

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

THIRD SECTION

CASE OF TRETYAKOV v. RUSSIA

(Application no. 62553/15)

JUDGMENT

STRASBOURG

2 February 2017

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



In the case of Tretyakov v. Russia,

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

Helena Jäderblom, *President,*
Dmitry Dedov,
Branko Lubarda, *judges,*
and Karen Reid, *Section Registrar,*

Having deliberated in private on 12 January 2017,

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

PROCEDURE

1. The case originated in an application (no. 62553/15) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Roman Aleksandrovich Tretyakov ("the applicant"), on 28 November 2015.

2. The application was communicated to the Russian Government ("the Government").

THE FACTS

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

4. The applicant complained of the inadequate conditions of his detention in two detention facilities in St Petersburg during two separate periods: in facility no. IZ-1 from 10 May 2011 to 25 April 2012 and in facility no. IZ-4 from 25 April 2012 to 24 June 2015.

5. The Government submitted a declaration with a view to resolving the issues raised by the application. In particular, they acknowledged that the conditions of the applicant's detention in facility no. IZ-1 in St Petersburg from 10 May 2011 to 25 April 2011 violated his right guaranteed by Article 3 of the Convention. They offered to pay the applicant 4,935 euros and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount 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 that amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, 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 Government did not comment on the applicant's complaint about the conditions of his detention in facility no. IZ-4 from 25 April 2012 to 24 June 2015.

The applicant informed the Court that he agreed to the terms of the declaration.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN RESPECT OF THE FIRST PERIOD OF THE APPLICANT'S DETENTION

6. The applicant complained of the inadequate conditions of his detention in facility no. IZ-1 in St Petersburg from 10 May 2011 to 25 April 2012. He relied on Article 3 of the Convention, which reads as follows:

Article 3

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

7. The Court finds that following the applicant's express agreement to the terms of the declaration made by the Government, the complaint under Article 3 of the Convention related to the first period of his detention in facility no. IZ-1 in St Petersburg from 10 May 2011 to 25 April 2012 should be treated as a friendly settlement between the parties.

8. It therefore takes note of the friendly settlement reached between the parties in respect of this part of the application. 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 part of the application related to the conditions of the applicant's detention during the period indicated above.

9. In view of the above, it is appropriate to strike this part of the application out of the list

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION IN RESPECT OF THE SECOND PERIOD OF THE APPLICANT'S DETENTION

10. The applicant further complained under Article 3 of the Convention that he had been detained in poor conditions in another detention facility in St Petersburg, no. IZ-4, from 25 April 2012 to 24 June 2015.

11. The Court notes that the applicant was kept in detention in poor conditions. 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 inadequate conditions of detention (see, for instance, *Kudła v. Poland* [GC], no. 30210/96, §§ 90-94, ECHR 2000-XI, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 139-65, 10 January 2012). It reiterates in particular that a serious lack of space in a prison cell weighs heavily as a factor to be taken into account for the purpose of establishing whether the detention conditions described are "degrading" from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see, amongst many authorities, *Karalevičius v. Lithuania*, no. 53254/99, § 39, 7 April 2005, and *Ananyev and Others*, cited above, §§ 145-47 and 149).

12. In the leading cases of *Ananyev and Others* (cited above) and *Butko v. Russia* (no. 32036/10, §§ 54-64, 12 November 2015) the Court already found a violation in respect of issues similar to those in the present case.

13. 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 in facility no. IZ-4 in St Petersburg were inadequate.

14. This complaint is therefore admissible and discloses a breach of Article 3 of the Convention.

III. 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, *Ananyev and Others*, cited above, and *Butko*, cited above, § 68), the Court considers it reasonable to award the sum indicated in the appended table.

17. The Court 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. *Decides* to strike a part of the application pertaining to the conditions of the applicant's detention in facility no. IZ-1 in St Petersburg out of its list of cases in accordance with Article 39 of the Convention;

2. *Declares* the part of the application concerning the applicant's detention in facility no. IZ-4 in St Petersburg admissible;

3. *Holds* that the application discloses a breach of Article 3 of the Convention concerning the inadequate conditions of detention in detention facility no. IZ-4 in St Petersburg;

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.

Done in English, and notified in writing on 2 February 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Karen Reid Registrar	Helena Jäderblom President

APPENDIX

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

Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses under Article 41 of the Convention (in euros)[1]	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses under the friendly settlement (in euros)[2]
62553/15 28/11/2015	**Roman Aleksandrovich TRETYAKOV** 13/02/1976	IZ-1 St Petersburg 10/05/2011 to 25/04/2012 11 month(s) and 16 day(s)	1.3 m²	poor quality of food, toilet not separated from the rest of the cell, infestation of the cell with insects, no ventilation, lack of privacy while using the toilet, no table and sitting places, the air heavy with cigarette smoke, poor quality of mattresses and pillows, no TV set or refrigerator	9,565	4,935
		IZ-4 St Petersburg 25/04/2012 to 24/06/2015 3 year(s) and 2 month(s)	2 m²	poor quality of food, toilet not separated from the rest of the cell, no ventilation, no table and sitting places, the air heavy with cigarette smoke, poor quality of mattresses and pillows, infestation of the cell with insects, no TV set or refrigerator, lack of privacy while using the toilet		

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