

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

THIRD SECTION

CASE OF TASHUYEV v. RUSSIA

(Application no. 67503/17)

JUDGMENT

STRASBOURG

6 February 2025

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Tashuyev 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 16 January 2025,

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 4 September 2017.

2. The applicant was represented by Ms O.V. Golub, a lawyer practising in Suzemka.

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 of the inadequate conditions of detention during his transport and also raised other complaints under the provisions of the Convention.

THE LAW

I. 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 application (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

7. The applicant complained principally of the inadequate conditions of detention during his transport. He relied on Article 3 of the Convention.

8. The Court notes that the applicant was detained in poor conditions during transport. The details of the applicant's detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding cramped and defective conditions during the transit of prisoners (see *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 124-27, 9 April 2019). It reiterates, in particular, that a strong presumption of a violation arises when detainees are transported in conveyances offering less than 0.5 square metres of space per person, regardless of whether such cramped conditions result from an excessive number of detainees being transported together or from the restrictive design of compartments (ibid., § 125). As regards longer journeys, factors such as a failure to arrange an individual sleeping place for each detainee or to secure an adequate supply of drinking water and food or access to the toilet seriously aggravate the situation of prisoners during transfers and are indicative of a violation of Article 3 (ibid., § 127).

9. In the leading cases of *Idalov v. Russia* [GC], no. 5826/03, §§ 103-08, 22 May 2012, and *Tomov and Others* (cited above), the Court already found a violation in respect of issues similar to those in the present case.

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 this complaint. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's conditions of detention during his transport were inadequate.

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

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

12. 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.

13. 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 *Urazov v. Russia*, no. 42147/05, §§ 85-90, 14 June 2016, concerning the impact of the applicant's confinement in a metal cage on the exercise of his right to participate effectively in the proceedings; and *Tomov and Others*, cited above, §§ 92-156, concerning the lack of an effective remedy in respect of the complaints about inadequate conditions of transport.

IV. REMAINING COMPLAINTS

14. The applicant also raised additional complaints under Articles 3 and 13 of the Convention related to the material conditions of his detention in the pre-trial detention facility and lack of an effective remedy in that regard.

15. The Court has examined these complaints 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.

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

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. Regard being had to the documents in its possession and to its case-law (see, in particular, *Pukhachev and Zaretskiy v. Russia,* nos. 17494/16 and 29203/16, 16 November 2017), the Court considers it reasonable to award the sum indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds* that it has jurisdiction to deal with this application as it relates to facts that took place before 16 September 2022;

2. *Declares* the complaints about the inadequate conditions of detention during transport raised under Article 3 of the Convention and the other complaints raised under the well-established case-law of the Court (see appended table) admissible and the remainder of the application inadmissible;

3. *Holds* that this application discloses a breach of Article 3 of the Convention concerning the inadequate conditions of detention during transport;

4. *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);

5. *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 6 February 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Diana Kovatcheva President

APPENDIX

Application raising complaints under Article 3 of the Convention (inadequate conditions of detention during transport)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Means of transport Start and end date	Specific grievances	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
67503/17 04/09/2017	**Islam Saydaliyevich TASHUYEV** 1985	Golub Olga Viktorovna Suzemka	train (Stolypin) 25/03/2017 to 25/03/2017	24-hour transportation, lack of or poor quality of bedding and bed linen, lack of or insufficient quantity of food	Art. 6 (1) and (3) (b) – unfair criminal proceedings in view of the lack of adequate time/facilities for preparation of defence - lack of possibility to peruse documents and to take notes during the trial due to the interior arrangement of the metal cage (judgment of the Koptevskiy District Court of Moscow of 02/12/2016, upheld on appeal by the Moscow City Court on 06/03/2017), Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention during transport	1,000

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