

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

THIRD SECTION

DECISION

Application no. 17274/18
Vyacheslav Nikolayevich NOVGORODOV against Russia
and 3 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 10 November 2022 as a Committee composed of:

Darian Pavli*, President*,
Ioannis Ktistakis,
Andreas Zünd*, 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 in applications nos. 2509/20 and 50108/20 and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

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

The applicants' complaints under Articles 3 and 13 of the Convention concerning the inadequate medical treatment in detention and the lack of any effective remedy in domestic law were communicated to the Russian Government ("the Government").

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 Articles 3 and 13 of the Convention (inadequate medical treatment in detention and lack of any effective remedy in domestic law)

The applicants complained that they had not received adequate medical assistance in respect of their medical conditions listed in the appended table, and that no effective domestic remedies regarding the quality of the medical care in detention had been available to them. They 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 ..."

First of all, the Court reiterates that, as a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Where it is clear from the outset however that no effective remedy is available to the applicant, the period runs from the date of the acts or measures complained of, or from the date of knowledge of that act or its effect on or prejudice to the applicant (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 etc., § 157, ECHR 2009). Where the alleged violation constitutes a continuing situation against which no domestic remedy is available, the six-month period starts to run from the end of the continuing situation (see *Ülke v. Turkey* (dec.), no. 39437/98, 1 June 2004).

The Court further notes that some applicants complained about the periods where they did not receive adequate medical assistance which fall outside the six months allowed for applying to the Court (see application no. 2509/20, as regards the period between 2011 and 2018, and application no. 27514/20, as regards the period between 2006 and 2017). It follows that the above applications are inadmissible in part due to non-compliance with the six-month rule.

As regards application no. 50108/20, the applicant was released and could have complained about medical negligence before the domestic courts. Therefore, his complaint must be rejected due to the non-exhaustion of domestic remedies.

As to the rest of the complaints, the Court reiterates that the general principles regarding the quality of medical care in detention have been stated in several of its previous judgments (see, among many other authorities, *Blokhin v. Russia* [GC], no. 47152/06, §§ 135-40, ECHR 2016, and *Ivko v. Russia*, no. 30575/08, §§ 91-95, 15 December 2015).

The Court 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 and medical assistance in 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 State's alleged failure to provide him with the required medical assistance, 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.

Having examined the materials submitted, including extensive medical evidence provided by the Government, the Court considers that the applicants received essential medical treatment in respect of their conditions. The defects in the quality of medical care alleged by the applicants are either insignificant or not supported by sufficiently strong evidence. Therefore, they cannot be accepted by the Court. These complaints under Article 3 about the poor medical aid in detention are therefore manifestly ill-founded.

In addition, Article 13 requires domestic remedies only with regard to complaints arguable in terms of the Convention (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131). Since the Court has found above that the applicants' complaints under Article 3 are inadmissible, no issue under Article 13 of the Convention arises in their cases.

In view of the above, the Court finds that the present complaints are inadmissible and must be rejected in accordance with Article 35 §§ 3 and 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 1 December 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Articles 3 and13 of the Convention (inadequate medical treatment in detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Principal medical condition	Shortcomings in medical treatment Dates
1.	17274/18 29/03/2018	**Vyacheslav Nikolayevich NOVGORODOV** 1964	Larisa Viktorovna Zakharova Yekaterinburg	atherosclerosis of legs	lacking/delayed drug therapy, lack of post-surgery (amputation of the left leg) rehabilitation equipment 19/06/2014 to 28/01/2020 5 year(s) and 7 month(s) and 10 day(s)
2.	2509/20 14/12/2019	**Roman Yuryevich SKORIKOV** 1977		HIV/AIDS, tuberculosis, disability II HIV	lacking/delayed drug therapy, lack of/delay in medical examination 24/10/2018 - pending More than 3 year(s) and 10 month(s) and 6 day(s) lacking/delayed drug therapy, lack of/delay in medical examination 01/01/2011 to 24/10/2018 7 year(s) and 9 month(s) and 24 day(s)
3.	27514/20 18/03/2020	**Vladimir Mikhaylovich KALEDINTSEV** 1979		HIV/AIDS, hepatitis	lacking/delayed drug therapy 27/11/2006 to 07/03/2017 10 year(s) and 3 month(s) and 9 day(s) lacking/delayed drug therapy 07/03/2017 - pending More than 5 year(s) and 5 month(s) and 23 day(s)
4.	50108/20 26/10/2020	**Roman Viktorovich SAYFERT** 1979		HIV/AIDS, hepatitis	lack of/delay in consultation by a specialist, lacking/delayed diet, lacking/delayed drug therapy, lack of/delay in medical examination, while the applicant, who suffers from stage 3 of HIV infection receives antiretroviral therapy, his liver has been significantly damaged. 01/10/2018 to 26/03/2020 (released) 1 year(s) and 5 month(s) and 26 day(s)