

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

THIRD SECTION

DECISION

Application no. 14250/08
Aleksandr Anatolyevich LUTOVINOV against Russia
and 6 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 7 December 2017 as a Committee composed of:

Luis López Guerra, *President,*
Dmitry Dedov,
Jolien Schukking, *judges,*

and Liv Tigerstedt, *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,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants and the relevant details of the applications are set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Russian Government ("the Government"). Some applicants also raised other complaints under the 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)

In the present applications, having examined all the material before it, the Court considers that for the reasons stated below, the complaints raised by the applicants under Article 3 of the Convention about poor conditions of detention either were submitted belatedly or are manifestly ill-founded.

In particular, the Court observes that two applicants (applications nos. 14250/08 and 13446/17) complained that they had been detained in several Russian penal detention facilities the conditions in which had been significantly different. The Court has examined the complaints and considers, with reference to the well-established case-law on the issue (see *Fetisov and Others v. Russia*, nos. 43710/07 and 3 others, § 77, 17 January 2012, and, by contrast, *Guliyev v. Russia*, no. 24650/02, 19 June 2008), that the entire period of the applicants' detention did not constitute a continuous situation, in view of significantly different material detention conditions in these different penal facilities (see for the particular description the appended table below).

As regards application no. 14250/08, on 25 March 2008 the applicant lodged his first letter with the Court, having only complained about the conditions of detention in various pre-trial facilities. Despite the Registry's instruction to lodge an application form before 25 September 2008, the applicant only dispatched his application on 29 January 2009. The Court therefore considers that the latter date, 29 January 2009, should be taken as an introduction date for the purpose of the calculation of the six-month time-limit. It further notes that the applicant's stay in the pre-trial facilities ended on 22 November 2007. The Court reiterates in this respect that in the absence of an effective remedy for that grievance, the complaint about inadequate conditions of detention should have been introduced within six months of the last day of the applicant's detention (see *Norkin v. Russia* (dec.), no. 21056/11, 5 February 2013, and *Markov and Belentsov v. Russia* (dec.), nos. 47696/09 and 79806/12, 10 December 2013). However, the period of the applicant's detention in the pre-trial facilities had ended more than six months before he lodged his application with the Court. It follows that this part of application no. 14250/08 is inadmissible for non-compliance with the six-month rule set out in Article 35 § 1 of the Convention, and must be rejected pursuant to Article 35 § 4.

In his letter on 1 June 2009 the applicant in application no. 14250/08, in a very general wording, also complained about his conditions of detention in a correctional colony (see appended table for details). The applicant did not subsequently lodge an application form or submit any detailed description of the conditions in which he had been detained in the colony. In these circumstances, the Court does not consider that this complaint meets the admissibility criteria set out in Articles 34 and 35 of the Convention. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

Turning to application no. 13446/17, the Court notes that the applicant's detention in pre-trial facility no. IZ-1 in St Petersburg where he suffered from extreme overcrowding and other poor detention conditions ended on 18 September 2015 (see appended table below). At the same time, he only lodged his application with the Court for the first time on 26 December 2016. Therefore, in the absence of effective domestic remedies to which the Court has already pointed out above, the complaint, which should have been lodged within six months after the end of the period of detention in those conditions, was lodged belatedly. It follows that this part of application no. 13446/17 does not comply with the six-month rule set out in Article 35 § 1 of the Convention, and must be rejected pursuant to Article 35 § 4.

The applicant in application no. 13446/17 further complained about the conditions of his detention after 18 September 2015 in pre-trial detention facility no. IZ-4 in St Petersburg.

The Court reiterates that it adopts conclusions after evaluating all the evidence, including such inferences as may flow from the facts and the parties' submissions. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, for example, *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 121, 10 January 2012). In cases regarding conditions of detention the burden of proof may, under certain circumstances, be shifted to the authorities (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII; see also *Mathew v. the Netherlands*, no. 24919/03, § 156, ECHR 2005 IX). Nevertheless, an applicant must provide an elaborate and consistent account of the conditions of his or her detention, mentioning the specific elements which would enable the Court to determine that the complaint is not manifestly ill-founded or inadmissible on any other grounds.

The Government contended that the applicant in application no. 13446/17, insofar as his detention in facility no. IZ-4 in St Petersburg was concerned, as well as the remaining applicants (applications nos. 54785/16, 7017/17, 8092/17, 13453/17 and 14048/17) had been afforded adequate personal space and had individual sleeping places in their cells. The Court lends credence to the Government's submissions, which were corroborated by documentary evidence, such as population registers, floor plans and color

photographs of the cells in which the applicants were detained, whereas the applicants did not adduce any evidence capable of contradicting it.

Taking into account the cumulative effect of the conditions of the applicants' detention, the Court does not consider that the conditions reached the threshold of severity required to characterise the treatment as inhuman or degrading within the meaning of Article 3 of the Convention.

In view of the above, the Court finds that a part of application no. 13446/17 related to the applicant's detention in facility no. IZ-4 in St Petersburg, as well as applications nos. 54785/16, 7017/17, 8092/17, 13453/17 and 14048/17 are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Remaining complaints

In applications nos. 7017/17 and 14048/17 the applicants also complained that they did not have at their disposal an effective remedy to complain about the inadequate conditions of detention. Given that the applicants' complaints under Article 3 of the Convention on account of allegedly inadequate conditions of detention were rejected for being manifestly ill-founded, the complaints under Article 13 should also be declared manifestly ill-founded and rejected under Article 35 §§ 3 and 4 of the Convention (see *Razvyazkin v. Russia*, no. 13579/09, §§ 125-26, 3 July 2012).

It follows that this part of the applications 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 11 January 2018.

Liv Tigerstedt
Acting Deputy Registrar

Luis López Guerra
President

APPENDIX

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law
1.	14250/08 29/01/2009	**Aleksandr Anatolyevich Lutovinov** 27/03/1973		IVS Uryupinsk, SIZO in IK-23 in Volgograd Region 11/01/2006 to 22/11/2007 1 year(s) and 10 month(s) and 12 day(s)			Art. 3 - inadequate conditions of detention after conviction - In his letter on 1/06/2009 the applicant raised a complaint about conditions of detention in colony no IK-23 in the Volgograd Region, after 24/12/2008
2.	54785/16 24/08/2016	**Vladimir Vitalyevich Baranov** 01/01/1963	Baranova Lyudmila Aleksandrovna Vyshniy Volochek	SIZO-1 Tver 08/10/2015 to 26/04/2016 6 month(s) and 19 day(s)	4 inmate(s) 5 m² 1 toilet(s)	no or restricted access to warm water	
3.	7017/17 09/01/2017	**Oleg Sevastyanovich Bocharov** 09/12/1968	Kiryanov Aleksandr Vladimirovich Taganrog	SIZO-2 Rostov Region 19/12/2016 to 09/04/2017 3 month(s) and 22 day(s)	4 m²	constant electric light	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention
4.	8092/17 11/01/2017	**Nikolay Anatolyevich Burenkov** 28/09/1986		IZ-11/1 Komi Republic 15/04/2016 to 14/10/2016 6 months	3.4-4 m²		

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law
5.	13446/17 26/12/2016	**Viktor Viktorovich Kortev** 07/04/1983		IZ-4 St Petersburg 01/04/2015 to 14/08/2015 4 month(s) and 14 day(s) IZ-1 St Petersburg 14/08/2015 to 18/09/2015 1 month(s) and 5 day(s) IZ-4 St Petersburg 18/09/2015 to 15/08/2016 10 month(s) and 29 day(s)	4 inmate(s) 4 m² 1.5 m² 4 inmate(s) 4 m²	lack of fresh air, lack of or insufficient electric light, poor quality of food overcrowding, passive smoking, lack of privacy for toilet, lack of or insufficient electric light, inadequate temperature, lack or inadequate furniture, lack of or poor quality of bedding and bed linen, poor quality of food, no or restricted access to shower lack of fresh air, lack of or insufficient electric light, poor quality of food	
6.	13453/17 03/02/2017	**Maksim Sergeyevich Borodin** 05/02/1981		IZ-2 Kazan 03/10/2016 to 11/01/2017 3 month(s) and 9 day(s)	4 m²	mouldy or dirty cell, lack of fresh air, poor quality of food	
7.	14048/17 03/02/2017	**Sergey Aleksandrovich Blinkov** 22/05/1990	Egle Denis Sergeyevich Krasnoyarsk	IZ-24/1 Krasnoyarsk Region 12/02/2013 to 01/08/2016 3 year(s) and 5 month(s) and 21 day(s)	4 m²	passive smoking, lack of or insufficient natural light	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention