

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

FIFTH SECTION

CASE OF GLEBOV v. UKRAINE

(Application no. 53192/18)

JUDGMENT

STRASBOURG

25 February 2021

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



In the case of Glebov v. Ukraine,

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

Ivana Jelić, *President,*
Ganna Yudkivska,
Arnfinn Bårdsen, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having deliberated in private on 4 February 2021,

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

PROCEDURE

1. The case originated in an application against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 5 November 2018.

2. The applicant was represented by Mr S.M. Rybiy and Ms Y. Zhukova, lawyers practising in the city of Dnipro.

3. The Ukrainian Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained of the inadequate conditions of his detention and of the lack of any effective remedy in domestic law.

THE LAW

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

6. The applicant complained of the inadequate conditions of his detention and that he had no effective remedy in this connection. He relied on Articles 3 and 13 of the Convention, which read as follows:

Article 3

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

Article 13

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority ..."

7. The Court notes that the applicant was kept in detention in poor conditions. The details of the applicant's detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, ECHR 2016). It reiterates in particular that a serious lack of space in a prison cell weighs heavily as a factor to be taken into account for the purpose of establishing whether the detention conditions described are "degrading" from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see *Muršić*, cited above, §§ 122 -141, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 149-159, 10 January 2012).

8. In the leading case of *Melnik v. Ukraine,* no. 72286/01, 28 March 2006 (for more recent case-law see *Beketov v. Ukraine* [Committee], no. 44436/09, 19 February 2019), the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's conditions of detention were inadequate.

10. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of these complaints.

11. These complaints are therefore admissible and disclose a breach of Articles 3 and 13 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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."

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Melnik*, cited above), the Court considers it reasonable to award the sum indicated in the appended table.

14. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that it discloses a breach of Articles 3 and 13 of the Convention concerning the inadequate conditions of detention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 25 February 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court. {signature_p_1} {signature_p_2}

Liv Tigerstedt	Ivana Jelić
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 3 and 13 of the Convention (inadequate conditions of detention and lack of any effective remedy in domestic law)

Application no. Date of introduction	Applicant's name Year of birth	Facility Start and end date Duration	Sq. m per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
53192/18 05/11/2018	**Maksym Valeriyovych GLEBOV** 1981	Kyiv Pre-Trial Detention Facility 21/06/2015 to 30/08/2018 3 years and 2 months and 10 days	2,3 m²	lack of fresh air, infestation of cell with insects/rodents, mouldy or dirty cell, lack of privacy for toilet, lack of toiletries, lack of or poor quality of bedding and bed linen, poor quality of food, poor quality of potable water, no or restricted access to shower, no or restricted access to warm water, passive smoking, overcrowding	7,100

[1] Plus any tax that may be chargeable to the applicant.