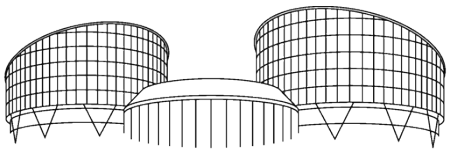

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF FIRSTOV v. RUSSIA

(Application no. 42119/04)

JUDGMENT

STRASBOURG

20 February 2014

FINAL

07/07/2014

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Firstov v. Russia,

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

Isabelle Berro-Lefèvre, *President,*
Elisabeth Steiner,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Ksenija Turković,
Dmitry Dedov, *judges,*
and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 28 January 2014,

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

PROCEDURE

1. The case originated in an application (no. 42119/04) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Sergey Gennadyevich Firstov ("the applicant"), on 12 October 2004.

2. The Russian Government ("the Government") were represented by Mr G. Matyshkin, Representative of the Russian Federation at the European Court of Human Rights.

3. The applicant alleged, in particular, that the conditions of his detention in police custody had been extremely poor.

4. On 5 March 2010 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1972 and lives in the town of Tolyatti, Samara Region.

A. Criminal proceedings against the applicant

6. On 26 October 2003 police officers from the Inza District Police Department arrested the applicant. He was accused of having broken into a

flat and having stolen personal belongings the estimated cost of which was 20,000 Russian roubles (RUB), (approximately 550 euros (EUR). He was remanded in custody at the Inza Town police station ("the police ward").

7. Three days later, a prosecutor authorised the applicant's pre-trial detention and charged him with theft. He was transferred to Inza temporary detention facility IZ-73/3.

8. On 24 December 2003 a deputy prosecutor of the Inza District served the applicant with a bill of indictment. The applicant was committed to stand trial before the Inza District Court.

9. On 13 January 2004 the District Court held the first trial hearing, and on 19 January 2004 it found the applicant guilty of aggravated theft and sentenced him to five years' imprisonment. On 24 March 2004 the Ulyanovsk Regional Court upheld the judgment on appeal.

B. Detention in the police ward

10. In addition to his first period of detention in the police ward following his arrest, the applicant was taken to the ward on twenty-two occasions during the pre-trial investigation and court proceedings.

11. The applicant provided the following description of the conditions of his detention in the ward. He was usually detained in a cell containing two wooden bunk beds and accommodating up to ten detainees. Inmates had had to take turns to rest owing to the shortage of sleeping places. No bedding was provided. The cell did not have a window in the proper sense of that word – a small window was covered with a metal sheet, blocking access to natural light and air. In the absence of any artificial ventilation in the cell, it was hard to breathe owing to the thick smoke and the humidity. The cell was lit by a small bulb inserted in a recess in the concrete wall above the door. Thick metal bars separated the bulb from the cell. According to the applicant, there was no furniture, wash-bowl or lavatory pan in the cell. Once a day, in the morning, inmates were taken to a public lavatory outside the police station. For the rest of the day, they had to use a bucket as a lavatory pan. They were allowed to clean the bucket once a day, in the morning. The foul smell permeated the cell, as the bucket had no cover. The police station did not have a recreation yard and inmates were therefore confined to their cells day and night. Food was provided once a day. The daily food ration consisted of half a bowl of cabbage soup and a piece of bread. In addition, inmates were given tea, which they drank from containers cut from plastic bottles. Medical assistance was unavailable.

12. The Government submitted that in the period after his arrest and until 4 February 2004, the applicant had been taken back to the police ward twenty-two times. He had usually been taken from the detention facility IZ-73/3 to the ward early in the morning and had been returned to facility IZ-73/3 in the evening, only to be sent back to the police ward in the following

morning or several days later. The Government observed that he had spent ten days in the police ward during the pre-trial investigation: five days while attending the court hearings, four days while he was re-acquainting himself with the case-file materials, and an additional three days while he was studying the court records. The Government acknowledged that the material and sanitary conditions in the ward had not "entirely satisfied the established legal requirements". They stressed that the cells had had no furniture, save for bunk beds, or radios, the lighting had been "insufficient", the cells had not been equipped with lavatory pans as the police ward was not connected to the water mains or the sewerage system. They further conceded that there had been no artificial ventilation system, the cells had not been disinfected and detainees had not been provided with bedding. Following a number of warnings from the prosecutor, in April 2004 the director of the police station sent a request for additional funding and took the necessary steps to comply with the legal norms governing conditions of detention. The Government provided the Court with a copy of a prosecutor's order issued on 15 February 2004. Having seen for himself the conditions of detention in the police station and talked to inmates, the prosecutor noted the following problems requiring immediate improvement: occasional overcrowding, failure to provide inmates with bedding, scarce food and lack of sanitary facilities. The Government described the detention authorities' response to the prosecutor's orders, and submitted that after the applicant's detention in the ward the metal shutters had been removed from the cell windows and inmates had been guaranteed an individual sleeping place and personal space of no less than four square metres. Furniture had been installed in the cells and inmates had started receiving food three times a day. The police station administration was now organising daily walks for detainees, had introduced disinfection of the facilities and was providing inmates with the opportunity to take a shower and wash their clothes and bedding.

13. Nonetheless, the Government disputed the applicant's allegations concerning the availability of medical assistance and the provision of warm clothes. In particular, they stated that urgent medical assistance had been ensured by emergency doctors, although the applicant had never requested any medical attention. It had also been open to him to ask the administration of the detention facility IZ-73/3 for warm clothes. He had not used that opportunity. The Government insisted that the applicant had had warm clothes when he had been taken to the police station between 13 and 19 January 2004, because his female partner had sent warm clothes to him at the temporary detention facility in December 2003.

C. Proceedings seeking compensation for damage

14. On 9 March 2004 the applicant brought an action in tort against the police station administration and the Ministry of Finance of the Russian Federation. He claimed that the conditions of his detention in the police ward had been inhuman and had led to a serious deterioration in his health.

15. On 26 May 2004 the Inza District Court partly allowed the applicant's action and awarded him RUB 500 (approximately EUR 15) in compensation for non-pecuniary damage. The District Court held, in so far as relevant, as follows:

> "It was established in a court hearing that the facilities provided to detainees in [the Inza police station] were not adequately furnished, in violation of the legal norms; the representatives of [the police station] explained that the underlying cause was a lack of funds.
>
> The materials of the prosecutor's inquiry confirm that bedding is not provided in the [detention ward]. The cells are not furnished in compliance with the law. There are no lavatory pans, water, tables, radio, etc. The lighting in the cells is insufficient; the cells are in semi-darkness. There are windows in the cells; however, they are covered by metal bars in such a fashion that they block access to natural light. There is no ventilation in the cells. The air is stuffy with a peculiar odour. The police ward is not disinfected ...
>
> ... suspects and defendants have the right to one hour's outdoor recreation per day ...
>
> The director of [the police station] Mr T. explained in a court hearing that he does not draw up a record of detainees' daily outdoor recreation; whenever possible [detainees] are taken for a walk once a day.
>
> Following a prosecutor's decision addressed to the director of [the police station] about the elimination of violations of the Detention of Suspects Act, certain measures were taken: persons detained in [the police station] are now taken for outdoor walks in compliance with the above-mentioned law; light bulbs with a higher wattage are now used in the cells, thus producing more light; and an estimate of expenditure has been drawn up in respect of the shortcomings that have to be eliminated in order to comply with [the prosecutor's] decision. It appears from the reply of the police station director to [the prosecutor's decision], that once funds have been received, all the necessary measures will be taken to eliminate the shortcomings.
>
> ...
>
> [The applicant's] complaints pertaining to the lack of medical assistance are worth consideration.
>
> In the court hearing the representatives of [the police station] did not dispute the fact that the requirements of the Instruction on the Provision of Medical and Sanitary Assistance to Detainees ... are not complied with in [the police ward].
>
> However, the court does not disregard the fact that ... urgent medical assistance was provided to suspects by emergency medical teams in [the police ward]. That fact is corroborated by the records of medical examinations of detainees. [The applicant] did not request the provision of medical assistance.
>
> ...

> By virtue of norm no. 3 for daily food rations of persons detained in police detention facilities, detainees ... should have been given the following food ration per twenty-four hours: 550 grams of bread ..., 100 grams of porridge, 20 grams of pasta, 100 grams of meat, 100 grams of fish, 30 grams of margarine, 15 grams of vegetable oil, 30 grams of sugar, 1 gram of tea, 20 grams of salt, 500 grams of potatoes, 250 grams of vegetables, 0.1 gram of bay leaf and 3 grams of tomato sauce.
>
> In the court hearing [the applicant] explained that [on the days when he was transferred between the police station and detention facility IZ-73/3] he received food in [that facility] in the morning and evening, [and that he was] not given food in [the police station]. [During longer stays] he received food once a day [in the ward]. The food ration included a plate of soup, half a loaf of bread and a glass of tea. The representatives of the [police station] did not dispute that fact.
>
> ...
>
> It was established in a court hearing that when [the applicant] was transferred [to the ward] in winter, he did not have winter clothes. He was not provided with winter clothes in detention facility IZ-73/3... [The ward] also did not provide [the applicant] with warm clothes as it did not have them.
>
> The above-mentioned facts confirm that [the applicant's] right to conditions of detention in compliance with domestic requirements was violated in [the police ward], which caused [him] psychological distress.
>
> ...
>
> Having regard to the requirements of reasonableness and justice, the nature of the psychological distress caused to [the applicant], the temporary character of [the applicant's] detention in [the police ward]: the limited period of less than twenty-four hours; the fact that [he] was transferred to [the police station] to take part in investigative measures and court hearings, and the number of days during which [he] was detained in [the ward], the court finds that [the applicant's] claims should be awarded but in a reduced amount."

16. The applicant attended the hearings before the District Court.

17. On 10 August 2004 the Ulyanovsk Regional Court upheld the judgment of 26 May 2004, endorsing the reasons given by the District Court.

D. Proceedings in respect of compensation for health damage

18. In November 2004 the applicant lodged an action against the head of the medical unit of the temporary detention facility IZ-73/3 in Inza, the police station administration and an investigator from the Inza Town Police Department, seeking compensation for damage to his health and loss of earnings. In particular, he argued that he had had no chronic illnesses prior to his detention and that he had fallen ill during his pre-trial detention because of the appalling conditions of his detention in the Inza police ward. He also alleged that the serious deterioration in his health had become apparent in July and August 2004, after his first tort action against the police ward had already been examined by the Inza District Court.

19. On 24 May 2005 the Inza District Court dismissed the applicant's action, finding it to be manifestly ill-founded. The District Court concluded that there was no evidence supporting the applicant's allegations that he had sustained damage to his health as a result of his detention. The applicant was represented by a lawyer during the hearings. On 30 August 2005 the Ulyanovsk Regional Court upheld the judgment.

II. RELEVANT DOMESTIC LAW

A. Conditions of detention

20. Section 22 of the Detention of Suspects Act (Federal Law no. 103-FZ of 15 July 1995) provides that detainees should be given sufficient food to maintain them in good health, in accordance with standards established by the Government of the Russian Federation. Section 23 provides that detainees should be kept in conditions which satisfy the prescribed sanitary and hygiene requirements. They should be provided with an individual sleeping place and given bedding, tableware and toiletries. Each inmate should have no less than four square metres of personal space in his or her cell.

B. Civil-law remedies against illegal acts by public officials

21. Article 1064 § 1 of the Civil Code of the Russian Federation provides that damage caused to the person or property of a citizen will be compensated in full by the tortfeasor. Pursuant to Article 1069, State agencies and State officials are liable for damage caused to an individual by their unlawful actions or failure to act. Such damage is to be compensated at the expense of the federal or regional treasury. Articles 151 and 1099 to 1101 of the Civil Code provide for compensation for non-pecuniary damage. Article 1099 states, in particular, that non-pecuniary damage will be compensated irrespective of any award for pecuniary damage.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

22. The applicant complained that the conditions of his detention in the ward of the Inza Town police station had breached 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. Submissions by the parties

23. The Government commented on the conditions of the applicant's detention. In particular, they submitted that, in violation of the domestic requirements, the applicant had usually been detained in poorly lit cells with no ventilation, lavatory pan or furniture, apart from bunk beds. The cells had not been disinfected. Detainees had received small quantities of food once a day and had not been provided with bedding. Nonetheless, the Government argued that those conditions of detention did not amount to inhuman and degrading treatment in violation of Article 3 of the Convention. In their subsequent submissions to the Court, having commented on the applicant's claims for just satisfaction, they again asserted that the applicant's rights under Article 3 of the Convention had not been violated. They noted that the applicant had used domestic remedies: he had applied to the Russian courts and had received RUB 500 in compensation for non-pecuniary damage. Lastly, the Government stressed that the applicant could therefore no longer claim to be a victim of the violation of his rights under Article 3 of the Convention.

24. The applicant insisted that the conditions of his detention had been inhuman and degrading. He further argued that, despite the fact that the domestic courts had acknowledged that the conditions of his detention in the ward had not met the requirements of Russian law, he had not lost his "victim" status, as his detention for an aggregate period of a month in appalling conditions could hardly be considered to have been adequately compensated with RUB 500. He also pointed out that the Government had not acknowledged that his rights had been violated under Article 3 of the Convention.

B. The Court's assessment

1. Admissibility

(a) Continuous nature of the applicant's detention in the Inza Town police ward

25. The applicant complained about the conditions of his detention in the police ward on twenty-three occasions between 26 October 2003 and 4 February 2004. The Government submitted that the applicant had rarely stayed in the ward overnight, having been taken there in the morning and sent back to the detention facility in the evening. He had, however, returned to the cell either in the morning of the following day or several days later. Given the nature and frequency of the applicant's stays in the police ward,

the Court finds that the entire period of the applicant's detention should be regarded as a "continuing situation". Short periods of absence during which the applicant was taken back to facility IZ-73/3 had no incidence on the continuous nature of the detention (see, among others, *Shilbergs v. Russia*, no. 20075/03, § 19 and §§ 81-84, 17 December 2009; *Fetisov and Others v. Russia*, nos. 43710/07, 6023/08, 11248/08, 27668/08, 31242/08 and 52133/08, §§ 72-78, 17 January 2012; and *Samartsev v. Russia*, no. 44283/06, § 38 and §§ 106-14, 2 May 2013).

(b) The Government's objection concerning the applicant's lack of "victim status"

26. The Court notes the Government's argument that in the light of the domestic courts' ruling awarding the applicant compensation for non-pecuniary damage caused as a result of his detention in the Inza police ward, he could no longer claim to be a victim of a violation of Article 3 of the Convention within the meaning of Article 34 of the Convention. In this respect, the Court reiterates that Article 34, in its relevant part, provides:

> "The Court may receive applications from any person ... claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. "

(i) Principles established under the Court's case-law

27. The Court summarised the principles governing the assessment of an applicant's victim status in paragraphs 178-92 of its judgment in the case of *Scordino v. Italy* (*(no. 1)* [GC], no. 36813/97, ECHR 2006-V). In so far as relevant to the case under consideration, they are as follows:

(a) in accordance with the subsidiarity principle, it falls first to the national authorities to redress any alleged violation of the Convention. In this regard, the question whether an applicant can claim to be a victim of the violation alleged is relevant at all stages of the proceedings under the Convention;

(b) a decision or measure favourable to the applicant is not in principle sufficient to deprive him of his status as a "victim", unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention;

(c) the issue whether the applicant may still claim to be a victim of a violation of the Convention depends on the redress which the domestic remedy has given him or her;

(d) the principle of subsidiarity does not mean renouncing all supervision of the result obtained from using domestic remedies, otherwise the rights guaranteed by the Convention would be devoid of any substance. In that connection, it should be reiterated that the Convention is intended to guarantee not theoretical or illusory rights, but rights that are practical and effective.

(ii) Application of the foregoing principles

28. It follows from the foregoing principles that the Court must verify whether the authorities acknowledged, at least in substance, that there had been a violation of a right protected by the Convention, and whether the redress can be considered appropriate and sufficient (see *Scordino (no. 1),* cited above, § 193).

(α) The finding of a violation

29. The Court is mindful of the fact that the domestic courts did not expressly acknowledge that the treatment to which the applicant had been subjected as a result of his detention in the police ward had breached Article 3 of the Convention. They found that various aspects of the applicant's detention, having been in breach of the domestic legal requirements, had caused the applicant psychological distress (see paragraph 15 above). Moreover, the Court cannot overlook the Government's refusal to acknowledge that the guarantees of Article 3 of the Convention were not respected in the applicant's case. In these circumstances, the Court is prepared to conclude that, in the absence of direct acknowledgment by the Russian authorities that the applicant had been subjected to ill-treatment contrary to the guarantees of Article 3 of the Convention, he has not lost his "victim status". Although that finding is sufficient for the Court to dismiss the Government's related objection, it would nevertheless like to determine whether the compensation awarded to the applicant could have been considered sufficient redress.

(β) The characteristics of the redress

30. The Court notes that the applicant's claims against the police ward administration and the Ministry of Finance were allowed in part. The domestic courts awarded him RUB 500. In assessing the amount of compensation to award, they took into account various aspects, including the requirements of reasonableness and justice, the nature of the applicant's suffering, the length and temporary character of his detention in the ward, the responsibility of the police station administration for the suffering caused to the applicant, given that he had stayed in the ward on the initiative of the investigating and judicial authorities when they had needed his presence, and the insufficiency of funds which had prevented the administration from providing the applicant with appropriate conditions of detention. It may thus be concluded that the applicant received at least partial compensation for the treatment he had suffered.

31. In this connection, the Court reiterates that the question whether the applicant received reparation for the damage caused – comparable to just satisfaction as provided for under Article 41 of the Convention – is important. The Court has already had occasion to indicate that an

applicant's victim status may depend on the level of compensation awarded at domestic level on the basis of the facts about which he or she has complained before the Court (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 93, ECHR 2006-V, with further references). Whether the amount awarded may be regarded as reasonable, however, falls to be assessed in the light of all the circumstances of the case. These include also the value of the award judged in the light of the standard of living and the general level of incomes in the State concerned, and the fact that a remedy in the national system is closer and more accessible than an application to the Court (see *Scordino*, cited above, §§ 206 and 268, and *Dubjaková v. Slovakia* (dec.), no. 67299/01, 19 October 2004, with further references).

32. Turning to the facts of the present case, the Court is unable to conclude whether the amount of compensation awarded to the applicant could have been considered sufficient in domestic terms, as the parties did not produce any relevant information in this regard. However, the Court's task in the present case is not to review the general practice of the domestic courts in awarding compensation for inhuman conditions of detention or to set a level of compensation which would satisfy the requirements of "adequate and sufficient redress", but rather to determine, in the circumstances of the case, whether the amount of compensation awarded to the applicant constituted sufficient redress in view of his complaint under Article 3 of the Convention pertaining to his detention in the police ward.

33. In this connection, the Court considers that the duration of the applicant's detention in police custody and the reasons given by the domestic courts in making an award in respect of that detention are among the factors to be taken into account in assessing whether the domestic award could be considered as adequate and sufficient redress (see, *mutatis mutandis, Staykov v. Bulgaria*, no. 49438/99, §§ 91-93, 12 October 2006).

34. The aggregate length of the applicant's detention in the Inza police ward amounted to approximately one month between 26 October 2003 and 4 February 2004. On 26 May 2004 the Inza District Court awarded the applicant RUB 500 in pecuniary damages in response to his tort action related to his detention in the police ward.

35. The Court is mindful that the task of estimating the amount of damages to be awarded is a difficult one, especially in a case where personal suffering, whether physical or psychological, is the subject of the claim. There is no standard by which pain and suffering, physical discomfort and psychological distress and anguish can be measured in terms of money. The Court has no doubt that the domestic courts in the present case, with every desire to be just and eminently reasonable, attempted to assess the cumulative effect which the conditions of detention had had on the applicant's well-being (see, *mutatis mutandis, Dougoz v. Greece*, no. 40907/98, § 46, ECHR 2001-II) and to determine the level of physical suffering, emotional distress, anxiety or other harmful effects sustained by

the applicant by reason of his detention in those conditions (see *Nardone v. Italy* (dec.), no. 34368/02, 25 November 2004). However, the Court cannot overlook the fact that the amount of RUB 500 awarded for an aggregate period of a month on twenty-three occasions of detention, that is, a rate of approximately RUB 16 per day, was disproportionately lower than the damages that it generally awards in comparable Russian cases (see, for example, *Labzov v. Russia*, no. 62208/00, 16 June 2005, and *Kantyrev v. Russia*, no. 37213/02, 21 June 2007).

36. While emphasising the importance of a reasonable amount of just satisfaction being offered by the domestic system for the remedy in question to be considered effective under the Convention, the Court has held on a number of occasions that a wider margin of appreciation should be left to the domestic courts in assessing the amount of compensation to be paid. Such an assessment should be carried out in a manner consistent with its own legal system and traditions and take into account the standard of living in the country concerned, even if that results in awards of amounts that are lower than those fixed by the Court in similar cases (see *Cocchiarella*, cited above, § 80, and the finding in paragraph 31 above). However, the Court has also stressed that when awarding compensation for non-pecuniary damage, the domestic courts have to justify their decision by giving sufficient reasons (see *Scordino (no. 1),* cited above, § 204).

37. In this regard, the district and regional courts merely cited the duration and temporary character of the applicant's detention in the police cell as a reason for the "reduced amount" of compensation. While the Court agrees that the length of time the applicant spent in the cell is an acutely relevant factor for the determination of the appropriate amount of compensation, it is not convinced that that factor alone should have been adopted by the Russian courts as the underlying reason for such a disproportionately small award. It appears that the degree of responsibility of the police station administration and their lack of financial resources were taken into account by the Russian courts as additional reasons justifying the amount of compensation. In this respect, the Court reiterates its findings in the case of *Shilbergs v. Russia* (cited above), in which it was confronted with an identical issue of assessing the national court's reasoning for awarding compensation in a case of poor conditions of detention. In that case, the Court held as follows:

> "The Court accepts that, applying the compensatory principle, national courts might make an award taking into account the motives and conduct of the defendant and making due allowance for the circumstances in which the wrong was committed. However, it reiterates its finding made in a number of cases that financial or logistical difficulties, as well as the lack of a positive intention to humiliate or debase the applicant, may not be cited by the domestic authorities as circumstances relieving them of their obligation to organise the State's penitentiary system in such a way as to ensure respect for the dignity of detainees (see, among other authorities, *Mamedova v. Russia*, no. 7064/05, § 63, 1 June 2006). The same logic applies to domestic courts'

reasoning in awarding damages when entertaining actions against a State in respect of its tortious conduct. The Court finds it anomalous for the domestic courts to decrease the amount of compensation to be paid to the applicant for a wrong committed by the State by referring to the latter's lack of funds. It considers that in circumstances such as those under consideration the means available to the State should not be accepted as mitigating its conduct, and are thus irrelevant in assessing damages under the compensatory criterion. Furthermore, the Court is of the opinion that the domestic courts, as the custodians of individual rights and freedoms, should have felt it their duty to mark their disapproval of the State's wrongful conduct to the extent of awarding an adequate and sufficient quantum of damages to the applicant, taking into account the fundamental importance of the right of which they had found a breach in the present case, even if they considered that breach to have been an inadvertent rather than an intended consequence of the State's conduct. As a corollary this would have conveyed the message that the State may not set individual rights and freedoms at nought or circumvent them with impunity." (ibid, § 78).

38. The Court believes that its findings in the *Shilbergs* case are fully applicable to the circumstances of the present case. In view of the absence of a reasonable relationship of proportionality between the amount of compensation awarded to the applicant, the circumstances of the case and the domestic courts' reasoning in making the award, the Court concludes that, having regard to its case-law (see paragraph 34 above), the redress was insufficient and manifestly unreasonable.

(iii) Conclusion

39. Given that both the first condition, acknowledgement of a violation, and the second condition, appropriate and sufficient redress, have not been fulfilled, the Court is entirely convinced that the applicant in the instant case may still claim to be a "victim" of a breach of his rights under Article 3 of the Convention on account of his detention in the Inza police ward. Accordingly, this objection by the Government must be dismissed.

(c) Other grounds for declaring this complaint inadmissible

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

2. Merits

41. The applicant was detained at the Inza police station twenty-three times over a period of slightly over three months between 26 October 2003 and 4 February 2004; the aggregate period of his detention amounted to a month.

42. In the proceedings in which the applicant sought compensation for damage, the domestic courts found that his right to conditions of detention in compliance with domestic requirements had been violated and that he had sustained psychological distress as result of his detention in the Inza police

ward. In particular, they found that he had been held in poor sanitary conditions in insufficiently lit, inadequately furnished and stuffy cells, that he had been given a small quantity of food only once or twice a day, and that when he was transferred to the ward in the winter he had not been given warm clothes (see paragraph 15 above). The Court notes the observations of a prosecutor who saw for himself the conditions in which the applicant had been held. In particular, the prosecutor noted occasional overcrowding, the authorities' failure to provide inmates with bedding, the lack of recreational walks, the limited access to a toilet and no access to any facilities in order to maintain even basic hygiene, given that the police ward was not connected to the main sewerage or water-supply systems. The lack of sanitary facilities meant that inmates had to relieve themselves in a bucket installed in a corner of the cell (see paragraph 12 above). The Government did not dispute the prosecutor's findings.

43. In these circumstances, the Court considers that the distress and hardship endured by the applicant exceeded the unavoidable level of suffering inherent in detention and went beyond the threshold of severity under Article 3 (see, for similar reasoning, *Kantyrev*, cited above, §§ 52-53, *Guliyev v. Russia*, no. 24650/02, § 43, 19 June 2008; *Shilbergs*, cited above, §§ 81-84; *Andreyevskiy v. Russia*, no. 1750/03, §§ 73-78, 29 January 2009; and *Samartsev*, cited above, § 112-14).

44. Accordingly, there has been a violation of Article 3 of the Convention on account of the applicant's detention in the ward of the Inza Town police station, which the Court considers to be inhuman and degrading within the meaning of this provision.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

45. The Court has examined the other complaints submitted by the applicant. However, having regard to all the material in its possession, and in so far as those complaints fall within the its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be rejected as manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

46. 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."

A. Damage

47. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

48. The Government, reiterating their assertion that the applicant's Convention right had not been violated, stressed that the amount of compensation requested was excessive and unreasonable.

49. The Court reiterates, firstly, that the applicant cannot be required to furnish any proof of the non-pecuniary damage he has sustained (see *Gridin v. Russia*, no. 4171/04, § 20, 1 June 2006). It considers that the applicant's suffering and frustration caused by his detention in conditions that did not meet the requirements of Article 3 of the Convention cannot be compensated for by a mere finding of a violation. However, the actual amount claimed does appear excessive. Making its assessment on an equitable basis, it awards the applicant EUR 1,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

50. The applicant also claimed RUB 296 (approximately EUR 7) for postal expenses incurred in the proceedings before the Court. He submitted a receipt for that amount.

51. The Government reiterated that the applicant should have confirmed that expenses were necessary and were in fact incurred.

52. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum claimed in full, together with any tax that may be chargeable to the applicant.

C. Default interest

53. 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 complaint concerning the conditions of the applicant's detention in the ward of the Inza Town police station admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:
      (i) EUR 1,000 (one thousand euros) in respect of non-pecuniary damage;
      (ii) EUR 7 (seven euros) in respect of costs and expenses;
      (iii) any tax that may be chargeable to the applicant on the above amounts;
   (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;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 20 February 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen	Isabelle Berro-Lefèvre
Registrar	President