



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

THIRD SECTION

CASE OF ZELENKOV AND OTHERS v. RUSSIA

*(Applications nos. 8306/10 and 6 others –
see appended list)*

JUDGMENT

STRASBOURG

28 September 2017

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

In the case of Zelenkov and Others v. Russia,

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

Luis López Guerra, *President*,

Dmitry Dedov,

Jolien Schukking, *judges*,

and Liv Tiggerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 7 September 2017,

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

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Russian Government (“the Government”).

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the inadequate conditions of their detention. Some applicants also raised complaints under the Article 13 of the Convention.

THE LAW**I. JOINDER OF THE APPLICATIONS**

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicants complained principally of the inadequate conditions of their detention. They relied on Article 3 of the Convention, which reads as follows:

Article 3

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

7. The Court notes that the applicants were kept in detention in poor conditions. The details of the applicants’ 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, *Kudła v. Poland* [GC], no. 30210/96, §§ 90-94, ECHR 2000-XI, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 139-65, 10 January 2012). It reiterates in particular that extreme lack of space in a prison cell or overcrowding weighs heavily as an aspect to be taken into account for the purpose of establishing whether the impugned detention conditions were “degrading” from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see, amongst many authorities, *Karalevičius v. Lithuania*, no. 53254/99, §§ 36-40, 7 April 2005).

8. In the leading case of *Sergey Babushkin v. Russia*, no. 5993/08, 28 November 2013, 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 applicants’ conditions of detention were inadequate.

10. These complaints are therefore admissible and disclose a breach of Article 3 of the Convention.

III. REMAINING COMPLAINTS

11. In applications nos. 71726/12 and 63359/13 the applicants submitted also complaints under Article 13 of the Convention, in accordance with the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in *Ananyev and Others v. Russia* (cited above, §§ 100-19, pertaining to the absence of an effective remedy to complaint about the conditions of detention in Russia).

IV. 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, *Sergey Babushkin v. Russia*, (just satisfaction), no. 5993/08, 16 October 2014 and *Mozharov and Others v. Russia*, no. 16401/12 and 9 others, 21 March 2017), the Court considers it reasonable to award the sums 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. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 3 of the Convention concerning the inadequate conditions of detention;
4. *Holds* that there has been a violation as regards the other complaints raised under well-established case-law of the Court (see appended table);
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts 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 amounts 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 28 September 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Luis López Guerra
President

APPENDIX

List of applications raising complaints under Article 3 of the Convention
(inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Number of inmates per brigade Sq. m. per inmate Number of toilets per brigade	Specific grievances	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	8306/10 23/12/2009	Leonid Yuryevich Zelenkov 23/05/1968		IK-43 Kemerovo 09/03/2010 to 17/02/2011 11 month(s) and 9 day(s) IK-43 Kemerovo, disciplinary cell 18/01/2011 to 23/12/2011 11 month(s) and 6 day(s) IK-1 Mariinsk, Kemerovo Region, disciplinary cell 26/07/2011 to 10/08/2011 16 day(s)	1.6 m ² 2 m ²	Fewer sleeping places than inmates. The applicant had to wear winter clothing all the time because of low temperature, the cell was in a basement. walls were covered with frost, sleeping place made of metal suspended on chains was short making the applicant sleep with his head and feet on the chain. Insects, no ventilation, low partition between the lavatory and the living area.		8,000
2.	71726/12 05/10/2012	Leonid Valeryevich Rudik 31/08/1987		IK-56 Sverdlovskiy Region 27/06/2012 to 24/03/2014 1 year(s) and 8 month(s) and 26 day(s)		No sewage, no running water, 30 litres of water of poor quality allowed daily. A bucket instead of lavatory, the applicant had to use it in awkward position, stench, poor ventilation, low temperature in the cell in winter time, poor lighting, tuberculosis-infected inmates in cell next door, no access to natural light, poor quality of food.	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	7,300

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Number of inmates per brigade Sq. m. per inmate Number of toilets per brigade	Specific grievances	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
3.	8684/13 03/01/2013	Valentin Ivanovich Kuzmenko 23/02/1971		IK-4 Aleksandriyskaya Stavropol Region 10/08/2011 to 22/09/2011 1 month(s) and 13 day(s) IK-3 Krasnokumskoe Stavropol Region 22/09/2011 to 17/11/2013 2 year(s) and 1 month(s) and 27 day(s) IK-4 Aleksandriyskaya Stavropol Region 17/11/2013 to 23/01/2015 1 year(s) and 2 month(s) and 7 day(s)	65 inmate(s) 1 m ² 3 toilet(s) 80 inmate(s) 0.9 m ² 2 toilet(s) 65 inmate(s) 1 m ² 3 toilet(s)	lack of sleeping places, dim electric light, no ventilation, lack of water, small walking yard of 28 sq.m. (0.4 sq.m. per inmate), walks every 2-3 days for 30-40 minutes, shower once in two weeks, 1 shower head, no running water, water heater of 70 litres for 65 inmates 4 sinks, a toilet with two seats in outhouse, overcrowding, small kitchen of 10 sq.m., small canteen of 12 sq.m., dim electric light in all premises, daily shower, one shower head, water heater of 70 litres for 80 inmates 3 sinks, lack of sleeping places, dim electric light, no ventilation, lack of water, the air heavy with cigarette smoke in the premises and walking yard, a small walking yard of 28 sq.m. (0.4 sq.m. per inmate), walks every 2-3 days for 30-40 minutes, the smell of garbage pervaded the walking yard from the inner dumpster, shower once in two weeks, 1 shower head, no running water, water heater of 70 litres for 65 inmates, no disinfection of shower, no warm clothes in winter		11,300
4.	63359/13 09/09/2013	Andrey Anatolyevich Zlobin 20/08/1978		IK-29 Kirov Region 27/02/2012 pending More than 5 year(s) and 3 month(s) and 12 day(s)	1.6 m ²	Tuberculosis-infected inmates in the cell, no heating in the toilet, poor quality of food and drinking water, dining room for 54 inmates measured 7 sq. m. 4 faucets for 54 inmates, 4 pans for 54 inmates, no ventilation in the toilet, no partition between pans until 11/02/2013, no ventilation.	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	16,300

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Number of inmates per brigade Sq. m. per inmate Number of toilets per brigade	Specific grievances	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
5.	44330/15 21/08/2015	Roman Gennadyevich Lyakh 09/12/1971		IK-11 Nizhniy Novgorod Region 17/08/2009 to 20/03/2015 5 year(s) and 7 month(s) and 4 day(s)	1.9 m ²	Poor ventilation, high humidity, insufficient space for outside exercises, 100 sq. m. for 160-420 inmates.		5,000
6.	44212/16 29/09/2016	Aleksandr Yuryevich Nikitin 19/06/1987		IK-9 Volgograd 28/05/2016 to 29/07/2016 2 month(s) and 2 day(s)	2 m ²	Overcrowding, lack of or insufficient natural light, lack of or insufficient electric light, lack of fresh air, passive smoking, no or restricted access to toilet, lack of privacy for toilet, no or restricted access to shower, no or restricted access to running water, no or restricted access to warm water, lack of or insufficient physical exercise in fresh air, inadequate temperature		1,700
7.	64171/16 24/10/2016	Artem Valeryevich Nikiforov 26/05/1987	Vinogradov Aleksandr Vladimirovich Kostroma	IK-1 Kostroma 12/03/2015 to 12/09/2016 1 year(s) and 6 month(s) and 1 day(s)	20 inmate(s) 1.6 m ²	Overcrowding, poor quality of food		5,000

¹. Plus any tax that may be chargeable to the applicants.