

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

FIFTH SECTION

# CASE OF KILIKHEVICH v. UKRAINE

*(Application no. 43958/15)*

JUDGMENT

STRASBOURG

4 July 2024

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



**In the case of Kilikhevich v. Ukraine,**

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

Carlo Ranzoni*, President*,
Mārtiņš Mits,
María Elósegui*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 13 June 2024,

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 29 August 2015.

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

# THE FACTS

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

# THE LAW

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

4. The applicant complained principally 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.

5. 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, §§ 122-41, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 149-59, 10 January 2012).

6. In the leading cases of *Melnik v. Ukraine* (no. 72286/01, 28 March 2006) and *Sukachov v. Ukraine* (no. 14057/17, 30 January 2020), the Court

already found a violation in respect of issues similar to those in the present case.

7. 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.

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

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

## II. REMAINING COMPLAINTS

10. The applicant also raised other complaints under various Articles of the Convention.

11. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Sukachov*, cited above, §§ 165 and 167), the Court considers it reasonable to award the sum indicated in the appended table.

# FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the inadequate conditions of detention and the lack of any effective remedy in domestic law admissible, and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a breach of Articles 3 and 13 of the Convention concerning the inadequate conditions of detention and the lack of any effective remedy in domestic law;

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 4 July 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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| Viktoriya Maradudina | Carlo Ranzoni |
| Acting Deputy Registrar | President |

# APPENDIX

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

| Application no.<br>Date of introduction | Applicant's name<br>Year of birth | Facility<br>Start and end date<br>Duration | Sq. m per inmate | Specific grievances | Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1] |
|---|---|---|---|---|---|
| 43958/15<br>29/08/2015 | **Vitaliy Vladimirovich KILIKHEVICH**<br>1984 | Kyiv Pre-Trial Detention Facility<br>15/02/2015 to<br>04/04/2015<br>1 month(s) and<br>21 day(s) | 1.65 m² | constant electric light, infestation of cell with insects/rodents, insufficient number of sleeping places, lack of or insufficient electric light, mouldy or dirty cell, lack or insufficient quantity of food, no or restricted access to warm water, no or restricted access to shower, overcrowding, inadequate conditions of transport in overcrowding and in very high or very low temperature with lack of ventilation, lack of or insufficient natural light, lack of or insufficient physical exercise in fresh air | 800 |

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