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

THIRD SECTION

DECISION

Application no. 58607/11
Andrey Sergeyevich CHERNYSHEV
against Russia

The European Court of Human Rights (Third Section), sitting on 9 December 2021 as a Committee composed of:

Peeter Roosma, *President,*
Dmitry Dedov,
Andreas Zünd, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 14 April 2011,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant's complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Russian Government ("the Government"). Complaints based on the same facts were also communicated under other provisions of the Convention.

THE LAW

A. Complaints under Article 3 of the Convention (inadequate conditions of detention)

The applicant complained of conditions of his pre-trial detention in violation of the national requirements during periods which had already come to an end (for further details see the appended table). He referred to Article 3:

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

The Government submitted their observations, acknowledging the violation alleged. On 10 January 2020 they submitted additional information about the new Compensation Act and asked to treat it as a new remedy in respect of conditions of detention complaints under Article 3.

The Court reiterates that in its recent decision of *Shmelev and Others v. Russia* ((dec.), no. 41743/17 and 16 others, 17 March 2020), it has accepted that the new Compensation Act which entered into force in Russia on 27 January 2020 constituted an effective remedy for the complaints about breaches of Article 3 of the Convention in respect of past pre-trial detention and, having dismissed the applications by such applicants for non-exhaustion, it has declared that it will apply that approach to all similar applications (ibid., §§ 121-30). The Court has also taken into account that the Compensation Act is equipped with transitional provisions, so that any person whose complaint about inadequate conditions of detention was pending with this Court at the time of the Act's entry into force can apply within 180 days after that date (ibid., § 63).

Turning to the circumstances of the present cases and 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 of this complaint. It therefore considers that, in so far as the applicant has lodged prima facie well-founded complaint, the Compensation Act affords him an opportunity to obtain compensatory redress. Accordingly, the applicant should exhaust this remedy before his complaints can be examined by the Court. It follows that the complaint under Article 3 should be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention

B. Remaining complaints

The applicant also raised complaint under Article 6 §§ 1 and 3 (c) of the Convention.

The Court has examined the complaint 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.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 January 2022.

Viktoriya Maradudina Acting Deputy Registrar	Peeter Roosma President

APPENDIX

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

Application no. Date of introduction	Applicant's name Year of birth	Facility Start and end date Duration	Sq. m per inmate	Specific grievances
58607/11 14/04/2011	**Andrey Sergeyevich CHERNYSHEV** 1974	IZ-66/3 Nizhniy Tagil 13/03/2011 to 19/09/2011 6 months and 7 days	1.8 m²	Not provided with an individual sleeping place and had to share one with inmates. Electric light and TV on 24/7. Toilet not separated from living area. Those using toilet were in view of inmates and guards. Dinner table located close to toilet. Poor food quality. No ventilation. Hot in summer. The air heavy with cigarette smoke. Daily walk for one hour.