

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

THIRD SECTION

CASE OF LYUFI v. RUSSIA

(Application no. 23540/15)

JUDGMENT

STRASBOURG

15 December 2022

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Lyufi v. Russia,

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

Darian Pavli, *President*,
Ioannis Ktistakis,
Andreas Zünd*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 24 November 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 6 May 2015.

2. The applicant was represented by Mr V.V. Levenok, a lawyer practising in Krasnodar.

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 his confinement in a metal cage in the courtroom during the criminal proceedings against him. He also complained under other provisions of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicant complained principally about his confinement in a metal cage in the courtroom during the criminal proceedings against him. He relied on Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

7. The Court notes that the applicant was kept a metal cage in the courtroom in the context of his trial. In the leading cases of *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts) and *Vorontsov and Others v. Russia,* nos. 59655/14 and 2 others, 31 January 2017, the Court already dealt with the issue of the use of metal cages in courtrooms and found that such a practice constituted in itself an affront to

human dignity and amounted to degrading treatment prohibited by Article 3 of the Convention.

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. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's confinement in a metal cage before the court during the criminal proceedings against him amounted to degrading treatment.

9. These complaints are therefore admissible and disclose a breach of Article 3 of the Convention.

II. OTHER ALLEGED VIOLATION UNDER WELL-ESTABLISHED CASE-LAW

10. The applicant submitted another complaint which also raised an issue under the Convention, given the relevant well-established case-law of the Court (see appended table). This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that it also discloses a violation of the Convention in the light of its findings in *Tarakanov v. Russia* (no. 20403/05, §§ 45-49, 28 November 2013) and *Eduard Shabalin v. Russia* (no. 1937/05, §§ 33-37, 16 October 2014).

III. REMAINING COMPLAINTS

11. The applicant further complained under Article 3 of the Convention about the poor conditions of his detention in a pre-trial facility and under Article 5 § 3 of the Convention about the excessive length of his pre-trial detention.

12. The Court has examined the complaint under Article 3 and finds that the applicant should avail himself of the new remedy introduced in the Russian Federation, which the Court declared effective in its recent decision of *Shmelev and Others v. Russia* ((dec.), nos. 41743/17 and 16 others, 17 March 2020).

13. The Court has examined the complaint under Article 5 § 3 and considers that, in the light of all the material in its possession, it does not meet the admissibility criteria set out in Article 35 of the Convention.

14. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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."

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Vorontsov and Others,* cited above), the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicant's claims for just satisfaction.

17. 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 complaint concerning the applicant's placement in the metal cage before the court during the criminal proceedings against him and another complaint under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the applicant's placement in a metal cage during court hearings;

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

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amounts 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 amounts 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 15 December 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 3 of the Convention (use of metal cages in courtrooms)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Name of the court Date of the relevant judgment	Other complaints under well-established case-law	Amount awarded for non-pecuniary damage (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
23540/15 06/05/2015	**Konstantin Yanovich LYUFI** 1974	Levenok Vasiliy Vasilyevich Krasnodar	Prikubanskiy District Court of Krasnodar 02/03/2015	Article 5 (1) (c) - unlawful pre-trial detention – when remitting the applicant's case for a retrial on 19/11/2014 the Presidium of the Regional Court extended the applicant's detention without indicating any particular reason for such a decision.	9,750	2,000

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