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

THIRD SECTION

DECISION

Applications nos. 40724/17 and 52760/17
Valeriy Nikolayevich BOUROSH against Russia
and Andrey Aleksandrovich MESHCHERYAKOV against Russia

The European Court of Human Rights (Third Section), sitting on 5 November 2020 as a Committee composed of:

Darian Pavli, *President,*
Dmitry Dedov,
Peeter Roosma, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

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 these declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Russian Government ("the Government"). The applicants also raised other complaints, which were communicated under various provisions of the Convention.

The Government submitted declarations with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications.

The Government acknowledged the inadequate conditions of detention in respect of certain periods of the applicants' detention in some facilities. They further acknowledged that the domestic authorities had violated the applicants' rights guaranteed by other provisions of the Convention (see the

appended table for the other complaints under the well-established case-law covered by the Government's declarations). They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the applications out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the 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.

The payment will constitute the final resolution of the cases.

The applicants informed the Court that they agreed to the terms of the declarations.

THE LAW

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

The Court finds that, following the applicants' express agreement to the terms of the declaration made by the Government, the cases should be treated as a friendly settlement between the parties.

It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and the Protocols thereto and finds no reasons to justify the continued examination of the applications in that part.

In view of the above, it is appropriate to strike the cases out of the list as regards the complaints concerning the inadequate conditions of detention, as well as the other complaints under the well-established case-law (see appended table), as covered by the Government's declarations.

The applicants also complained about conditions of their detention during other periods, not covered by the Government's declarations.

The Court notes that on 17 March 2020 it adopted a decision in the case of *Shmelev and Others v. Russia* (applications nos. 41743/17 and 16 others), finding that the new compensatory remedy envisaged by the Russian Compensation Act was an effective remedy, in particular, for all cases of past pre-trial detention and some situations of correctional detention alleged in breach of domestic provisions. The Court therefore rejects the applicants' complaints in this regard for failure to exhaust domestic remedies.

This part of the applications should thus be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Decides to strike the applications out of its list of cases in accordance with Article 39 of the Convention as regards the complaints concerning the inadequate conditions of detention, as well as the other complaints under the well-established case-law (see appended table), in the part covered by the Government's declarations;

Declares the remainder of the applications inadmissible.

Done in English and notified in writing on 26 November 2020.

Liv Tigerstedt	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Article 3 of the Convention

(inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Other complaints under well-established case-law	Date of receipt of Government's declaration	Date of receipt of applicant's acceptance	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
1.	40724/17 07/08/2017	**Valeriy Nikolayevich BOUROSH** 1968	Art. 3 - inadequate conditions of detention during transport - transport by rail on 17/02/2017-19/02/2017, 03/04/2017-07/04/2017 and 14/07/2017.	15/05/2018	16/10/2018	2,000
2.	52760/17 21/11/2017	**Andrey Aleksandrovich MESHCHERYAKOV** 1977	Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention.	16/07/2018	18/09/2018	7,000

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