

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

THIRD SECTION

# CASE OF GOVOROV v. RUSSIA

*(Application no. 79809/17)*

JUDGMENT

STRASBOURG

27 October 2022

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



**In the case of Govorov v. Russia,**

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

Darian Pavli*, President,*
Andreas Zünd*,*
Frédéric Krenc*, judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 6 October 2022,

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

# PROCEDURE

1. The case originated in an application against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 2 November 2017.

2. The applicant was represented by Ms Ye. Yefremova, a lawyer practising in Moscow.

3. The Russian Government ("the Government") were given notice of the application.

# THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

5. The applicant complained about the restrictions on family visits in pre-trial detention facilities.

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 8 § 1 OF THE CONVENTION

6. The applicant complained about the restrictions on family visits in pre-trial detention facilities. He relied on Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his ... family life ... .
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

7. The Court has already established in earlier cases against Russia that, in the absence of any factual elements pointing to the danger posed by the prisoner or to the existence of a security risk, the automatic application of restrictions on family visits (including, but not limited to, refusal of long-term

visits to convicted prisoners detained in pre-trial detention facilities, separation of a detainee from his visitors preventing any physical contact between them or presence of a prison guard during visits) cannot be justified as being "necessary in a democratic society" and amounted to a violation of Article 8 of the Convention (see *Andrey Smirnov v. Russia,* no. 43149/10, 13 February 2018, *Resin v. Russia,* no. 9348/14, 18 December 2018, *Chaldayev v. Russia*, no. 33172/16, 28 May 2019, and *Pshibiyev and Berov v. Russia,* no. 63748/13, 9 June 2020).

8. 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. It discerns no factual elements justifying the authorities' refusal of long-term visits to the applicant, his physical separation from the visitors or presence of a prison guard during short-term family visits. Accordingly, the Russian authorities overstepped their margin of appreciation and failed to justify the interference with the applicant's rights under Article 8 as having been "necessary in a democratic society".

9. These complaints are therefore admissible and disclose a breach of Article 8 of the Convention.

## II. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

10. The applicant submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see the 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 *Pavlova v. Russia*, no. 8578/12, §§ 29-33, 18 February 2020.

## III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. 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."

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Mukhametov and Others v. Russia,* nos. 53404/18 and 3 others, 14 December 2021), the Court considers it reasonable to award the sum indicated in the appended table and reject the remainder of the applicant's claims for just satisfaction.

13. The Court further 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 application admissible;

2. *Holds* that this application discloses a breach of Article 8 § 1 of the Convention concerning the restrictions on family visits in pre-trial detention facilities;

3. *Holds* that there has been a violation of the Convention as regards the other complaints raised under well-established case-law of the Court (see the appended table);

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

5. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 27 October 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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|---|---|
| Viktoriya Maradudina | Darian Pavli |
| Acting Deputy Registrar | President |

# APPENDIX

## Application raising complaints under Article 8 § 1 of the Convention (restrictions on family visits in pre-trial detention facilities)

| Application no. Date of introduction | Applicant's name Year of birth | Representative's name and location | Detention facility | Type of restriction | Other complaints under well-established case-law | Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1] |
|---|---|---|---|---|---|---|
| 79809/17<br>02/11/2017 | **Aleksandr Vasilyevich GOVOROV**<br>1977 | Yekaterina Viktorovna Yefremova<br>Moscow | IZ-13/2, IZ-13/3 in the Mordovia Republic | refusal of long-term family visits, physical separation and supervision during short-term family visits, limitation on the frequency of short-term family visits | Art. 13 - lack of an effective remedy against restrictions on family visits in pre-trial detention | 3,500 |

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