

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

THIRD SECTION

CASE OF VDOVIN v. RUSSIA

(Application no. 1387/21)

JUDGMENT

STRASBOURG

27 October 2022

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



In the case of Vdovin 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 16 December 2020.

2. The applicant was represented by Mr D. Panfilov, 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 of the inadequate conditions of his detention, which were incompatible with his disabilities, and of the absence of an effective remedy in that regard.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

6. The applicant complained about poor conditions of his detention, aggravated by the seriousness of his medical problems, and about the lack of an effective remedy in this connection. He relied on Articles 3 and 13 of the Convention, which read as follows:

Article 3

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

Article 13

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority ..."

7. The Court notes that the applicant, a disabled person, was kept in detention in poor conditions which did not satisfy his special needs. 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 conditions of detention of disabled inmates (see, for instance, *Topekhin v. Russia*, no. 78774/13, §§ 78-81, 10 May 2016, and *Butrin v. Russia*, no. 16179/14, §§ 46-51, 22 March 2016). It reiterates that where the authorities decide to place and keep a disabled person in detention, they should demonstrate special care in securing detention conditions which correspond to the special needs resulting from his disability (see *Butrin*, cited above § 49; *Semikhvostov v. Russia*, no. 2689/12, § 72, 6 February 2014; *Zarzycki v. Poland*, no. 15351/03, § 102, 12 March 2013; and *Farbtuhs v. Latvia*, no. 4672/02, § 56, 2 December 2004).

8 In the cases of *Topekhin*, *Butrin* and *Semikhvostov* (all cited above), the Court already found a violation in respect of issues similar to those in the present case.

9. 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 conditions of the applicant's detention, exacerbated by his physical impairments, amount to "inhuman and degrading treatment" within the meaning of the Convention.

10. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of these complaints (see, among other authorities, *Butrin,* cited above, §§ 43-45, and *Semikhvostov,* cited above, §§ 61-68).

11. These complaints are therefore admissible and disclose a breach of Articles 3 and 13 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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."

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Butrin,* cited above, §§ 72-74, and *Semikhvostov,* also cited above, §§ 88-90), the Court considers it reasonable to award the sum indicated in the appended table.

14. 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 Articles 3 and 13 of the Convention on account of the applicant's detention in poor conditions and the lack of an effective remedy in that connection;

3. *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 Stat eat 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 during the default period plus three percentage points.

Done in English, and notified in writing on 27 October 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 Articles 3 and 13 of the Convention (conditions of detention of disabled inmates and lack of any effective remedy in domestic law)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Type of disability	Detention with disability: facility and periods	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
1387/21 16/12/2020	**Dmitriy Yuryevich VDOVIN** 1979	Dmitriy Vladimirovich Panfilov Moscow	blindness	IK-27 Primorye Region 31/10/2016 pending More than 5 year(s) and 7 month(s) and 10 day(s)	No equipment and assistance necessary for a blind detainee provided, the incompatibility of his condition with his further detention; the applicant is in need of constant assistance, he has to rely on his cellmates for assistance in everyday life, he cannot move around and, in particular, cannot leave his cell independently; he is unemployed; despite the existing legal provision and the conclusion by the medical commission requesting the applicant's release on health grounds, the request for early release was rejected by the courts.	15,000

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