

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

THIRD SECTION

DECISION

Application no. 61097/13
Yevgeniy Viktorovich ZARETSKIY
against Russia
(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 application lodged on 29 July 2013,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

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

The applicant was represented by Ms O.A. Stasyuk, a lawyer practising in St Petersburg.

The applicant's complaints under Articles 3 and 13 of the Convention concerning conditions of his detention, conditions of his transport to and from, and confinement at, the courthouse, his confinement in a metal cage before the court, and the absence of effective domestic remedies in this respect, were communicated to the Russian Government ("the Government"). Complaints under Article 6 of the Convention based on the applicant's confinement in the metal cage were communicated at a later stage.

THE LAW

The Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the above

complaints. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

In particular, the Government acknowledged a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in IZ-47/4 and IZ-47/1 of St Petersburg between 21/07/2012 and 28/01/2014, conditions of his detention in the holding areas of the Vyborgskiy District Court of St Petersburg, conditions of the applicant's transport between the remand prison and the court, as well as on account of the applicant's confinement in the metal cage before the court. The Government further acknowledged a violation of Article 13 of the Convention in connection with the above complaints raised under Article 3.

They offered to pay the applicant the amount detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the case.

The applicant rejected the Government's proposal.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued (see, in particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established clear and extensive case-law concerning complaints raised by the applicant under Articles 3 and 13 of the Convention (see, for example, Svinarenko *and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts); *Idalov v. Russia* [GC], no. 5826/03, 22 May 2012; and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, 10 January 2012).

Noting the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application in this part (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application in this part (Article 37 § 1 *in fine*). Accordingly, the application in the part concerning the complaints under Articles 3 and 13 of the Convention should be struck out of the list.

The Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

The applicant further complained about the impact his confinement in the metal cage before the court during the criminal proceedings against him had had on the fairness of those proceedings.

Having regard to the facts of the case and its findings above, the Court considers that the main legal questions raised in the present application have been resolved and that there is no need to give a separate ruling on the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention in so far as the complaints under Articles 3 and 13 of the Convention are concerned;

Decides that there is no need for a separate examination of the remainder of the applicant's complaints.

Done in English and notified in writing on 1 December 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 3 of the Convention (use of metal cages in courtrooms)

Application no. Date of introduction	Applicant's name Year of birth	Date of receipt of Government's declaration	Date of receipt of applicant's comments	Amount awarded for non-pecuniary damage and costs and expenses (in euros) [1]
61097/13 29/07/2013	**Yevgeniy Viktorovich ZARETSKIY** 1969	13/07/2016	01/08/2017	7,000

[1] Free of any tax that may be applicable.