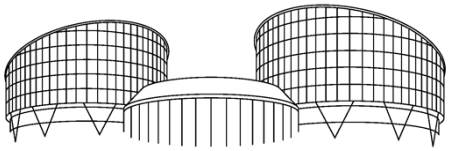

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF BELOV v. RUSSIA

(Application no. 27623/06)

JUDGMENT

STRASBOURG

16 October 2014

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

In the case of Belov v. Russia,

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

Khanlar Hajiyev, *President,*
Julia Laffranque,
Erik Møse, *judges,*

and Søren Prebensen, *Acting Deputy Section Registrar,*

Having deliberated in private on 23 September 2014,

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

PROCEDURE

1. The case originated in an application (no. 27623/06) 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 Leonid Aleksandrovich Belov ("the applicant"), on 3 April 2007.

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. On 21 December 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1972 and lived in Bolshaya Kivara in the Republic of Udmurtiya before his arrest.

5. On 13 July 2005 the applicant was arrested and charged with murder.

6. On 18 April 2006 the Supreme Court of the Republic of Udmurtiya, at final instance, found the applicant guilty as charged and sentenced him to fifteen years and six months' imprisonment.

7. During several periods between 13 July 2005 and 19 January 2007, for a total length of sixty-one day, the applicant was held in IVS Votkinsk, a temporary detention facility located in the Udmurtiya Republic. According to the applicant and the statements by his three cellmates, the conditions of detention in that facility were as follows. The applicant's cell, located on the basement floor, was overcrowded: it measured 8 sq. m and accommodated up to five inmates. There were no individual beds, mattresses or bed linen.

The detainees were afforded one meal per day. No outdoor exercise was available to them.

8. On 14 July 2005 the sanitary-epidemiological service inspected the detention facility. In their report, drafted on the same day, they noted that the IVS held sixty-three detainees which was nearly twice its design capacity, that there was no heating and restricted access to daylight. The general sanitary state of the facility was poor. The service recommended to the management of the facility to bring the conditions in line with the legal requirements.

9. It appears that the applicant complained about the conditions of his detention to various authorities. In his reply of 27 November 2006 the local prosecutor acknowledged some of his claims and informed the applicant that he had directed the management of the detention facility to upgrade the conditions.

10. On 23 October 2007 the Votkinsk Town Court of the Republic of Udmurtiya examined the applicant's civil action in connection with inadequate conditions of detention. It found that a part of the allegations, in particular those concerning an overcrowding of the facility, a lack of bedding and poor sanitary conditions, were substantiated but rejected the claim.

II. PROCEDURE BEFORE THE COURT

11. On 19 June 2006 the applicant lodged his first letter to the Court, complaining about violations of Articles 6 and 13 of the Convention in the criminal proceedings against him.

12. On 17 August 2006 the applicant despatched the completed application form.

13. In his letter of 3 April 2007 the applicant gave a detailed account of the conditions of his detention in IVS Votkinsk, alleging that they violated Article 3 of the Convention.

14. By letter of 23 May 2012, the Registry informed the applicant that his complaint had been more than ten pages long and, referring to the provisions of the Rules of Court and the Practice Direction on Institution of Proceedings, requested him to submit a summary application form listing the complaints which he wished to pursue.

15. Complying with the above request, on 6 August 2012 the applicant lodged the application form. It contained, in particular, the complaint about the conditions of his detention in IVS Votkinsk.

III. RELEVANT COURT PROCEDURE

16. Rule 47 of the Rules of Court – in force from 1 July 2006 until 1 January 2009 – provided in its relevant part:

> "5. The date of introduction of the application shall as a general rule be considered to be the date of the first communication from the applicant setting out, even summarily, the object of the application. The Court may for good cause nevertheless decide that a different date shall be considered to be the date of introduction."

17. The Practice Direction on Institution of Proceedings issued by the President of the Court on 1 November 2003 to supplement Rules 45 and 47 of the Rules of Court read, in the relevant part, as follows:

> "4. If an application has not been submitted on the official form or an introductory letter does not contain all the information referred to in Rule 47, the Registry may ask the applicant to fill in the form. It should as a rule be returned within 6 weeks from the date of the Registry's letter."

18. On 22 September 2008 the Practice Direction was amended to read as follows:

> "4. If an application has not been submitted on the official form or an introductory letter does not contain all the information referred to in Rule 47, the applicant may be required to submit a duly completed form. It must be despatched within eight weeks from the date of the Registry's letter requesting the applicant to complete and return the form.
>
> Failure to comply with this time-limit will have implications for the date of introduction of the application and may therefore affect the applicant's compliance with the six-month rule contained in Article 35 § 1 of the Convention."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

19. The applicant complained that the conditions of his detention in IVS Votkinsk infringed 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. Admissibility

20. The Government submitted that the complaint should be declared inadmissible. They noted that more than five years had passed between 3 April 2007, the date of the letter in which the complaint had been first raised, and 6 August 2012, the date of the application form in which it was formally stated. With reference to the amended text of the Practice Direction (see paragraph 18 above), the Government considered that in case of a delay of more than eight weeks between posting of a letter and completing of an application form, the date of the application form should be considered as the date of introduction of the case. Accordingly, they claimed that the

complaint about the conditions of the applicant's detention in the IVS Votkinsk should be considered to have been submitted on 6 August 2012, several years after the applicant had left the temporary detention centre, and should thus be rejected as belated.

21. The applicant submitted that the complaint was admissible as he had fully complied with the Registry's instructions.

22. The Court observes at the outset that it is not disputed between the parties that the applicant's letter of 3 April 2007 was "the first communication from the applicant setting out, even summarily, the object of the application". According to the Rule 47 § 5 in force at the time the date of such first communication was considered to be the date of introduction of the application interrupting the six-month limit set by Article 35 § 1 of the Convention (see paragraph 16 above).

23. The Court notes that the eight-week time-limit set by the Practice Direction on Institution of Proceedings, which the Government relied upon, had been introduced only after 22 September 2008. Rule 47 of the Rules of Court and the Practice Direction in force at the material time set an indicative, rather than a mandatory time-limit for returning the completed application form, which is reflected in the wording of the Practice Direction ("[The application form] should as a rule be returned within 6 weeks..."). Thus, the applicant was afforded a flexible time-limit to complete an application form provided he did it "with reasonable expedition", which, in certain circumstances, could last for years (compare with *Chalkley v. the United Kingdom* (dec.), no. 63831/00, 26 September 2002, where two and a half years had passed between the dates of submission of the first letter and of the despatch of the completed application form, and still the former was considered to be the date of introduction). However, in the present case the Court does not need to examine whether the application form was lodged with an undue delay for the following reasons.

24. The Court observes that the applicant submitted the first application form on 17 August 2006. Even though he had not raised the issue of the conditions of his detention therein, he did so in the subsequent letter of 3 April 2007, which the Court considers an integral part of that application (see *Magomedov v. Russia*, no. 20111/03, § 17, 4 December 2008). The Registry's request for the summary application form of 23 May 2012 was made for clerical purposes and could not influence the date of introduction of the previously lodged complaints.

25. In view of the above, the Court rejects the Government's objection and considers 3 April 2007 to be the date of introduction of the complaint. Since the six-month period started to run on 19 January 2007 – the date of the applicant's last stay in that facility – the Court concludes that the applicant's complaint is not belated for the purposes of Article 35 § 1 of the Convention.

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

B. Merits

27. The Government did not submit any observations on the merits of the case.

28. The applicant maintained his complaint.

29. Having regard to the evidence produced by the applicant, his factual submissions undisputed by the Government, and taking note of the acknowledgement of the applicant's grievances by the domestic authorities (see paragraphs 8-10 above), the Court considers that the conditions of the applicant's detention in IVS Votkinsk amounted to inhuman and degrading treatment.

30. There has accordingly been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in IVS Votkinsk during several periods between 13 July 2005 and 19 January 2007.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

31. The applicant further complained about various breaches of Article 6 § 1 of the Convention during the criminal proceedings against him. In the light of all the material in its possession and in so far as the matters complained of are within its competence, the Court considers that these grievances do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. Accordingly, the Court rejects them as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. 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

33. The applicant claimed 72,700 euros (EUR) for the "suffering and distress caused by the violation" and for the alleged damage to his health.

34. The Government submitted that no compensation should be awarded to the applicant, as the pecuniary damage was unsubstantiated whereas non-pecuniary damage had not been claimed at all.

35. The Court observes that the applicant failed to produce evidence of harm to his health; it therefore rejects this claim. On the other hand, it considers that the applicant did claim compensation in respect of non-pecuniary damage (see paragraph 33 above) and awards him EUR 5,000 in that respect, plus any tax that may be chargeable.

B. Costs and expenses

36. The applicant did not claim any costs or expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

37. 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 IVS Votkinsk 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 EUR 5,000 (five thousand euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 16 October 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Prebensen	Khanlar Hajiyev
Acting Deputy Registrar	President