

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

THIRD SECTION

CASE OF RUDNIKOV v. RUSSIA

(Applications nos. 749/07 and 78601/17)

JUDGMENT

STRASBOURG

16 January 2025

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Rudnikov v. Russia,

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

Diana Kovatcheva*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 5 December 2024,

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

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on the various dates indicated in the appended table.

2. The Russian Government ("the Government") were given notice of the applications.

THE FACTS

3. The relevant details of the applications are set out in the appended table.

4. The applicant complained of the inhuman or degrading treatment. He also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

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

II. JURISDICTION

6. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention. The Court therefore decides that it has jurisdiction to examine the present applications (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

7. The applicant complained under Article 3 of the Convention that he had been ill-treated by the police in the circumstances described in the appended table, and that the investigation into the events had not been effective.

8. The Court held in *Bouyid v. Belgium* ([GC], no. 23380/09, §§ 81-90 and 114-23, ECHR 2015), that presumptions of fact was in favour of applicants claiming to be victims of a violation of Article 3 of the Convention, if they demonstrate that the alleged ill-treatment was inflicted when they were under the control of the police or a similar authority. Moreover, in the context of detainees, the Court has emphasised that persons in detention are in a vulnerable position and that the authorities have a duty to protect their physical well-being and that any recourse to physical force which has not been made strictly necessary by the applicants' own conduct diminishes human dignity and in principle constitutes a violation of the right enshrined in Article 3 of the Convention (see *Sheydayev v. Russia*, no. 65859/01, § 59, 7 December 2006). The burden of proof rests on the Government to show that the use of force, which resulted in the applicants' injuries, was not excessive (see, for example, *Dzwonkowski v. Poland*, no. 46702/99, § 51, 12 April 2007, and compare with *Kursish and Others v. Russia* [Committee], nos. 62003/08 and 5 others, § 84, 5 July 2022).

9. Furthermore, in the cases of *Lyapin v. Russia*, no. 46956/09, §§ 128-40, 24 July 2014, and *Samesov v. Russia*, no. 57269/14, §§ 54-63, 20 November 2018, as well as in *Kuchta and Mętel v. Poland*, no. 76813/16, § 88, 2 September 2021, the Court has already found, in particular, that the authorities' refusal to open a fully-fledged criminal investigation into the credible allegations of ill-treatment, as well as the lack of assessment of the necessity and proportionality of the use of lawful force by the police were indicative of the State's failure to fulfil its procedural obligation under Article 3 of the Convention.

10. 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 there has been a violation of Article 3 of the Convention, both as regards the substantive and procedural aspects of that Convention provision.

IV. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

11. The applicant submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see 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 *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts), concerning detention in a metal cage during court hearings; *Avanesyan v. Russia*, no. 41152/06, §§ 30-33, 36, 18 September 2014, and *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others, 4 February 2020, regarding unlawful search; *Fortalnov and Others v. Russia*, nos. 7077/06 and 12 others, 26 June 2018, relating to unlawful detention; *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 92-156, 9 April 2019, as regards conditions of transport of detainees and lack of an effective domestic remedy in that respect; *Tolmachev v. Russia*, no. 42182/11, § 56, 2 June 2020, regarding defamation proceedings against the applicant; and *Mukhin v. Russia*, no. 3642/10, 14 December 2021, concerning closure of the applicant's newspaper.

12. In view of the above findings, the Court considers that there is no need to deal separately with the complaint under Article 13 of the Convention about the lack of effective domestic remedies to complain about the use of metal cages and other security arrangements in the courtrooms (compare *Valyuzhenich v. Russia*, no. 10597/13, § 27, 26 March 2019).

V. REMAINING COMPLAINTS

13. In application no. 749/07, the applicant also raised other complaints under various Articles of the Convention.

14. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

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

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Zagaynov and Others v. Russia* [Committee], nos. 5666/07 and 4 others, 15 June 2021), the Court considers it reasonable to award the sum indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Holds* that it has jurisdiction to deal with these applications as they relate to facts that took place before 16 September 2022;

3. *Declares* the complaint concerning the inhuman or degrading treatment of the applicant by the police and lack of an effective investigation into it, and also the other complaints under the well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of application no. 749/07 inadmissible, and *finds* that there is no need to examine separately the complaint under Article 13 of the Convention about the lack of effective domestic remedies as regards the use of metal cages and other security arrangements in the courtrooms;

4. *Holds* that there has been a breach of Article 3 of the Convention in view of the ill-treatment of the applicant by the police and lack of an effective investigation in that regard;

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

6. *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.

Done in English, and notified in writing on 16 January 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Diana Kovatcheva
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Article 3 of the Convention (torture or inhuman or degrading treatment)

Application no. Date of introduction	Applicant's name Year of birth	Representative 's name and location	Factual information	Medical evidence of ill-treatment	Date of first complaint Decision issued in response to complaint of ill-treatment	Decision under Article 125 of the CCrP Appeal decision	Information relating to conviction	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
749/07 09/11/2006 78601/17 13/11/2017	**Igor Petrovich RUDNIKOV** 1965	Misakyan Tumas Arsenovich Moscow	Arrested at 2 p.m. on 01/11/2017 / Officers of Kaliningrad Region Federal Security Department The applicant was bitten up when arrested and transported to be subjected to a body search	Log no. 27 of the Kaliningrad Regional Hospital, record made on 01/11/2017, log no. 654 with record made on 02/11/2017, medical certificate no. 2501 of 03/11/2017 of the Kaliningrad Town Hospital, forensic medical examination act of the SIZO 1 of Kaliningrad (soft tissue bruises on the head, chest bruises, bruises on arms)	First complaint to the Prosecutor's Office of the Kaliningrad Region, 10/11/2017; complaint to investigative committee, 07/12/2017 / Refusals to open a criminal case as no evidence of a crime on 10/01/2018, 12/03/2018, 27/04/2018, 22/06/2018, 04/09/2018	05/10/2018 Kaliningrad Garrison Military Court / 29/11/2018 Baltic Naval Military Court	On 17/06/2019 the Moskovskiy District Court of St Petersburg convicted the applicant of attempt of abuse of power, sentenced him to compulsory labour and relieved him from serving the sentence - no appeal lodged against the trial judgment	Art. 5 (3) - excessive length of pre-trial detention - 10/04/2007 - 02/07/2007, Pskovskiy District Court of the Pskov Region, Pskov Regional Court. The applicant who lived in Kaliningrad was detained because he had failed to attend two court hearings in Pskov. The court held that he could travel to Pskov as he had a job and income, but he failed to do so. He did not have a travel passport, but he could travel by air without such passport. He also was under undertaking to stay in Kaliningrad, but he could leave the town as the summons could serve as valid excuse. When rejecting applications for release the courts held that the applicant had not produced any evidence that he could pay for living in Pskov, that the personal guarantee could not be accepted because it had been submitted by fax, and that the	26,000

								circumstances of the case had not changed. The proceedings were still pending, and the parties had not yet submitted evidence, the applicant was suspected of crimes of medium gravity. The courts provided repetitive reasoning; fragility of the reasons employed by the courts; refusal to authorise alternative measures for detention; no assessment of the applicant's personal situation; Art. 10 (1) - Freedom of expression - Closure of the Kaliningrad New Wheels newspaper, application of 23/11/2006, 22/06/2006, Leningradskiy District Court of Kaliningrad, refusing to grant the request for closure of the newspaper, quashed on 16/08/2006 by the Kaliningrad Regional Court which ordered instead to shut down the newspaper; Art. 3 - inadequate conditions of detention during transport - van, 14/02/2019 - 17/06/2019, 0.18-0.36, 0.5 sq. m. per inmate, overcrowding, poor quality of food, lack of fresh air, applicant transported on numerous occasions, no or restricted access to potable water, lack of toiletries, lack of or insufficient electric light, lack of or insufficient natural light, Art. 3 - use of metal cages and/or other security arrangements in courtrooms - Moskovskiy District	

								Court of St Petersburg, 14/02 - 17/06/2019, Art. 5 (1) - unlawful detention - Unacknowledged detention from 2.30 p.m. on 01/11/2017 to 6 a.m. on 02/11/2017, detention (criminal) for more than three hours without any written record, final decision: Kaliningrad Regional Court, 16/11/2017, raised before the Court on 12/04/2018, Art. 5 (3) - excessive length of pre-trial detention - 01/11/2017 - 17/06/2019, Tsentralnyy District Court of Kaliningrad, Basmannyy District Court of Moscow, Moscow District Court of St Petersburg, Kaliningrad Regional Court, Moscow City Court, St Petersburg City Court, fragility of the reasons employed by the courts, failure to assess the applicant's personal situation reducing the risks of re-offending, colluding or absconding, fragility and repetitiveness of the reasoning employed by the courts as the case progressed, Art. 8 (1) - Home - Search of the applicant's flat and newspaper's office on 02/11/2017, flat: on 01/11/2017, decision of investigator newspaper's office: Belgorod Regional Court, 17/10/2017; flat: final decision: Kaliningrad Regional Court, 01/03/2018, newspaper's office: ordered by the Belgorod Regional	

								Court, on 17/10/2017; no adequate and sufficient safeguards against abuse: broad terms/wide content and scope of the search warrant (objects and documents not specific enough to restrict police's discretion), no relevant or sufficient reasons to justify the search: no evidence supporting the search authorisation, no relevant or sufficient reasons to justify the search: no reasons given why any relevant objects or documents might be found during the search, Art. 10 (1) - Freedom of expression - Defamation proceedings against the applicant who published an article accusing members of a local administration of fraud, final decision: Supreme Court of Russia, 17/10/2017, no analysis of the text of the article, lack of sufficient reasoning by the courts, Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention during transport and unlawful search	

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