

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

THIRD SECTION

CASE OF YUDIN v. RUSSIA

(Application no. 45508/13)

JUDGMENT

STRASBOURG

31 March 2022

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



In the case of Yudin v. Russia,

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

Peeter Roosma, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 10 March 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 17 June 2013. By a letter of 15 June 2021 the applicant informed the Court that he had changed his last name to Nemolyayev. The Government was informed thereof on 11 August 2021. The Court will continue processing the application under the case name of Yudin v. Russia. This corresponded to the applicant's name as referred to in the domestic court proceedings in issue and in his application lodged with the Court.

2. The applicant was represented by Mr F.V. Bagryanskiy, a lawyer practising in Vladimir.

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 having been subjected to permanent video surveillance in pre-trial detention facility and about unavailability of an effective domestic remedy in this respect. He also raised other complaints under the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 § 1 OF THE CONVENTION

6. The applicant complained about detention under permanent video surveillance in a pre-trial detention facility and about the lack of an effective remedy in that respect. He relied on Articles 8 and 13 of the Convention, which read, in so far as relevant, as follows:

Article 8

"1. Everyone has the right to respect for his private ... life ... .

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

7. The Court has already established, in an earlier case against Russia, that the national legal framework governing the placement of detainees under permanent video surveillance in penal institutions falls short of the standards set out in Article 8 of the Convention (see *Gorlov and Others v. Russia* (nos. 27057/06 and 2 others, 2 July 2019). In *Gorlov and Others*, the Court summed up the general principles concerning the detainees' right to respect for private life reiterating that placing a person under permanent video surveillance whilst in detention was to be regarded as a serious interference with the individual's right to respect for his or her privacy (ibid., §§ 81-82). It has further concluded that the national law (1) cannot be regarded as being sufficiently clear, precise or detailed to have afforded appropriate protection against arbitrary interference by the authorities with the detainees' right to respect of their private life (ibid., §§ 97-98) and (2) does not presuppose any balancing exercise or enable an individual to obtain a judicial review of the proportionality of his or her placement under permanent video surveillance to the vested interests in securing his or her privacy (ibid., § 108).

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. It considers, regard being had to the case-law cited above, that in the instant case the placement of the applicant under permanent video surveillance when confined to his cells in the pre-trial detention facility was not "in accordance with law" and that he did not have at his disposal an effective remedy for his complaints in that respect.

9. These complaints are therefore admissible and disclose a breach of Articles 8 and 13 of the Convention.

II. REMAINING COMPLAINTS

10. The applicant also raised other complaints under various Articles of the Convention.

11. 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 application must be rejected in accordance with Article 35 § 4 of the Convention.

III. 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, *Gorlov and Others*, cited above, with further references, § 120, which imposed on the respondent State a legal obligation, under Article 46 of the Convention, to implement, under the supervision of the Committee of Ministers, such measures as they consider appropriate to secure the right of the applicants and other persons in their position to respect of their private life), the Court considers that the finding of a violation constitutes a sufficient just satisfaction in the present case.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaints concerning the permanent video surveillance in the applicant's cells during his detention in pre-trial facility and the lack of an effective remedy in that respect admissible, and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a breach of Articles 8 and 13 of the Convention;

3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction.

Done in English, and notified in writing on 31 March 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Peeter Roosma
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 8 § 1 and Article 13 of the Convention (permanent video surveillance of detainees in pre-trial detention facilities and lack of an effective domestic remedy)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Detention facility	Period of detention	Specific circumstances
45508/13 17/06/2013	**Aleksey Mikhaylovich NEMOLYAYEV (YUDIN)** 1980	Bagryanskiy Filipp Valeryevich Vladimir	IZ-13/1 Republic of Mordoviya	September 2011 - 02/02/2017	Detention in different cells with video surveillance, opposite-sex operators, video surveillance in a lavatory and/or shower room, strip search under video surveillance by female operators