



## Russia was responsible for prisoner being seriously injured in shoot-out between other detainees and escorting officers

In today's **Chamber** judgment<sup>1</sup> in the case of [Ilgiz Khalikov v. Russia](#) (application no. 48724/15) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights.

The case concerned a prisoner's complaint that he had been seriously wounded by a stray bullet during a shoot-out between escorting officers and detainees attempting to escape during their transfer to another facility.

The Court found in particular that the State had been responsible for the applicant's injury because the escorting officers had disregarded the regulations put in place for the security of detainees during transfers. In particular, the officers had decided to transport more detainees than the prison van had been designed to accommodate. The fact that the van had been over its capacity had meant that detainees had been able to attempt to overpower officers and that the applicant, a former police officer and therefore a vulnerable detainee who should have been travelling in a separate cell, had been in the rear of the van with two of the escorting officers when the attack had taken place.

Furthermore, the investigation into the incident had been ineffective. The pre-investigation inquiry had been marred by delays, limited in scope and had never progressed to the stage of a criminal investigation.

### Principal facts

The applicant, Ilgiz Khalikov, is a Russian national who was born in 1969 and is serving a prison sentence in a detention facility at Nizhniy Tagil (Russia).

On 7 November 2013 Mr Khalikov was caught up in a shoot-out between escorting officers and detainees attempting to escape from a prison van during their transfer to a remand facility. One of the detainees overpowered an officer and seized his holster containing a handgun. A struggle ensued and shots were fired.

Mr Khalikov's leg was wounded by a stray bullet and he was taken to hospital. He was transferred to a prison hospital the following day.

The following month he filed a complaint with the prosecuting authorities, alleging that he had been injured because of a serious breach of prison transfer regulations, namely there had been more prisoners than the van was designed to accommodate.

Several pre-investigation inquiries were opened over the next few years, but they have never progressed to the stage of a criminal investigation. Each inquiry has been concluded with a decision refusing to open criminal proceedings, then set aside with additional checks requested. In particular, in September 2015 a forensic firearm examination was carried out, but it was neither able to link the

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

bullets or cartridges to the handgun from which the shot had been fired, nor to identify the person who had pulled the trigger. In May 2016 the authorities ordered an assessment of Mr Khalikov's injury, however, this proved impossible because his medical record had been misplaced.

## Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Khalikov alleged that he had been wounded in the shoot-out because of the escorting officers' negligence. In particular, as a former police officer, the regulations stipulated that he should have been placed in an isolated cell in the van, but this had not been possible because it was over its capacity and he had therefore been riding in the rear of the van with two of the escorting officers. He also alleged under the same Article that the authorities had failed to carry out an effective investigation into the incident which, he emphasised, had left him disabled for life and in considerable pain.

The application was lodged with the European Court of Human Rights on 16 November 2015.

Judgment was given by a Chamber of seven judges, composed as follows:

Vincent A. **De Gaetano** (Malta), *President*,  
Dmitry **Dedov** (Russia),  
Pere **Pastor Vilanova** (Andorra),  
Alena **Poláčková** (Slovakia),  
Georgios A. **Serghides** (Cyprus),  
Jolien **Schukking** (the Netherlands),  
María **Elósegui** (Spain),

and also Stephen **Phillips**, *Section Registrar*.

## Decision of the Court

Despite Mr Khalikov bringing his claim promptly after the shoot-out, the authorities had ultimately refused to open a criminal case into his credible allegation of the State's failure to protect his physical integrity resulting from a serious breach of prison transfer regulations.

The investigators' reluctance to open a criminal investigation, following repeated pre-investigation inquiries, had led to the loss of precious time and evidence having been undermined. In particular, the forensic firearm examination had only been carried out many months after the incident. Furthermore, an assessment of the extent of Mr Khalikov's injuries had only been ordered two years later. These inquiries had thus failed to elucidate the most important aspects of the incident such as which gun had been at the origin of the shot which had wounded the applicant and the identity of the person who had pulled the trigger.

In any case, as highlighted in many previous Russian cases brought before the European Court, in cases of credible allegations of ill-treatment, the framework of the "pre-investigation inquiry" alone (if not followed by a "preliminary investigation") under Russian procedure was not capable of meeting the requirements of an effective investigation under Article 3 of the Convention.

There had therefore been a procedural violation of Article 3 as concerned the failure to carry out an effective investigation.

As concerned whether or not the State could be held responsible, the Court noted that even though Mr Khalikov's injury had been accidental, his presence in the non-secure area of the prison van had not. It resulted from the escorting officers' decision to transport more detainees than the prison van had been designed for.

Such a decision had been in breach of the regulations which had been put in place to reduce security risks and protect detainees during transfers. Those regulations aimed to reduce the risk of prisoners making a concerted attempt to overpower their escorting officers by limiting the number of prisoners transported together. They were also to avoid inter-prisoner violence by placing vulnerable detainees, such as former law-enforcement officers, like the applicant, in separate cells.

It followed that the State had been responsible for Mr Khalikov's injury because they had failed to adequately protect his physical integrity during the transfer. There had therefore also been a substantive violation of Article 3.

#### Just satisfaction (Article 41)

The Court held that Russia was to pay Mr Khalikov 20,000 euros (EUR) in respect of non-pecuniary damage.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.