



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

## FIRST SECTION

### DECISION

Application no. 30468/07  
Vladimir MALAKHOV against Russia  
and twenty-three other applications  
(see list appended)

The European Court of Human Rights (First Section), sitting on 9 September 2014 as a Committee composed of:

Khanlar Hajiyeu, *President*,

Erik Møse,

Dmitry Dedov, *judges*,

and Søren Prebensen, *Acting Deputy Section Registrar*,

Having regard to the above applications lodged on the dates listed in the appendix,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases and the applicants' replies to those declarations,

Having deliberated, decides as follows:

## FACTS AND PROCEDURE

1. A list of the applicants and their representatives is set out in the appendix.

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

3. The applicants complained, among other matters, about poor conditions of their detention in Russian penitentiary facilities, inhuman conditions of transport between facilities, an excessive length of their pre-trial detention or that of the judicial review of the custodial measure.

4. The applications have been communicated to the Government.

## THE LAW

### **A. Joinder of the applications**

5. Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and consider them in a single decision.

### **B. The complaints concerning the conditions of detention or transport or alleged defects of the criminal proceedings**

6. The applicants complained under Article 3 of the Convention about the allegedly inhuman and degrading conditions of their detention in Russian penitentiary facilities and the conditions of their transport between facilities. Ms Shalamova also complained about an excessive duration of her pre-trial detention in breach of Article 5 § 3 of the Convention and a belated examination of her appeals against the detention order in breach of Article 5 § 4.

7. By letters submitted on different dates, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the applications. They further requested the Court to strike the applications out of the list of cases in accordance with Article 37 of the Convention.

8. By the above declarations, the Russian authorities acknowledged that the violations of the above-mentioned provisions of the Convention and stated their readiness to pay the following amounts to the applicants as just satisfaction: 7,045 euros (EUR) to Mr Malakhov, EUR 7,750 to Mr Grebennikov, EUR 5,625 to Mr Kapasov, EUR 1,500 to Mr Fedorov, EUR 8,250 to Mr Khrulev, EUR 5,000 to Mr Vorotilin, EUR 4,285 to Mr Fedosenko, EUR 4,805 to Mr Usmonov, EUR 6,250 to Mr Anashkin, EUR 4,350 to Mr Mishukov, EUR 4,025 to Mr Solovyev, EUR 5,200 to Ms Shalamova, EUR 4,000 to Ms Shakhova, EUR 17,160 to Mr Vinogradov, EUR 4,740 to Mr Zaytsev, EUR 4,650 to Mr Zhidkevich, EUR 6,875 to Mr Kalinin, EUR 7,000 to Mr Saltysov, EUR 9,520 to Mr Zuyev, EUR 4,000 to Mr Grigoryev, EUR 4,025 to Mr Novikov, EUR 3,700 to Mr Bezborodov, EUR 4,545 to Mr Vasilyev, and EUR 3,960 to Mr Galimullin.

9. The remainder of the declaration in each case read as follows:

“The authorities therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as ‘any other reason’ justifying the striking of the case out of the Court’s list of cases, as referred to in Article 37 § 1 (c) of the Convention.

The sum referred to above, which is to cover any pecuniary and non-pecuniary damage, as well as costs and expenses, will be free of any taxes that may be

applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This payment will constitute the final resolution of the case.”

10. The applicants did not accept the Government’s offers. Some of them expressed the view that the sums mentioned in the Government’s declarations were too low, whereas others insisted that the Court should examine their other complaints.

11. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified under (a), (b) or (c) of paragraph 1 of that Article. In particular, Article 37 § 1 (c) enables the Court to strike a case out of its list if:

“...for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

12. It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

13. To this end, the Court will examine carefully the declarations in the light of the principles established in its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03).

14. The Court notes at the outset that since its first judgment concerning the inhuman and degrading conditions of detention in Russian penitentiary facilities, an excessive length of the pre-trial detention and of the criminal proceedings against the applicant (see *Kalashnikov v. Russia*, no. 47095/99, ECHR 2002-VI), it found similar violations in more than a hundred cases against Russia. As to the complaint about the inhuman and degrading conditions of transport, the Court has found a similar violation in more than twenty cases against Russia (see, among many other authorities, *Idalov v. Russia* [GC], no. 5826/03, §§ 103-108, 22 May 2012, *Moiseyev v. Russia*, no. 62936/00, §§ 128-136, 9 October 2008 and *Khudoyorov v. Russia*, no. 6847/02, §§ 110-120, ECHR 2005-X (extracts)). It follows that the complaints raised in the present applications are based on the clear and extensive case-law of the Court.

15. Turning next to the nature of the admissions contained in the Government’s declarations, the Court is satisfied that the Government did not dispute the allegations made by the applicants and explicitly

acknowledged the violations of the above-mentioned provisions of the Convention.

16. As to the intended redress to be provided to the applicants, the Government have undertaken to pay them compensation in respect of pecuniary and non-pecuniary damages, as well as costs and expenses. Even if the method of calculation employed by the Russian authorities in respect of the conditions-of-detention complaints did not correspond exactly to the guidelines established by the Court in the pilot judgment (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 172, 10 January 2012), what is important is that the proposed sums are not unreasonable in comparison with the awards made by the Court in similar cases (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 105, ECHR 2006-V). The Government have committed themselves to effecting the payment of those sums within three months of the Court's decision, with default interest to be payable in case of delay of settlement.

17. The Court therefore considers that it is no longer justified to continue the examination of these cases in the part concerning the above-mentioned complaints. As the Committee of Ministers remains competent to supervise, in accordance with Article 46 § 2 of the Convention, the implementation of the judgments concerning the same issues, the Court is also satisfied that respect for human rights as defined in the Convention (Article 37 § 1 *in fine*) does not require it to continue the examination of this part of the case. In any event, the Court's decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the applications to its list of cases, should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006).

18. In view of the above, it is appropriate to strike the cases out of the list in the part concerning the above-mentioned complaints.

### **C. The other complaints**

19. Some applicants also raised additional complaints with reference to various Articles of the Convention and its Protocols.

20. Having regard to all the material in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols in that part of their applications.

21. It follows that the applications in this part must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

*Takes note* of the terms of the respondent Government's declarations under Articles 3, 5 §§ 3 and 4 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

*Decides* to strike a part of the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

*Declares* the remainder of the applications inadmissible.

Søren Prebensen  
Acting Deputy Registrar

Khanlar Hajiyev  
President

## APPENDIX

No	Applicat ion No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	30468/07	25/06/2007	<b>Vladimir Nikolayevich MALAKHOV</b> 24/09/1973 Yekaterinburg	Aleksandr FROLOV
2.	54384/07	10/01/2008	<b>Sergey Aleksandrovich GREBENNIKOV</b> 23/02/1950 Yekaterinburg	
3.	4671/08	20/12/2007	<b>Aleksey Anatolyevich KAPASOV</b> 16/06/1973 Pavlovo	Olga Aleksandrovna SADOVSKAYA
4.	7317/08	14/01/2008	<b>Nikolay Mikhaylovich FEDOROV</b> 20/06/1968 Samara	
5.	19108/08	25/03/2008	<b>Vadim Aleksandrovich KHRULEV</b> 03/02/1972 Moscow	
6.	42148/08	30/06/2008	<b>Nikolay Viktorovich VOROTILIN</b> 02/05/1971 Lipetsk	
7.	45087/08	25/08/2008	<b>Sergey Viktorovich FEDOSENKO</b> 24/03/1966 Gostagayevskaya	
8.	53993/08	30/03/2009	<b>Saidali Saidayomovich USMONOV</b> 29/12/1974 Surgut	
9.	55104/08	24/04/2008	<b>Yevgeniy Sergeyevich ANASHKIN</b> 10/05/1980 Tver	

No	Applicat ion No	Lodged on	Applicant Date of birth Place of residence	Represented by
10.	55175/08	28/08/2008	<b>Andrey Vladimirovich MISHUKOV</b> 26/10/1964 Izobilnyy	
11.	1743/09	17/11/2008	<b>Aleksandr Vladimirovich SOLOVYEV</b> 10/06/1960 Vozrozhdeniye	
12.	23987/09	26/03/2009	<b>Olga Mikhaylovna SHALAMOVA</b> 16/05/1965 Kolosovka	Dmitriy Valentinovich MATYAZH
13.	2689/10	17/12/2009	<b>Olga Vladimirovna SHAKHOVA</b> 23/08/1965 Chelyabinsk	
14.	18259/10	06/03/2010	<b>Aleksandr Sergeyevich VINOGRADOV</b> 02/04/1976 Saint-Petersburg	
15.	40622/10	17/06/2010	<b>Andrey Alekseyevich ZAYTSEV</b> 24/08/1964 Smolensk	
16.	12741/11	28/03/2013	<b>Mikhail Anatolyevich ZHIDKEVICH</b> 15/03/1979 Novocherkassk	
17.	57037/11	11/07/2011	<b>Valentin Vladimirovich KALININ</b> 01/06/1977 Vyborg	
18.	68968/11	17/10/2011	<b>Dmitriy Vladislavovich SALTYSOV</b> 02/03/1964 Vladivostok	

No	Applicat ion No	Lodged on	Applicant Date of birth Place of residence	Represented by
19.	70086/11	18/07/2012	<b>Yuriy Nikolayevich ZUYEV</b> 24/03/1982 Arkhangelsk	
20.	74894/11	24/10/2011	<b>Roman Vladislavovich GRIGORYEV</b> 31/08/1977 Chesma	
21.	41601/12	18/05/2012	<b>Aleksandr Nikolayevich NOVIKOV</b> 04/08/1977 Novosibirsk	
22.	67318/12	07/08/2012	<b>Igor Yuryevich BEZBORODOV</b> 04/03/1975 Neyvo-Shaytanka	
23.	67505/12	11/09/2012	<b>Aleksandr Nikolayevich VASILYEV</b> 26/08/1970 Revda	
24.	17297/13	31/01/2013	<b>Aynur Karimullovich GALIMULLIN</b> 22/04/1980 Kazan	