

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

THIRD SECTION

DECISION

Application no. 49080/17
Anatoliy Yevgenyevich DMITRIYEV against Russia
and 21 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 5 May 2022 as a Committee composed of:

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants in applications nos. 49080/17 and 6725/18,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention and the complaints under Article 13 of the Convention concerning the lack of any effective remedy in domestic law in respect of inadequate conditions of detention, were communicated to the Russian Government ("the Government"). In some of the applications, complaints based on the same facts were also communicated under other provisions of the Convention.

THE LAW

A. Joinder of the applications

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Complaints under Article 3 of the Convention (inadequate conditions of detention) and under Article 13 of the Convention (lack of an effective remedy for conditions of detention)

In the present applications, the applicants complained of conditions of their post-conviction detention in violation of the national requirements during periods which had already come to an end (for further details see the appended table). They also argued that they did not have an effective domestic remedy to complain about those conditions at the national level.

The Government submitted their observations, having disputed the violations alleged. On 10 January 2020 the Government 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 Articles 3 and 13 of the Convention.

The Court has recently held that applicants are required to make use of the newly introduced compensatory remedy in respect of improper conditions of past correctional detention in breach of domestic standards (see *Shmelev and Others v. Russia* (dec.), no. 41743/17, §§ 153-57, 17 March 2020). In the present case, the applicants complained about the conditions of their post-conviction detention which were, as indicated by the applicants, below the national standard of two square metres per person. One of the applicants also complained about the conditions of his detention in colony IK-56 in the Sverdlovsk Region. Those conditions in IK-56 of the Sverdlovsk Region were already the subject of the Court's criticism, when it held that the lack of access to proper sanitary facilities run counter to the guarantees of Article 3 of the Convention (see *Gorbulya v. Russia*, no. 31535/09, § 94, 6 March 2014). The Court in this respect does not lose sight of the parties' submissions that the Russian authorities decided to close the facility and that by the summer 2018 all inmates were transferred from it. It is clear that the conditions in IK-56 colony ran counter to the domestic legal requirements. It thus follows that the applicant who complained about the conditions of his detention in IK-56 colony in Sverdlovsk Region was in the same position as applicants who complained about their detention in overcrowded conditions of post-conviction facilities in violation of the national statutory norm of two square metres per person (see *Shmelev and Others*, (dec.)., cited above, § 154).

To sum up, the Court considers that in so far as the applicants have lodged *prima facie* well-founded complaints about breach of their rights by improper conditions of their detention, as described in the appended table, the Compensation Act affords them an opportunity to obtain compensatory redress. There are no circumstances which could justify the applicants' failure to have recourse to the new compensatory remedy. It follows that their complaints, as listed in the appended table, under Articles 3 and 13 should be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

C. Remaining complaints

The applicants in applications nos. 6725/18 and 10851/18 raised additional complaints under various Convention provisions. 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.

It follows that this part of applications nos. 6725/18 and 10851/18 must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 28 July 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Article 3 and 13 of the Convention (inadequate conditions of detention and lack of an effective remedy in that regard)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Inmates per brigade Sq. m per inmate Number of toilets per brigade	Specific grievances
1.	49080/17 23/06/2017	**Anatoliy Yevgenyevich DMITRIYEV** 1982	Stepanov Aleksey Sergeyevich Moscow	IK-5 Ivanovo Region 01/09/2008 to 11/09/2017 9 year(s) and 11 day(s)	1.5 m²	overcrowding, no or restricted access to warm water, lack or inadequate furniture, lack of or insufficient natural light, lack of fresh air, passive smoking, sharing cells with inmates infected with contagious disease, lack of privacy for toilet, lack of or inadequate hygienic facilities, no or restricted access to shower
2.	62964/17 08/10/2017	**Nikolay Vladimirovich MIRONOV** 1980		IK-2 Zabaykalskiy Region 24/04/2014 to 23/02/2021 6 year(s) and 10 month(s)	130 inmate(s) 0.8 m²	no or restricted access to warm water, no or restricted access to shower, overcrowding, poor quality of food, lack of or restricted access to leisure or educational activities
3.	71935/17 14/09/2017	**Aleksey Vladimirovich BASTRIKOV** 1976		IK-2 Zabaykalskiy Region 10/03/2015 to 01/03/2021 5 year(s) and 11 month(s) and 20 day(s)	130 inmate(s) 1.6 m²	lack of the leisure room, no or restricted access to warm water, poor quality of food, overcrowding in the kitchen, no or restricted access to shower, lack of or insufficient electric light, lack of fresh air
4.	78709/17 20/10/2017	**Dmitriy Vladimirovich KOLCHIN** 1971		IK-11 Nizhniy Novgorod Region 20/10/2014 to 23/06/2021 6 year(s) and 8 month(s) and 4 day(s)	60 inmate(s) 1.5 m²	infestation of cell with insects/rodents, lack of fresh air, overcrowding, passive smoking
5.	79737/17 07/11/2017	**Sergey Aleksandrovich SVYATOV** 1983		IK-11 Nizhniy Novgorod Region 11/11/2011 to 30/12/2017 6 year(s) and 1 month(s) and 20 day(s)	62 inmate(s) 1.3 m²	lack of or inadequate hygienic facilities, mouldy or dirty cell, lack or insufficient quantity of food, poor quality of food, no or restricted access to warm water
6.	84214/17 22/11/2017	**Roman Vladimirovich VARENKO** 1983		IK-11 Nizhniy Novgorod Region 28/10/2012 to 29/03/2021 8 year(s) and 5 month(s) and 2 day(s)	55 inmate(s) 1.6 m²	lack of fresh air, lack of or restricted access to leisure or educational activities, overcrowding, poor quality of food
7.	3036/18 29/12/2017	**Andrey Aleksandrovich SHEVCHUK** 1973		IK-1 Arkhangelsk 12/02/2016 to 29/12/2017 1 year(s) and 10 month(s) and 18 day(s)	80 inmate(s) 1.8 m²	overcrowding, no or restricted access to running water, no or restricted access to warm water, poor quality of food, no or restricted access to toilet

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Inmates per brigade Sq. m per inmate Number of toilets per brigade	Specific grievances
8.	3824/18 15/12/2017	**Andrey Vladimirovich GLUSHKO** 1994	Vinogradov Aleksandr Vladimirovich Kostroma	IK-29 Arkhangelsk Region 19/03/2016 to 17/05/2018 2 year(s) and 1 month(s) and 29 day(s)	130 inmate(s) 1.5 m²	infestation of cell with insects/rodents, lack of fresh air, no free place during promenade, lack of or insufficient electric light, no ventilation
9.	4792/18 11/01/2018	**Ivan Ivanovich SHITOV** 1978		IK-11 Nizhniy Novgorod Region 01/11/2010 to 10/05/2021 10 year(s) and 6 month(s) and 10 day(s)	50 inmate(s) 1.44 m²	overcrowding, lack of fresh air, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air
10.	6725/18 09/01/2018	**Aleksey Yevgenyevich IVANOV** 1976		IK-56 Sverdlovsk Region 16/03/2016 to 22/09/2017 1 year(s) and 6 month(s) and 7 day(s)		lack of sewerage and water supply systems, inadequate hygienic facilities, restricted access to potable water and its poor quality, inadequate state of the exercise yards, unpleasant odour from the waste pit, insufficient natural and electric light, poor quality of food, failure to provide with requisite clothing allowance, restricted access to shower
11.	8242/18 22/01/2018	**Aleksandr Sergeyevich LEVIN** 1984		IK-8 Bashkortostan Republic 22/11/2016 to 07/05/2021 4 year(s) and 5 month(s) and 16 day(s)	160 inmate(s) 1.4-1.7 m² 4 toilet(s)	infestation of cell with insects/rodents, poor quality of food, passive smoking, inadequate temperature, inadequate clothing
12.	10786/18 08/02/2018	**Roman Viktorovich ARTEMOV** 1978		IK-11 Nizhniy Novgorod Region 26/03/2012 to 29/09/2020 8 year(s) and 6 month(s) and 4 day(s)	1.5 m²	lack of fresh air, lack of or inadequate hygienic facilities, lack of or insufficient natural light, lack or insufficient quantity of food, no or restricted access to shower, no or restricted access to toilet, overcrowding
13.	10851/18 12/02/2018	**Sergey Olegovich ZUBENKO** 1970		IK-11 Nizhniy Novgorod Region 02/09/2013 to 03/07/2020 6 year(s) and 10 month(s) and 2 day(s)	125 inmate(s) 1.7 m²	lack of fresh air, lack of or insufficient electric light, lack of or insufficient natural light, no or restricted access to toilet, no or restricted access to running water, poor quality of food, lack of toiletries
14.	13076/18 19/02/2018	**Rinat Faritovich MUZIPOV** 1991		IK-29 Kirov Region 19/05/2016 to 26/01/2021 4 year(s) and 8 month(s) and 8 day(s)	1.5 m²	overcrowding, passive smoking, poor quality of food, poor quality of potable water, lack of or poor quality of bedding and bed linen, lack of or insufficient electric light, lack of or inadequate hygienic facilities, lack of fresh air, infestation of cell with insects/rodents
15.	13255/18 05/02/2018	**Aleksandr Mikhaylovich GORYAYNOV** 1990		IK-11 Nizhniy Novgorod Region 01/05/2013 to 25/11/2020 7 year(s) and 6 month(s) and 25 day(s)	1.5 m²	overcrowding, lack of or restricted access to leisure or educational activities, lack or inadequate furniture, lack of fresh air, bad odour in dormitory, no or restricted access to running water, no or restricted access to toilet, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air
16.	14090/18 19/02/2018	**Oleg Gennadyevich SMIRNOV** 1989		IK-11 Nizhniy Novgorod Region 04/04/2016 to 05/05/2021 5 year(s) and 1 month(s) and 2 day(s)	135 inmate(s) 1.6 m²	overcrowding, lack of or restricted access to leisure or educational activities, lack of or inadequate hygienic facilities, no or restricted access to running water, no or restricted access to toilet, lack of privacy for toilet, lack or insufficient quantity of food, poor sanitary conditions in the canteen, lack of seasonal clothing, no or restricted access to shower, lack of conditions for uninterrupted sleep

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Inmates per brigade Sq. m per inmate Number of toilets per brigade	Specific grievances
17.	14190/18 06/03/2018	**Abruslan Vladimirovich GUMEROV** 1975		IK-2 Zabaykalskiy Region 01/02/2015 to 26/08/2021 6 year(s) and 6 month(s) and 26 day(s)	1.6 m²	overcrowding, lack of privacy for toilet, infestation of cell with insects/rodents, lack or inadequate furniture, no or restricted access to warm water, no or restricted access to running water, lack of or insufficient natural light, mouldy or dirty cell, lack of or insufficient electric light, poor sanitary conditions in cells, poor quality of food, lack of requisite medical assistance, lack of fresh air
18.	15117/18 12/03/2018	**Valeriy Ivanovich KUZELYAK** 1998		IK-11 Nizhniy Novgorod Region 01/05/2017 to 29/03/2021 3 year(s) and 10 month(s) and 29 day(s)	1.5 m²	lack of fresh air, no or restricted access to toilet, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air, poor quality of food
19.	16749/18 20/03/2018	**Sergey Petrovich PECHERSKIKH** 1981		IK-11 Nizhniy Novgorod Region 17/04/2013 to 10/06/2021 8 year(s) and 1 month(s) and 25 day(s)	140 inmate(s) 1.85 m² 8 toilet(s)	poor quality of food, overcrowding, lack of fresh air, infestation of cell with insects/rodents
20.	17176/18 22/03/2018	**Dmitriy Valeryevich TSALKO** 1988		IK-11 Nizhniy Novgorod 01/06/2017 to 28/01/2021 3 year(s) and 7 month(s) and 28 day(s)	120 inmate(s) 1.5 m²	overcrowding, lack or inadequate furniture, lack of fresh air, poor state of the sewage and water supply system, insufficient number of toilets and wash basins, infestation of cell with insects/rodents, inadequate state of the exercise yard, poor quality of food
21.	21729/18 07/05/2018	**Ivan Mikhaylovich BEZRUKAVYY** 1984		IK-3 Leningrad Region 19/10/2017 to 16/02/2021 3 year(s) and 3 month(s) and 29 day(s)	260 inmate(s) 1.6 m² 9 toilet(s)	constant electric light, infestation of cell with insects/rodents, lack of fresh air, lack of or inadequate hygienic facilities, overcrowding
22.	22368/18 28/04/2018	**Denis Gennadyevich PATSUK** 1984		IK-11 Nizhniy Novgorod Region 19/01/2015 to 02/03/2018 3 year(s) and 1 month(s) and 12 day(s)	1.2 m²	inadequate temperature, lack of or poor quality of bedding and bed linen, no or restricted access to toilet, no or restricted access to shower, no or restricted access to running water