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

FIFTH SECTION

DECISION

Application no. 36327/06
Vladimir Pavlovich GOLUBENKO
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 5 November 2013 as a Chamber composed of:

Mark Villiger, *President,*
Ann Power-Forde,
Ganna Yudkivska,
André Potocki,
Paul Lemmens,
Helena Jäderblom,
Aleš Pejchal, *judges,*

and Claudia Westerdiek, *Section Registrar,*

Having regard to the above application lodged on 14 August 2006,

Having regard to the decision of 18 September 2012 declaring the application partially inadmissible,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Vladimir Pavlovich Golubenko, is a Ukrainian national, who was born in 1952 and lives in Vilnyansk.

2. The applicant was granted leave to present his own case in the proceedings before the Court, in accordance with Rule 36 § 3 *in fine* of the Rules of Court. The Ukrainian Government ("the Government") were represented by their Agent, most recently Mr Nazar Kulchytskyy.

The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.

1. The applicant's detention in various detention facilities

4. From 6 April to 14 November 2004 the applicant was detained in the Kherson Pre-Trial Detention Centre (SIZO).

5. From 14 November 2004 to 16 December 2006 he served his sentence in Orikhivska Prison no. 88, a correctional colony.

6. From 16 December 2006 to 30 January 2007 the applicant underwent a psychiatric examination in the psychiatric hospital of Vilnyansk Prison no. 20.

7. From 30 January 2007 until his release on 6 April 2009 he was detained in Sofiyivska Prison no. 55.

8. The applicant stated in his submissions before the Court that he was fully satisfied with the conditions of his detention and healthcare afforded to him in Vilnyansk Prison no. 20 and Sofiyivska Prison no. 55.

2. Physical conditions of the applicant's detention in Orikhivska Prison no. 88

(a) The applicant's account

9. According to the applicant's initial submissions, he was detained in "premises" measuring 42.5 sq. m (5.67 x 7.5 m). It had seventeen two-tier bunks and accommodated thirty-four inmates, all suffering from tuberculosis.

10. Later the applicant accepted without reservation the Government's account, according to which he had been accommodated in a dormitory measuring 95.19 sq. m shared by thirty-eight inmates (see paragraph 18 below).

11. According to the applicant, there was no heating and the temperature inside never exceeded 9 degrees Celsius in winter. All the inmates therefore had to sleep in their outer clothes, which were permanently damp as there had been no place to dry them.

12. While there were two ordinary lamps and a night lamp, only the bulb in the night lamp worked. As a result, the lighting was poor.

13. The supply of electricity was limited and intermittent. More precisely, electric power was only supplied during the following periods: 220V from 6 to 7 a.m., 10 to 10.20 a.m., 12 to 12:20 p.m., 3 to 3.20 p.m., and 7 to 10 p.m.; and 110V from 10 p.m. to 6 a.m., and 4.30 to 7.30 p.m.

14. All the prisoners (the number of whom varied from 160 to 200) had to share seven taps for hand washing. Even those taps were unusable in winter, as the water pipes often cracked because of frost and were not

properly maintained. When this happened the inmates had to fill plastic bottles with water from the shower block or the kitchen. Some of them preferred to use snow for "washing".

15. Mere pits served for toilets, which were insufficient in number (only five). The prison was infested with rats.

16. The quality of food was poor. The applicant noted, in particular, that inmates were served porridge for lunch and dinner most days. Twice or three times per week mashed potatoes were on the menu. Inmates suffering from tuberculosis also received carrot juice in the morning, biscuits at lunch and cheese in the evening. Meat was served not as separate portions for each detainee, but from a communal casserole dish. Butter was also served from a shared dish. Sweets were offered instead of sugar. According to the applicant's calculations, detainees suffering from tuberculosis received 20-30% fewer calories than the required nutritional amount.

(b) The Government's account

17. The prison in question is a medium-security correctional colony for men who have served their prison sentence. The applicant was held in the "resocialisation" section, where inmates are accommodated in dormitories. The section measured 451 sq. m and comprised four dormitories (each measuring approximately 95, 71, 21 and 16 sq. m).

18. The applicant slept in dormitory no. 1 measuring 95.19 sq. m. He shared it with thirty-seven inmates, all having a medical history of tuberculosis.

19. There were two fluorescent tube lamps used for lighting in the dormitory. It also had six windows, each measuring 2.5 sq. m.

20. The dormitory had satisfactory sanitary conditions. It had a bathroom unit measuring 24 sq. m with one washing basin and four lavatory pans.

21. In addition, the section had the following:

- a bathroom unit measuring 36 sq. m with eight toilet pits and ten washbasins;
- an education room measuring 36.35 sq. m with two windows and one lamp;
- a room for taking meals measuring 60.12 sq. m with two lamps and two windows;
- a room for storing prisoners' personal belongings measuring 14.37 sq. m with one window and one lamp;
- a special room for drying clothes and shoes measuring 14.38 sq. m with one window and one lamp.

22. Prisoners also had at their disposal a sports ground, a smoking area and an outside area for drying clothes.

23. The dormitories were ventilated twice a day: from 8 to 9 a.m. during the morning check, and from 5 to 5.30 p.m. during the evening check.

24. The prison was centrally heated in summer and by stand-alone boilers during the cold season. The temperature in the dormitories was maintained at 18-19 degrees Celsius.

25. Prison nutrition was in compliance with the applicable legal and regulatory requirements. The applicant was provided with the full nutritional amount for people infected with mycobacterium of tuberculosis.

3. Healthcare in Orikhivska Prison no. 88

(a) Tuberculosis

26. Aside from alleging that the physical conditions of detention and nutrition in the prison had been inadequate for inmates suffering from or having previously suffered from tuberculosis, the applicant did not give any factual account regarding his diagnosis of tuberculosis and treatment.

27. According to the applicant's medical file (a copy of which has been submitted to the Court by the Government), the applicant stated on several occasions that he had suffered from tuberculosis from 1984 to 1997.

28. On 28 July 2004, during one of his examinations by a tuberculosis specialist in the SIZO, the applicant was diagnosed with a minor inflammation in his left lung, known as a Ghon focus, with a limited likelihood of it progressing to tuberculosis. As a result, he was placed under medical supervision for five years.

29. Upon his arrival at the prison the applicant underwent a medical examination which included urine, blood and sputum tests and an X-ray. As a result, he was prescribed and underwent tuberculosis anti-relapse therapy.

30. On 19 April, 20 October and 17 December 2004, 17 December 2005 and 7 June 2006 the applicant was X-rayed. Furthermore, on 15 July 2004, 22 April 2005, 14 and 21 March and 28 September 2006 he was examined by a tuberculosis specialist. As a result, he was prescribed and received certain medication as preventive medical treatment.

(b) Eyesight deterioration

31. According to the applicant's initial submissions, during his detention in Orikhivska Prison no. 88 his sight progressively deteriorated for almost a year. Despite this, his requests for a specialist examination remained ignored, as the prison did not employ an ophthalmologist, and seeking an external consultation was not deemed feasible.

32. According to the applicant's later observations in reply to those of the Government, all the inmates of Orikhivska Prison no. 88 who had any sight-related complaints could register for an examination with a visiting ophthalmologist from Orikhivska Town Hospital. The applicant provided no further details.

33. As submitted by the Government, the applicant did not raise a single complaint about his sight deterioration during his detention in Orikhivska Prison.

34. On 31 January 2007 he was diagnosed for the first time with visual impairment (no further details being available) in Sofiyivska Prison, and he was told to wear spectacles. The applicant was placed under dispensary supervision in that regard, with check-ups twice a year. He was also prescribed medical treatment for meibomitis of the upper eyelid of the left eye (an inflammation of glands that produce an oily substance to reduce the evaporation of a person's tears).

(c) Dermatological problems

35. The applicant alleged that he had contracted onychomycosis of both feet and the left hand, as a result of poor sanitary conditions. According to him, the head of the medical unit of Orikhivska Prison refused to provide him with any treatment, telling him that there was a lack of medication and that this type of infection was not dangerous.

36. According to the applicant's medical file (submitted by the Government), on 20 April 2004, while the applicant was detained in the Kherson SIZO, he was examined by a dermatologist who did not diagnose him with any dermatological conditions.

37. As stated by the Government on the basis of the applicant's medical file, during his detention in Orikhivska Prison the applicant only applied once for medical assistance regarding skin problems, on 23 December 2005. He was examined and diagnosed with a foot fissure. As a result, he was prescribed and treated with Methyluracil ointment.

38. According to the Government, the applicant did not subsequently raise any complaints regarding any dermatological conditions with the medical staff or prison administration. Nor did he raise any such complaints with the prosecutor.

39. On 16 December 2006 the applicant was transferred to the psychiatric hospital of Vilnyansk Prison no. 20. His general medical examination upon arrival there did not reveal any skin rashes, scabs, pediculosis or any other dermatological conditions. The applicant did not raise any complaints either.

4. Relevant facts following the applicant's release

40. On 26 February 2013 the applicant consulted an ophthalmologist who gave the following diagnoses: high-degree myopia, myopic astigmatism, central and peripheral chorioretinal dystrophy of the right eye; and low-degree myopia and myopic astigmatism of the left eye. Further examinations were recommended with a view to defining the appropriate treatment.

41. The applicant neither undertook the recommended examinations nor sought any treatment, referring to the fact that he was experiencing financial hardship.

42. On 28 February 2013 the applicant was also examined in a local dermatovenerologic hospital. He was diagnosed with onychomycosis of both feet and the left hand, and was recommended treatment.

43. The applicant did not pursue any treatment, which he explained to the Court was because of his low income.

COMPLAINTS

44. The applicant complained, in particular, about the physical conditions of his detention and the adequacy of the healthcare provided to him in Orikhivska Prison no. 88.

THE LAW

A. The Government's objection as regards the exhaustion of domestic remedies

45. The Government contended that the applicant could not be regarded as having exhausted domestic remedies, as he had failed to raise his complaints before a prosecutor or a court.

46. The applicant contested this argument. He submitted that he had done everything possible to bring his grievances to the attention of the prison administration, as well as the prosecution authorities. However, his complaints had not been taken seriously.

47. The Court notes that it has already dismissed similar objections by the Government on a number of occasions, as the problems arising from the conditions of detention and the lack of proper medical treatment in Ukrainian places of detention were of a structural nature and no effective remedy was available in this respect (see, for a recent case-law reference, *Komarova v. Ukraine,* no. 13371/06, § 50, 16 May 2013). The Court sees no reason to depart from that finding in the present case and therefore considers that this complaint cannot be rejected for failure to exhaust domestic remedies.

48. It remains however to be seen whether the application complies with the other admissibility criteria under Article 35 of the Convention.

B. Physical conditions of the applicant's detention in Orikhivska Prison no. 88

1. The parties' submissions

49. The applicant maintained his description of the conditions of his detention as summarised in paragraphs 9-16 above.

50. The Government contested all his allegations as inaccurate, relying on their own account (see paragraphs 17-25 above). They noted that the applicant had enjoyed freedom of movement within the prison, including outside walks and exercise, as well as access to various other places than the dormitory.

2. The Court's assessment

51. The Court reiterates that, under Article 3 of the Convention, the State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, and that the manner and method of execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention (see *Kudła v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI).

52. The Court notes that information about the physical conditions of detention falls within the knowledge of the domestic authorities. Accordingly, applicants might experience certain difficulties in procuring evidence to substantiate a complaint in that connection. Still, in such cases applicants may well be expected to submit at least a detailed account of the facts complained of and provide – to the greatest possible extent – some evidence in support of their complaints. The Court has considered as evidence in such situations, for example, written statements by fellow inmates or photographs provided by applicants in support of their allegations (see *Visloguzov v. Ukraine*, no. 32362/02, § 45, 20 May 2010, with further references, and *Gavula v. Ukraine,* no. 52652/07, § 73, 16 May 2013).

53. Turning to the present case, the Court notes that the applicant provided a very detailed description of the size and population of the prison "premises" in which he had been detained (see paragraph 9 above). However, as it later turned out and was not disputed by the applicant, that information was inaccurate. Thus, he initially submitted that he had been detained in "premises" measuring 42.5 sq. m which accommodated thirty-four inmates. The applicant did not specify that the "premises" in question were not a confinement cell, but rather a dormitory where inmates only slept. Subsequently he accepted without reservation the Government's account, according to which the dormitory in question measured

95.19 sq. m (double the size initially indicated by the applicant) and was shared by thirty-eight inmates (see paragraph 10 above).

54. The Court observes that the applicant's grievances concern the following issues: overcrowding, lack of heating, poor lighting, power cuts, the insufficient number of toilets and taps for hand washing, rodent infestation, and inadequate nutrition.

55. As the Court has held in its case-law, when assessing conditions of detention, account has to be taken of the cumulative effects of those conditions, as well as the specific allegations made by the applicant (see *Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II).

56. The Court notes that, as opposed to pre-trial detention facilities and high-security prisons (where inmates are confined to their cell for most of the day), when assessing the issue of overcrowding in post-trial detention facilities such as correctional colonies, it considered that the personal space in the dormitory should be viewed in the context of the applicable regime, providing for a wider freedom of movement enjoyed by detainees in correctional colonies during daytime and their unobstructed access to natural light and air (see, for example, *Valašinas v. Lithuania*, no. 44558/98, § 107, ECHR 2001-VIII, and *Nurmagomedov v. Russia* (dec.), no. 30138/02, 16 September 2004).

57. The Court notes that in the present case the personal space in the applicants' dormitory was 2.5 sq. m per person and that all the inmates there, including the applicant, had a medical history of tuberculosis. The Court attaches weight to the fact that the applicant was held in the "resocialisation" section of the prison, where prisoners were free to move around the establishment's living area during daytime (see paragraph 17 above). In the Court's view, this compensated, at least to a certain extent, for the restricted space in the sleeping facilities inside the dormitory. Accordingly, the Court considers that it cannot be established that the level of alleged overcrowding in the applicant's dormitory in itself constitutes ill-treatment reaching the minimum level of severity under Article 3. However, this aspect of the applicant's conditions of detention should be assessed together with the other aspects, examined below, in order to take account of their cumulative effects.

58. The Court observes that the applicant also alleged a lack of heating in the prison (see paragraph 11 above).

59. The Court has previously found it unacceptable that anyone should be detained in conditions involving a lack of adequate protection against extreme temperatures (see *Mathew v. the Netherlands*, no. 24919/03, § 214, ECHR 2005-IX, and *Zakharkin v. Russia*, no. 1555/04, § 125, 10 June 2010).

60. In order to precisely determine the severity of the situation in each particular case, the Court expects some details from an applicant with specific examples as to the specific time periods when the temperature

inside was extremely low and for how long such conditions persisted. In the absence of this information, even where it was established that there had been no heating system in a prison at all, the Court did not consider this fact alone to raise any issues under Article 3 (see *Insanov v. Azerbaijan*, no. 16133/08, § 125, 14 March 2013).

61. No such details have been provided by the applicant in the present case. Nor did the applicant allege that the windows had not been properly glazed in the dormitory (contrast *Zakharkin*, cited above, § 125). The Government, to the contrary, provided quite specific information as to the heating arrangements in Orikhivska Prison (see paragraph 24 above).

62. It has therefore not been established that the applicant suffered from extreme temperatures during his detention there.

63. The next grievance raised by the applicant concerned poor lighting and the intermittent supply of electricity, namely that the dormitory lamps had no working bulbs and there had been frequent power cuts according to an established timetable (see paragraphs 12 and 13 above).

64. The Court observes that the Government contested the accuracy of the applicant's allegation regarding poor lighting and did not comment on his allegation regarding power cuts (see paragraphs 19 and 50 above).

65. As the Court has already noted while examining the applicant's allegation of overcrowding, he enjoyed sufficient access to natural light outside the dormitory during daytime hours (see paragraph 57 above). Furthermore, it appears that there should have been enough daytime natural light in the dormitory itself coming in through the six windows measuring 2.5 sq. m each (which the applicant did not allege were covered by any light-obstructing objects; see paragraph 19 above). In any event, replacing a burned-out light bulb was indeed a minor issue, and the applicant did not submit ever having attempted to resolve it with the administration.

66. As to the applicant's complaint of power cuts, the Court notes that, even if his account were accurate, there was a regular electricity supply according to an established timetable, enabling inmates to organise themselves accordingly.

67. The Court is therefore unable to discern any issues under Article 3 of the Convention in the present case as regards the lighting and electricity supply arrangements in Orikhivska Prison.

68. Furthermore, the applicant complained about poor sanitary conditions, namely the insufficient number of toilets and taps for hand washing, as well as rodent infestation (see paragraphs 14 and 15 above).

69. In this connection, the Court notes that it has frequently found a violation of Article 3 of the Convention on account of unsatisfactory sanitary conditions coupled with a number of other inadequate conditions such as the lack of personal space afforded to detainees (see, among many others, *Kalashnikov v. Russia*, no. 47095/99, §§ 97 et seq., 15 July 2002;

Testa v. Croatia, no. 20877/04, § 60, 12 July 2007; and *Generalov v. Russia*, no. 24325/03, §§ 12-14 and 112, 9 July 2009).

70. In the present case, according to the material available in the case file, there were four lavatory pans for the thirty-eight inmates of dormitory no. 1, plus an additional eight toilet pits to which the inmates of the other three dormitories also had access (see paragraphs 20 and 21 above). It does not appear that this number of toilets was manifestly insufficient (see and compare with *Insanov*, cited above, § 126, where each toilet had to be shared by more than fifty inmates).

71. The Court further observes that while the applicant complained about a small number of hand washing taps, he did not raise any complaints regarding the inmates' access to showers. It also appears from his submissions that prisoners did have access to a shower block and could use water there even when there were problems with the hand washing taps (see paragraph 14 above).

72. As regards the applicant's allegation of rodent infestation, it is formulated in broad terms and unsubstantiated.

73. Accordingly, the Court considers that the applicant failed to show that the sanitary conditions of his detention had been so poor as to run contrary to the safeguards of Article 3 of the Convention.

74. Lastly, the applicant complained of inadequate nutrition (see paragraph 16 above).

75. The Court notes that, according to its case-law, the State authorities' obligation to ensure the health and general well-being of a detainee includes, among other things, an obligation to provide him with adequate nourishment (see *Kadiķis v. Latvia* (no. 2), no. 62393/00, § 55, 4 May 2006).

76. From the applicant's submissions in the present case, it appears that he received nutrition adequate for and adapted to his medical needs. Thus, the allowance for inmates with a medical history of tuberculosis, including the applicant, was richer and more varied than for those non-infected with tuberculosis (see paragraph 16 above).

77. It follows that the applicant's complaint regarding his nutrition in the prison is unsubstantiated.

78. The Court therefore concludes that none of the applicant's allegations regarding the physical conditions of his detention in Orikhivska Prison no. 88 are sufficiently established. He failed to submit any convincing factual details, any photographs or any statements from other inmates to corroborate those allegations. Furthermore, the Court has never found a violation of Article 3 of the Convention in respect of the conditions of detention in that particular prison, from which it could draw inferences in favour of the applicant's allegations in the present case (like, for example, in the case of *Izzetov v. Ukraine* no. 23136/04, § 42, 15 September 2011), where the Court found a violation of Article 3 as regards the conditions of

detention in Simferopol SIZO, mainly because it had already found violations on that account in other previous cases). Nor have there been any reports by the European Committee for the Prevention of Torture regarding the situation in Orikhivska Prison no. 88, which could be relied on in the present case (see *Gavula,* cited above, § 73).

79. In view of the above, the Court considers that this part of the application has not been properly substantiated by the applicant (see *Visloguzov*, cited above, § 49). Therefore it should be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

C. Healthcare in Orikhivska Prison no. 88

1. The parties' submissions

(a) Tuberculosis

80. The applicant submitted, without giving further details, that he had been infected with tuberculosis in the SIZO and that there had been no adequate attention to his condition in Orikhivska Prison no. 88.

81. The Government denied the veracity of the applicant's allegation that he had contracted tuberculosis while in detention. They noted that he had himself admitted on several occasions that he had suffered from tuberculosis from 1984 to 1997 (see paragraph 27 above).

82. Furthermore, referring to the applicant's medical file (see paragraphs 28-30 above), the Government emphasised that he had remained under constant, regular and comprehensive medical supervision in respect of his past tuberculosis infection and that he had undergone several courses of anti-relapse therapy.

(b) Eyesight deterioration

83. The applicant maintained his description of the situation as summarised in paragraphs 31 and 32 above. He submitted that only Sofiyivska Prison no. 55 had had an ophthalmologist, who had prescribed spectacles for him. The applicant pointed out that he was fully satisfied with the conditions of detention and the healthcare afforded to him there. He did not, however, submit any information as to the diagnosis given by the Sofiyivska Prison ophthalmologist. Nor did he give any details as to whether he had actually received and had been using the spectacles he had been prescribed.

84. In substantiation of his complaint under this head, the applicant referred to the ophthalmologist's diagnosis of 26 February 2013 (see paragraph 40 above). He blamed the authorities for his eyesight deterioration and submitted that he could not afford the medical treatment.

85. The Government insisted that the first time the applicant had sought a medical examination in respect of his eyesight deterioration was on 31 January 2007 when he had been examined immediately, and had been prescribed spectacles and treatment (see paragraph 34 above).

(c) Dermatological problems

86. The applicant complained that he had to live with onychomycosis of both feet and the left hand, which had been acquired and had remained untreated during his detention, and that he could not afford treatment after his release.

87. The Government maintained that the only dermatological problem the applicant had ever complained about during his detention had been a foot fissure, which had been treated immediately. They observed that the applicant had undergone numerous medical examinations in the SIZO, Orikhivska Prison no. 88, Vilnyansk Prison no. 20 and Sofiyivska Prison no. 55, without the onychomycosis or any other dermatological condition having been diagnosed.

2. The Court's assessment

(a) General case-law principles

88. The Court has emphasised on a number of occasions that the health of prisoners has to be adequately secured (see *Kudła*, cited above, § 94). A lack of appropriate medical care may amount to treatment contrary to Article 3 (see *İlhan v. Turkey* [GC], no. 22277/93, § 87, ECHR 2000-VII, and *Sarban v. Moldova*, no. 3456/05, § 90, 4 October 2005).

89. In assessing whether the authorities discharged their health care obligations *vis-à-vis* a detainee in their charge, the Court may also analyse to what extent his state of health deteriorated in the course of his detention. Although such deterioration does not in itself imply a violation of Article 3, it may, however, be considered to be a characteristic element of the overall conditions of detention (see, for example, *Valašinas*, cited above, § 54, and *Farbtuhs v. Latvia*, no. 4672/02, § 57, 2 December 2004).

90. The Court has also held that Article 3 of the Convention cannot be interpreted as securing to every detained person medical assistance at the same level as "in the best civilian clinics" (see *Mirilashivili v. Russia* (dec.), no. 6293/04, 10 July 2007). It further held that it was "prepared to accept that in principle the resources of medical facilities within the [penal] system are limited compared to those of civil[ian] clinics" (see *Grishin v. Russia,* no. 30983/02, § 76, 15 November 2007). On the whole, the Court reserves sufficient flexibility in defining the required standard of health care, deciding it on a case-by-case basis. That standard should be "compatible with the human dignity" of a detainee, but should also take into account "the

practical demands of imprisonment" (see *Aleksanyan v. Russia*, no. 46468/06, § 140, 22 December 2008).

(b) Application of the above principles to the present case

i. Tuberculosis

91. The Court notes from the outset the vagueness of the applicant's allegation that he contracted tuberculosis in detention and that he had not been treated for it. Neither the alleged circumstances of his having contracted the disease nor any shortcomings of his treatment were specified.

92. At the same time, the material before the Court contains a copy of the applicant's medical file, according to which he had a medical history of tuberculosis a long time before the detention in question (see paragraph 27 above). Furthermore, according to detailed information from the Government, which has not been contested by the applicant, he was placed under regular and comprehensive medical supervision and underwent anti-relapse treatment (see paragraphs 28-30 above).

93. Accordingly, the Court considers this complaint to be without basis.

ii. Eyesight deterioration

94. The Court notes that there is no medical evidence before it supporting, either directly or indirectly, the applicant's allegation that his eyesight had progressively deteriorated during his detention in Orikhivska Prison. While the applicant initially submitted that his requests for medical examination had remained ignored, he later said that it had been possible for inmates to register for an examination with a visiting ophthalmologist from Orikhivska Town Hospital (see paragraphs 31 and 32 above). The Court also takes note of the absence of any comments from the applicant on the Government's submission that he had not raised a single complaint about his eyesight deterioration in Orikhivska Prison. He could have indicated, at least approximately, when and to whom he had complained.

95. The Court next observes the lack of any information from the applicant as to the extent of his alleged eyesight deterioration during his detention in Orikhivska Prison. Although he explicitly stated that he was satisfied with the conditions of his later detention in Sofiyivska Prison, where he had been diagnosed with a sight impairment and recommended spectacles on 31 January 2007, about a month and a half after his transfer from Orikhivska Prison (see paragraphs 7-8, 34 and 83 above), the applicant did not specify how bad his impairment had been at that stage or whether he had actually followed the recommendation to wear glasses.

96. The Court further notes that, following his release from detention in April 2009, the applicant waited for almost four years before seeking a basic eyesight examination and did not even pursue any of the further examinations or treatment recommended to him, referring in broad terms to

the fact that he was experiencing financial hardship (see paragraphs 7, 40 and 41 above). This undermines his claim that he was seriously concerned about his treatment back in 2004 to 2006, during his detention in Orikhivska Prison (see and compare with *Rudenko v. Ukraine*, no. 579705, § 95, 25 November 2010).

iii. Dermatological problems

97. The Court considers that the applicant's ailment, which is limited to onychomycosis of both feet and the left hand, is not so serious as to raise any issue under Article 3 of the Convention.

98. Furthermore, it appears that the applicant himself never attended to this condition after his release (see paragraphs 7, 42 and 43 above). Given the nature of the disease and the variety of treatments available, the Court cannot accept his argument that he could not afford the treatment.

99. The Court therefore discerns nothing from the situation complained of to blame on the State authorities.

(c) Conclusions

100. In the light of the foregoing, the Court concludes that the applicant's complaint regarding the healthcare afforded to him in Orikhivska Prison no. 88 in respect of his tuberculosis, eyesight deterioration and dermatological problems is unsubstantiated and should be rejected as being manifestly ill-founded under Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Declares the remainder of the application inadmissible.

Claudia Westerdiek
Registrar

Mark Villiger
President