing of 20 January 2012 lasted for five minutes.

According to the Government, during the hearings held on 17, 18 and 19 January 2012 the applicant had been allowed to take food, to have a rest and do any other need. He had had that opportunity not only during the special breaks for rest and food but also during the technical breaks as well as during the court deliberations.

148. The applicant argued that he had been given no food or water on the hearing days prior to 21 January 2012. He disputed the Government's argument that he had refused to consume SIZO food and had relied upon parcels delivered to him from home. He noted in this connection that under point 18 of the Instruction on Escort and Detention in Courtrooms of Detainees at the Request of the Judiciary, a detainee could take only documents, relevant to his hearing to the court-house. No parcels, utensils, food, bottles of water or anything else were allowed. Furthermore, under point 28 of the Instruction, any food or beverage consumed by a detainee

shall be provided by the detention facility only. However, due to his severe gastroenterological diseases and liver malfunction, and the lack of special diet food provided by the SIZO, the applicant usually consumed food delivered by his family while in the SIZO. Point 23 of the Instruction strictly prohibited any parcels or other deliveries to detainees in court. Moreover, under section 7 of the Law on Preliminary Detention any parcel for a detainee was to be delivered to the detention centre at designated times only, and was subject to monitoring by the authorities. Accordingly, the applicant was not able to consume his own food after the court hearings.

149. The applicant added that he was not given a designated place or time to consume any food in court. Throughout all the court hearings he was held in a metal cage which he could only leave to go to the lavatory. It would have been humiliating for him to consume food while sitting in a courtroom with journalists, reports and photographers, even if he had had any, in a metal cage without any utensils or table. As a result, he had remained without any food or beverage during all the court hearings; the one which took place on 19 January 2012 lasted fourteen hours. He stated that this breach of a proper nutrition regime had worsened his state of health, as was also stated in the medical certificate of 20 January 2012 provided by the Government.

150. In respect of the Government's comments regarding the breaks during the court hearings held on 17, 18 and 19 January 2012 (see paragraph 147 above), the applicant noted that on 17 January 2012 there had been two breaks, lasting eleven and sixteen minutes respectively, when the participants to the proceedings had been allowed to use the facilities, then there had been a forty-minute break for lunch, which he had been deprived of because he had stayed in the metal cage. He added that when the judges went to their retiring room the participants had remained seated and were not allowed to leave the courtroom under the national legislation.

In respect of the hearing of 19 January 2012 the applicant stated that all breaks referred to by the Government had been announced following the worsening of his state of health and his inability to participate in the court hearing and because of his treatment by the ambulance which had to come four times.

151. In respect of the first hearing day of 23 May 2011 the applicant submitted that he had been escorted to the court-house directly from the hospital from which he had been discharged that very morning with a diagnosis of chronic pancreatitis, diabetes mellitus, chronic cholecystitis and duodenal ulcer. He had been woken up at 4.30 a.m. in order to reach the courthouse by 6.30 a.m. On arrival he had been held in the waiting metal cage, which was approximately 1.5 square metres in area. At 10.30 a.m. he had been transferred to the courtroom, which was small and hot, with no air conditioning. After staying in the courtroom until 3 p.m. he was driven back to the SIZO at about 6 p.m. According to the applicant, he was given no

water or food the whole day, though the SIZO administration and the court were aware of his deteriorating state of health, which had not improved at the hospital. Exhausted, the applicant had stopped his hunger strike in order to be able to take part in future court hearings.

152. The applicant further stated that his state of health had worsened later that night. He had fainted the next day, and SIZO doctors had been called. However, the applicant had refused to be examined by them and civilian doctors had not been allowed to see him. He stated that no record had been made in his medical file and he had not been provided with appropriate medicines. The civilian doctors appointed by the Ministry of Health were allowed to examine the applicant only on 28 May 2011; they diagnosed him with acute 12-duodenal ulcer, post-gastrointestinal bleeding, and erosive gastritis, and recommended immediate treatment in a specialised gastroenterological hospital. According to the civilian doctors, since the applicant had been discharged from the Kyiv Clinical Emergency Hospital without any internal bleeding, the bleeding must have occurred between 23 and 28 May 2011 as a result of the premature termination of the specialised inpatient treatment.

153. Accordingly, the SIZO administration, by arbitrarily transferring the applicant from the Emergency Hospital and subjecting him to the lengthy court hearing on 23 May 2011 without any medicine or water supply, had caused him disproportionate suffering and contributed to the further worsening of his health.

2. The Court's assessment

154. The Court notes at the outset that the applicant referred in his original application form to the court hearing held on 23 May 2011. Moreover, within the Rule 39 procedure, he added further complaints regarding the court hearing days from 17 to 19 January 2012 during which his health problems were not taken adequately care of (see paragraph 96 above). The Court does not, however, overlook the fact that, on the whole, the applicant attended seventy-nine hearings held before the Pechersk Court (see paragraph 90 above), that the applicant's health deteriorated after his hunger strike, what the Government do not deny (see paragraph 130 above) and that the period of about eight months elapsed between the first hearing of 23 May 2011 and the three hearings held in January 2012, during which the applicant suffered from different illnesses necessitating continued medical treatment (see paragraphs 38-76 above). In addition, there is no indication in the case-file that the conditions of the applicant's detention during the hearing days were adapted accordingly.

155. As it has already been mentioned above, the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of execution of the measure of detention do not subject him 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 health and well-being are adequately secured (see paragraph 116 above). The Court considers that these principles also apply to the conditions of detainees' transportation to and from a court-house and of their confinement in the court-house including a proper catering (see *Yevgeniy Bogdanov v. Russia*, no. 22405/04, §§ 101-105, 26 February 2015; *Romanova v. Russia*, no. 23215/02, §§ 88-92, 11 October 2011; *Kovaleva v. Russia*, no. 7782/04, §§ 62-65, 2 December 2010; *Yakovenko v. Ukraine*, no. 15825/06, §§ 103-113, 25 October 2007).

156. In the present case, the Court observes that during the hearing days the applicant left the SIZO generally between 7 a.m. and 8 a.m., usually reaching the court-house in 20 to 30 minutes. While the Government did not submit information about the time when the applicant was escorted from the car to the waiting room, the Court has information at its disposal concerning the moment when he reached the court-house and the beginning of the hearings. It will therefore presume that the applicant spent the time awaiting the hearings either in the car or in the waiting room. From the evidence presented by the Government and the indications given by the applicant it appears that the waiting room was a small barred cell containing a bench.

157. Against the background of the whole proceedings (see paragraph 154 above), the Court finds that on 23 May 2011 and on 17, 18 and 19 January 2012 the applicant had to face particular hardship. It observes in this respect that on 23 May 2011 he spent three hours and forty-four minutes in the waiting room and took part in the hearing which lasted four hours and four minutes, without any proper break being announced, while it was known that he was on hunger strike which significantly affected his general state of health (see paragraphs 33 and 136 above).

After having previously attended fifty-nine court hearings, lastly on 16 January 2012, the applicant was driven to the next hearing, held on 17 January 2012, which lasted eight hours and forty-six minutes, with two breaks of 11 and 16 minutes, respectively and a break for lunch. Before the hearing begun, the applicant had to stay in the waiting room thirty-nine minutes.

On the next day, he spent in the waiting room one hour and two minutes before the beginning of the hearing which lasted five hours and three minutes. The Court notes that, contrary to the Government's information (see paragraph 147 above), it appears from the minutes of the hearing that the court granted one ten minute technical break, but not a break for rest and lunch.

Finally, the Court observes that on 19 January 2012 the applicant spent in the waiting room fifty-four minutes and was present at the hearing which, having started at 9:19 a.m., lasted thirteen hours and fifty-seven minutes. During the hearing, the doctors had to be called four times in order to

provide the applicant with medical help. The Pechersk Court did allow a break for rest at the beginning afternoon. However, it appears that the applicant stayed in the metal cage during the break (see paragraph 149 above). Moreover, late in the afternoon, the court did not grant the requests of the applicant's lawyers to adjourn the hearing and to have a break for food, but continued to hold the hearing until 11:16 p.m., ordering the next hearing for the next hearing at 8:05 a.m.

158. It further appears that the applicant did not receive wholesome food on the four days in question, when he was transported to the court, which would be in line with the state of his health. Relying on the material in its possession, the Court is not convinced by the Government's assertion that the applicant could take with him the food provided by his family. In any event, the Court is of the opinion that permission to take one's own food cannot substitute for appropriate catering arrangements, because it is primarily the State that is responsible for the well-being of persons deprived of their liberty. Besides, it does not find the suggestion, that the applicant could have consumed the food in the waiting room or metal cage prior to or during the hearings, at all realistic.

159. The Court has previously found a violation of Article 3 of the Convention in many cases on account of applicants' confinement in cramped conditions in detention units of court-houses and a lack of proper food on court days (see, e.g., *Vlasov v. Russia*, no. 78146/01, § 96, 12 June 2008; *Salmanov v. Russia*, no. 3522/04, § 64, 31 July 2008; and *Starokadomskiy v. Russia*, no. 42239/02, § 58, 31 July 2008).

160. Having regard to the foregoing, the Court considers that in the circumstances of the present case the cumulative effect of malnutrition and state of health of the applicant on the court hearings held on 23 May 2011 and on 17, 18 and 19 January 2012 must have been of an intensity such as to induce in the applicant physical suffering and mental fatigue. This must have been further aggravated by the fact that the above treatment occurred during the applicant's trial, a time when he most needed his powers of concentration and mental alertness. The Court therefore concludes that the applicant was subjected to inhuman and degrading treatment contrary to Article 3 of the Convention (see, for similar reasoning, *Strelets*, cited above, § 62).

161. Accordingly, there has been a violation of Article 3 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION ON ACCOUNT OF THE APPLICANT'S PLACEMENT IN A METAL CAGE DURING THE TRIAL

162. The applicant finally complained, relying on Articles 2 and 3 of the Convention, of his confinement in a metal cage in the courtroom during the hearings before the Pechersk Court.

163. The Court finds it appropriate to examine the applicant's complaint under Article 3 of the Convention.

A. Admissibility

164. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Parties' submissions

165. The Government maintained that the applicant had been held behind the metal bars in the courtroom in accordance with the relevant domestic legislation. They explained that the bars were intended to separate defendants upon whom the preventive measure of detention had been imposed from the bench and those present in the courtroom, so that those individuals could be securely guarded during the court hearings.

166. The Government argued that the State authorities had not intended to humiliate or debase the applicant. He had been held behind the metal bars in the interest of public safety. Furthermore, the measure of holding the applicant behind metal bars could in no way have caused him distress or humiliation of an intensity exceeding the unavoidable level of suffering or humiliation inherent in detention.

167. The applicant submitted that the national legislation did not state that the accused should be put in metal cages during public hearings. According to him, nothing in his behaviour or personality could have justified such a security measure, because he had no previous convictions, no record of violent behavior, and was accused of a non-violent crime. Despite that, he had been kept in the cage throughout

the trial, exposed to the public, which had humiliated him and aroused in him feelings of inferiority.

2. The Court's assessment

168. The Court reiterates that a measure of restraint does not normally give rise to an issue under Article 3 of the Convention where this measure has been imposed in connection with lawful detention and does not entail a use of force, or public exposure, exceeding that which is reasonably considered necessary. In this regard it is important to consider, for instance, whether there was a danger that the person concerned might abscond or cause injury or damage (see, e.g., *Öcalan v. Turkey* [GC], no. § 182, ECHR 2005-IV).

169. The Court has previously examined the issue of holding a person in a metal “cage” during court hearings in a number of cases (see, lastly, *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/06 and 43441/08, §§ 113-139, 17 July 2014), a practice which is still present in a few Member States including Ukraine (cited above, § 75). In those cases, in which the Court found a violation of Article 3, the applicants were accused of non-violent crimes, they had no criminal record, there was no evidence that they were predisposed to violence, and the “security risks” were not supported by any specific facts. Furthermore, those applicants’ trials attracted considerable media attention. Therefore, the reasonable balance between the different interests at stake was upset.

170. In the case at hand, it appears from the documents submitted by the parties that the applicant was held in a cage with metal bars during all the eighty hearings which took place between 23 May 2011 and 27 February 2012 (see paragraph 14 above). It is not for the Court to examine this practice in the abstract, but to assess whether in the applicant’s case the measure was justified in the light of the above criteria.

171. In this connection, the Court notes that no evidence before it attests to the applicant’s having a criminal record. Likewise, he was not suspected of having committed a violent crime. It is therefore not convinced by the Government’s argument that the applicant was placed in the metal cage in the interest of public safety. It emerges that the dock with metal bars was permanently installed in the courtroom, and that the applicant, who was a largely known politician (see also *Ashot Harutyunian*, cited above, § 126 et seq.; and *Khodorkovskiy v. Russia*, no. 5829/04, §§ 120 et seq., 31 May 2011), was placed there during all the hearings held before the Pechersk Court from May 2010 to February 2012. The Court further notes that the criminal procedure was closely observed by journalists, and photographs depicting the applicant behind metal bars were published soon after the court hearings (see paragraph 14 above). The Court also takes into consideration that the proceedings against the applicant had gained a high

profile. Thus, the applicant was exposed behind bars not only to those attending the hearings but also to a much larger public who were following the proceedings in both national and international media.

172. Although, in contrast with the cases referred above, the applicant was not handcuffed, the Court considers that, given their cumulative effect, the security arrangements in the courtroom were, in the circumstances, excessive, and could have been reasonably perceived by the applicant and the public as humiliating.

173. There has, therefore, been a violation of Article 3 of the Convention, in that the treatment was degrading within the meaning of this provision.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

174. 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.”

175. 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,

1. *Declares*, unanimously, the application admissible;
2. *Holds*, by six votes to one, that there has been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in the detention facility from 28 December 2010 to 28 April 2011;
3. *Holds*, unanimously, that there has been no violation on account of the conditions of his detention in the detention facility from 28 April to 10 May 2011, from 23 May 2011 to 6 April 2012 and on 20 April 2012;
4. *Holds*, unanimously, that there has been no violation of Article 3 of the Convention on account of the medical treatment in the detention facility;
5. *Holds*, unanimously, that there has been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention on the hearing days;

6. *Holds*, unanimously, that there has been a violation of Article 3 of the Convention on account of the applicant's placement in a metal cage during the trial.

Done in English, and notified in writing on 11 June 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Mark Villiger
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Pejchal is annexed to this judgment.

M.V.
C.W.

PARTLY DISSENTING OPINION OF JUDGE PEJCHAL

I am in full agreement with my colleagues regarding their conclusion declaring the application admissible. I am also in full agreement with them regarding their finding that there has been no violation on account of the conditions of the applicant's detention in the detention facility from 28 April to 10 May 2011, from 23 May 2011 to 6 April 2012 and on 20 April 2012; that there has been no violation of Article 3 of the Convention on account of the medical treatment in the detention facility; that there has been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention on the hearing days; and that there has been a violation of Article 3 of the Convention on account of his placement in a metal cage during the trial.

However, to my regret I have to dissent regarding the finding of a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in the detention facility from 28 December 2010 to 28 April 2011.

The Commentary on Rule 18 of Recommendation Rec(2006)2 of the Committee of Ministers (the European Prison Rules) reads as follows:

“The [European Committee for the Prevention of Torture and Degrading Treatment or Punishment], by commenting on conditions and space available in prisons in various countries has begun to indicate some minimum standards. These are considered to be 4m² for prisoners in shared accommodation and 6m² for a prison cell. These minima are, related however, to wider analyses of specific prison systems, including studies of how much time prisoners actually spend in their cells. These minima should not be regarded as the norm.”

Paragraph 83 of the judgment reads:

“According to the Government, the cell had a proper ventilation system and natural lighting. The applicant had had daily exercise in the fresh air, except on days when lengthy court hearings were held. He was permitted to receive drinking water from relatives. He was allowed to take a shower once or twice a week.”

The Court's assessment, as set out in paragraphs 117-120, does not contain any closer analysis of the specific conditions in this particular prison, nor does it deal with the opinion of the Government. The Court only states in paragraph 117 that the applicant had “at his personal disposal 2.86 square metres.”

The case-law listed in paragraph 118 does not seem to correspond to the instant case. The conditions of the applicants in the cases of *Melnik v. Ukraine* (no. 72286/01, 28 March 2006), *Iglin v. Ukraine* (no. 39908/05, §§ 51-52, 12 January 2012), and *Zinchenko v. Ukraine* (no. 63763/11, 13 March 2014) were much worse than those of the present applicant in the period from 28 December 2010 to 28 April 2011.

Every international treaty must be interpreted within the limits of international law. Any consideration of the Court is also bound by

international law. The general rule of interpretation of international treaties is provided for in the Vienna Convention on the Law of Treaties, in Article 31 § 1, which reads as follows:

“A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.”

The sweeping deliberation of the Court and its uncritical interpretation of Article 3 of the Convention (which I think is contrary to the Vienna Convention on the Law of Treaties) may be dangerous as regards the implementation of the Court’s case-law on the national level.

Furthermore, this sweeping kind of decision-making of the Court is not quite in line with its subsidiary role.

In view of the absence of a detailed consideration of what, in fact, transpired at national level, and in the light of the facts which can be ascertained from the judgment, I cannot agree that there has been a violation of Article 3 of the Convention.

ANNEX

	Date of the hearing	Time when the applicant was put in the car	Arrival in the courthouse	Beginning of the hearings	End of the hearings	Time when the car with the applicant left the courthouse	Time of reaching the SIZO
1	23.5.2011	-	7.20 am.	11.04 am.	3.08 pm.	3.30 pm.	4.10 pm.
2	27.5.2011	7.30 am.	7.50 am.	11.00 am.	1.49 pm.	3.00 pm.	3.15 pm.
3	9.6.2011	7.00 am.	7.20 am.	10.04 am.	4.19 pm.	5.00 pm.	5.30 pm.
4	20.6.2011	7.10 am.	7.35 am.	10.05 am.	4.33 pm.	4.40 pm.	5.25 pm.
5	21.6.2011	11.10 am.	11.30 am.	11.38 am.	12.32 pm.	1.00 pm.	1.50 pm.
6	30.6.2011	7.40 am.	8.20 am.	10.02 am.	6.15 pm.	6.50 pm.	7.15 pm.
7	5.7.2011	9.05 am.	9.25 am.	11.12 am.	12.51 pm.	1.35 pm.	2.10 pm.
8	11.7.2011	6.40 am.	7.30 am.	10.03 am.	3.17 pm.	3.50 pm.	4.07 pm.
9	14.7.2011	8.00 am.	8.45 am.	10.06 am.	3.20 pm.	6.35 pm.	7.00 pm.
10	19.7.2011	7.55 am.	8.40 am.	12.15 pm.	6.05 pm.	6.00 pm.	7.57 pm.
11	27.7.2011	7.50 am.	8.10 am.	10.06 am.	6.21 pm.	7.25 pm.	7.48 pm.
12	8.8.2011	6.25 am.	7.00 am.	9.34 am.	4.14 pm.	4.45 pm.	7.25 pm.
13	11.8.2011	7.45 am.	8.35 am.	9.45 am.	11.40 am.	12.05 pm.	12.40 pm.
14	18.8.2011	7.30 am.	8.05 am.	9.20 am.	4.36 pm.	4.50 pm.	5.20 pm.
15	22.8.2011	7.38 am.	8.10 am.	9.56 am.	1.29 pm.	2.30 pm.	3.15 pm.
16	29.8.2011	7.55 am.	8.35 am.	9.19 am.	1.19 pm.	6.50 pm.	7.20 pm.
17	19.9.2011	7.40 am.	8.30 am.	9.18 am.	1.32 pm.	2.00 pm.	2.32 pm.
18	21.9.2011	7.20 am.	8.00 am.	9.18 am.	11.10 am.	11.25 am.	12.00 pm.
19	27.9.2011	7.00 am.	8.00 am.	9.17 am.	2.54 pm.	5.45 pm.	6.12 pm.
20	29.9.2011	7.45 am.	8.05 am.	9.16 am.	4.49 pm.	5.15 pm.	5.45 pm.
21	3.10.2011	7.20 am.	7.45 am.	9.15 am.	12.12 pm.	12.50 pm.	1.10 pm.
22	7.10.2011	7.00 am.	7.40 am.	8.11 am.	2.24 pm.	3.00 pm.	3.40 pm.
23	10.10.2011	7.20 am.	7.50 am.	9.17 am.	12.47 pm.	1.00 pm.	1.45 pm.
24	11.10.2011	7.50 am.	8.15 am.	9.21 am.	10.51 am.	11.30 am.	12.20 pm.

25	12.10.2011	7.30 am.	8.00 am.	9.19 am.	12.10 pm.	12.50 pm.	1.25 pm.
26	13.10.2011	7.30 am.	8.00 am.	9.19 am.	10.13 am.	10.25 am.	11.00 am.
27	14.10.2011	7.00 am.	8.00 am.	8.29 am.	2.05 pm.	4.10 pm.	4.45 pm.
28	17.10.2011	7.30 am.	8.15 am.	9.15 am.	3.41 pm.	4.15 pm.	5.00 pm.
29	18.10.2011	7.30 am.	8.00 am.	9.15 am.	12.51 pm.	1.20 pm.	2.05 pm.
30	19.10.2011	9.20 am.	10.15 am.	11.00 am.	2.29 pm.	3.10 pm.	3.50 pm.
31	21.10.2011	7.00 am.	7.45 am.	8.19 am.	9.46 am.	3.55 pm.	4.45 pm.
32	24.10.2011	7.55 am.	8.15 am.	9.17 am.	9.32 am.	9.55 am.	10.35 am.
33	25.10.2011	7.30 am.	8.00 am.	9.18 am.	9.27 am.	10.10 am.	10.40 am.
34	26.10.2011	7.40 am.	8.00 am.	9.12 am.	9.28 am.	9.50 am.	10.20 am.
35	27.10.2011	8.00 am.	8.45 am.	9.12 am.	1.00 pm.	1.10 pm.	1.50 pm.
36	28.10.2011	7.10 am.	7.50 am.	8.14 am.	11.55 am.	12.20 pm.	12.50 pm.
37	31.10.2011	7.20 am.	8.00 am.	9.12 am.	12.08 pm.	1.20 pm.	2.05 pm.
38	2.11.2011	7.30 am.	8.00 am.	9.15 am.	12.12 pm.	12.25 pm.	1.03 pm.
39	3.11.2011	7.35 am.	8.00 am.	9.13 am.	10.13 am.	10.35 am.	11.15 am.
40	4.11.2011	7.30 am.	7.50 am.	8.21 am.	10.06 am.	10.50 am.	11.20 am.
41	7.11.2011	7.50 am.	8.10 am.	9.12 am.	12.36 pm.	12.50 pm.	1.10 pm.
42	9.11.2011	7.50 am.	8.10 am.	9.12 am.	12.13 pm.	12.45 pm.	1.10 pm.
43	10.11.2011	8.15 am.	9.00 am.	10.32 am.	10.59 am.	1.20 pm.	2.00 pm.
44	14.11.2011	8.00 am.	8.40 am.	10.45 am.	1.47 pm.	2.15 pm.	3.15 pm.
45	16.11.2011	9.00 am.	9.20 am.	11.01 am.	2.00 pm.	2.30 pm.	3.00 pm.
46	21.11.2011	7.50 am.	8.25 am.	9.13 am.	12.12 pm.	12.50 pm.	1.15 pm.
47	23.11.2011	7.45 am.	8.00 am.	9.14 am.	12.45 pm.	1.10 pm.	1.40 pm.
48	24.11.2011	8.20 am.	8.50 am.	9.16 am.	11.50 am.	12.30 pm.	1.20 pm.
49	28.11.2011	8.00 am.	8.30 am.	9.12 am.	10.22 am.	11.00 am.	11.26 am.
50	30.11.2011	7.55 am.	8.20 am.	9.11 am.	9.16 am.	10.30 am.	11.00 am.
51	5.12.2011	8.00 am.	8.20 am.	9.14 am.	9.24 am.	10.00 am.	10.35 am.
52	12.12.2011	8.00 am.	8.15 am.	9.14 am.	10.04 am.	10.30 am.	11.00 am.
53	13.12.2011	9.08 am.	9.40 am.	11.09 am.	12.41 pm.	1.00 pm.	1.48 pm.
54	19.12.2011	7.40 pm.	8.20 am.	9.16 am.	11.29 am.	1.30 pm.	2.05 pm.
55	21.12.2011	7.50 am.	8.40 am.	10.26 am.	1.46 pm.	1.55 pm.	2.38 pm.

56	27.12.2011	8.30 am.	9.00 am.	11.08 am.	2.04 pm.	2.50 pm.	3.25 pm.
57	11.1.2012	8.00 am.	8.15 am.	9.14 am.	1.07 pm.	1.40 pm.	2.10 pm.
58	12.1.2012	8.00 am.	8.25 am.	9.10 am.	9.55 am.	10.25 am.	10.50 am.
59	13.1.2012	7.50 am.	8.10 am.	9.09 am.	5.18 pm.	5.40 pm.	6.00 pm.
60	16.1.2012	8.00 am.	8.35 pm.	9.14 am.	10.30 am.	10.45 am.	11.10 am.
61	17.1.2012	8.00 am.	8.30 am.	9.09 am.	5.55 pm.	6.20 pm.	6.45 pm.
62	18.1.2011	7.50 am.	8.10 am.	9.12 am.	2.15 pm.	2.35 pm.	3.05 pm.
63	19.1.2012	7.55 am.	8.25 am.	9.19 am.	11.16 pm.	11.25 pm.	11.45 pm.
64	24.1.2012	7.45 am.	8.10 am.	9.12 am.	5.59 pm.	6.30 pm.	7.10 pm.
65	26.1.2012	7.40 am.	8.15 am.	9.13 am.	5.52 pm.	6.15 pm.	6.30 pm.
66	27.1.2012	7.50 am.	8.15 am.	9.17 am.	4.04 pm.	5.05 pm.	5.35 pm.
67	30.1.2012	7.40 am.	8.10 am.	9.12 am.	4.51 pm.	6.55 pm.	7.40 pm.
68	31.1.2012	7.50 am.	8.20 am.	9.12 am.	5.46 pm.	6.45 pm.	7.30 pm.
69	1.2.2012	7.50 am.	8.10 am.	9.12 am.	3.04 pm.	5.25 pm.	5.50 pm.
70	2.2.2012	7.55 am.	8.30 am.	9.11 am.	3.00 pm.	3.25 pm.	4.00 pm.
71	6.2.2012	8.50 am.	9.10 am.	10.03 am.	6.06 pm.	7.15 pm.	8.00 pm.
72	7.2.2012	7.50 am.	8.25 am.	9.13 am.	3.25 pm.	4.30 pm.	5.20 pm.
73	8.2.2012	9.05 am.	9.40 am.	10.06 am.	2.23 pm.	2.35 pm.	3.00 pm.
74	9.2.2012	8.45 am.	9.20 am.	10.05 am.	5.51 pm.	6.05 pm.	6.50 pm.
75	10.2.2012	7.00 am.	7.20 am.	8.01 am.	1.41 pm.	2.10 pm.	2.40 pm.
76	14.2.2012	8.15 am.	8.50 am.	9.38 am.	6.08 pm.	7.35 pm.	8.10 pm.
77	15.2.2012	8.20 am.	8.45 am.	9.33 am.	5.40 pm.	6.00 pm.	6.50 pm.
78	16.2.2012	8.00 am.	8.30 am.	9.35 am.	1.13 pm.	1.35 pm.	2.10 pm.
79	27.2.2012	7.40 am.	8.00 am.	-	-	4.20 pm.	4.55 pm.