



Ban on life prisoners' telephone calls is a violation of their rights

In today's **Chamber judgment**¹ in the case of [Danilevich v. Russia](#) (application no. 31469/08) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned the applicant being deprived of telephone contact with his relatives, including his young son, whilst serving a life sentence under the strict prison regime. That special prison regime involves, among other things, a complete ban on telephone calls except in emergency situations for at least the first ten years of prisoners' life sentences. The Court found that the ban imposed by domestic law on life-sentenced prisoners' telephone contact under the strict regime had been disproportionate. Detention, like any other measure depriving a person of his liberty, entailed inherent limitations on a prisoner's rights. However, it was an essential part of the right to respect for family life that the prison authorities assist prisoners in maintaining contact with close family.

- a violation of Article 6 § 1 (right to a fair hearing) of the Convention.

The case also concerned a hearing in the applicant's civil case brought to challenge the ban on telephone calls with his family which had been held in his absence. The Court found a violation following its well-established case-law.

Principal facts

The applicant, Danil Aleksandrovich Danilevich, is a Russian national who was born in 1982 and lived in Naberezhnyye Chelny, Tatarstan (Russia). He is currently serving a life sentence, having been convicted in August 2007 of banditry, illegal possession of firearms, kidnapping, extortion, murder and other crimes committed while a member of an organised criminal group that operated in Tatarstan and other Russian regions from the 1990s to the early 2000s.

Between 28 July 2009 and 12 December 2011 Mr Danilevich served his sentence in the IK-5 special-regime correctional colony in the Belozerskiy district of the Vologda Region, situated over 1000 km from his family. Since 15 December 2011 he has been serving his sentence in correctional colony IK-6 in the Orenburg Region, about 600-700 km from his family. He was deprived of telephone contact with his relatives, including his young son born in 2002, as a result of the general ban on telephone calls for prisoners serving life sentences under the strict regime for at least the first ten years of their sentences, as set out in the Russian Code of Execution of Criminal Sentences. He was allowed telephone calls only in "exceptional personal circumstances" such as death or life-threatening illness of a close relative.

On 11 January 2011 Mr Danilevich complained to the Belozerskiy District Court of the Vologda Region that, by refusing to allow telephone calls to his relatives, the prison administration had been preventing him from maintaining contact with his family, in breach of Article 8 of the European Convention. He argued that, in view of his son's young age, it was impossible to correspond with him

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.

by letter, and communication by telephone would be the only way of maintaining a proper family relationship with him. The court examined the case in his absence, as domestic law did not provide for convicted prisoners to appear in court in civil cases. The court dismissed his complaint.

Mr Danilevich appealed. On 13 April 2011 the Vologda Regional Court upheld the judgment at a hearing held in the absence of the parties.

Complaints, procedure and composition of the Court

Relying on Article 8 (right to respect for private and family life), the applicant complained about the ban on telephone communications with his relatives. He pointed to the importance of detainees' contact with the outside world, in particular with their close relatives, as recognised in the European Prison Rules and the European Court's case-law.

He also complained, under Article 6 § 1 (right to a fair hearing), that the hearing in his civil case concerning the ban on telephone calls with his family had been held in his absence.

The initial application was lodged with the European Court of Human Rights on 23 April 2008, and the above-mentioned complaints under Articles 8 and 6 § 1 on 31 May 2011.

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

Georges **Ravarani** (Luxembourg), *President*,
Georgios A. **Serghides** (Cyprus),
Dmitry **Dedov** (Russia),
María **Elósegui** (Spain),
Anja **Seibert-Fohr** (Germany),
Andreas **Zünd** (Switzerland),
Frédéric **Krenc** (Belgium),

and also Olga **Chernishova**, *Deputy Section Registrar*.

Decision of the Court

Article 8

The Government justified the restrictions imposed on Mr Danilevich as being a consequence of his very serious crimes, for which he had not only been deprived of his liberty but also restricted in the exercise of his other rights.

The Court reiterated that during imprisonment individuals continue to enjoy all fundamental rights and freedoms, save for the right to liberty. Although detention entailed inherent limitations, it was an essential part of prisoners' right to respect for family life that the authorities assist them in maintaining contact with their close family, in order to promote their social rehabilitation. Mr Danilevich had not, however, been able to receive visits from his relatives because they lived a significant distance away. With no possibility to communicate by telephone, he could only maintain contact in writing. That had not been satisfactory, as it took a long time for letters to be delivered and he had not been able to have effective contact with his only child, who had been too young for written correspondence, at a crucial stage in the development of their father-child relationship.

The Court was particularly concerned by the severity of the ban on life-sentenced prisoners' telephone communications with their relatives under the conditions of the strict regime. It considered that States should not have a free rein in applying restrictions in a general manner without any degree of flexibility for determining whether they were appropriate or necessary in each individual case.

The Court noted that the relevant Council of Europe instruments, including the Committee of Ministers' recommendations on the European Prison Rules and the Committee for the Prevention of Torture standards, highlighted the importance of preventing the breakdown of prisoners' family ties by maintaining all forms of contact, including by telephone, as often as possible. A total ban on telephone calls was deemed unacceptable. The need to maximise telephone communication between imprisoned parents and their children was emphasised, as well as improved possibilities for telephone contacts for prisoners whose families live far away. It was considered important that life-sentenced prisoners should not face more restrictions than other prisoners as far as being able to maintain meaningful contact with their families and other close persons was concerned.

The restrictions on telephone calls for Mr Danilevich as a life prisoner under the strict regime had not been "necessary in a democratic society" and had amounted to a disproportionate interference with his right to respect for his private and family life. There had thus been a violation of Article 8 of the Convention.

Article 6 § 1

The Court noted that the District Court had not examined Mr Danilevich's request for leave to appear at the court hearing. It had not examined whether the nature of the dispute was such as to require his attendance. Nor had it considered any procedural arrangements to ensure his effective participation in the proceedings. The Court did not accept that the courts' reliance on the domestic law, which prevented the applicant from attending, had absolved the State from its obligation to ensure respect for the principle of a fair trial enshrined in Article 6 of the Convention. Mr Danilevich had been deprived of the opportunity to present his case effectively before the court to ensure respect for the principle of a fair trial. There had accordingly been a violation of Article 6 § 1 of the Convention.

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicant 3,400 euros (EUR) in respect of non-pecuniary damage and EUR 1,300 in respect of costs and expenses.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

Jane Swift (tel : + 33 3 88 41 29 04)

Tracey Turner-Tretz (tel : + 33 3 88 41 35 30)

Denis Lambert (tel : + 33 3 90 21 41 09)

Inci Ertekin (tel : + 33 3 90 21 55 30)

Neil Connolly (tel : + 33 3 90 21 48 05)

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.