



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

FIRST SECTION

Application no. 49682/06
Dmitriy Gennadyevich MOSKALEV against Russia
and 2 other applications
(see list appended)

STATEMENT OF FACTS

The applicants are Russian nationals.

The circumstances of the cases

The facts of the cases, as submitted by the applicants, may be summarised as follows.

1. Application no 49682/06 lodged on 14 September 2006 by Dmitriy Gennadyevich MOSKALEV, who was born on 25 December 1965 and lived until his arrest in Moscow. He is serving his sentence in a correctional colony in the town of Pechora, the Komi Republic.

The applicant complained about his placement on 6 October 2006 in a punishment ward in correctional colony no. 49 in Pechora and his subsequent detention there for eleven days in appalling conditions. He argued that the punishment cell had measured 3.85 square metres. There had been insufficient lighting during the day and bright artificial lighting during the night making it impossible to sleep. He had not been provided with bedding. The cell had been dirty and damp. There had been no furniture.

2. Application no 62796/09 lodged on 28 October 2009 by Andrey Mikhaylovich BABAYEV who was born on 8 May 1965 and lived until his arrest in the town of Kstovo, Nizhniy Novgorod Region. He is serving his sentence in a correctional colony in the same region.

The applicant submitted that between 28 June 2003 and 13 December 2009 he had served his sentence in correctional colony no. 20 in the town of Lukoyanov, Nizhniy Novgorod Region. On 16 July 2009, following a refusal to work, he was transferred to a punishment ward where he stayed in cell no. 11 until 13 December 2009. The applicant argued that the cell had measured 5.5 square metres and housed three inmates. It had a small window 85 centimetres long and 46 centimetres wide which was installed two metres above the floor. The window did not allow access to sufficient light. The cell itself was very damp and dark given that a small bulb of 60 watt lit it up. Walls in the cell were covered with grey plaster making the cell even darker. The applicant's eyesight deteriorated significantly during his detention in the punishment ward. However, his requests for an examination by an oculist were to no avail. The sanitary conditions were extremely poor: no disinfectants were provided and the cell was "swamped" with cockroaches, spiders and lice. The system of artificial ventilation did not function properly making it impossible to breath at times. The applicant was only provided with a mattress and a pillow for a night (they were taken away during the day). The mattress was so old that it had not filling in the middle. The food was scarce and poor. A lavatory pan was grimy and spread an awful odour.

3. Application no 13065/10 lodged on 19 January 2010 by Sergey Alekseyevich SAMOKHVALOV who was born on 24 May 1977 and lived before his arrest in the town of Cherepovets, Vologda Region. He is serving his sentence in a correctional colony in the same region.

On a number of occasions in 2010 the applicant, while serving his sentence in correctional colony no. 35/2 in the Vologda Region, was placed in a punishment ward. In particular, he stayed from 2 to 17 April 2010 in cell no. 215, from 5 May to 8 June 2010 in cell no. 4, from 8 June to 8 July 2010 in cells nos. 1 and 3, in cell no. 15 from 8 July to 5 August 2010 and in cell no. 2 from 19 September until at least 29 October 2009. The former four cells measured no more than four square metres and, apart from minor variances, had offered similar conditions of detention.

In cell no. 215 the applicant stayed alone. The cell had no furniture or equipment, save for a bunk, a lavatory pan and a sink. The cell had no ventilation shaft and it was impossible to open a window. The toilet was not separated from the rest of the cell and was grimy.

In cell no. 4 the applicant stayed with inmate K. The cell had two bunks measuring 160 centimetres in length and 40 centimetres in width, thus leaving no personal space to move or perform physical exercise. The applicant also indicated that the bunk had been extremely uncomfortable to sleep on as his height is almost 190 centimetres and he weighs approximately 80 kilograms. In addition to the two bunks, the cell had a toilet and a sink. The toilet was merely a hole in a twenty-centimetre pedestal installed almost in the middle of the cell in front of the door. It was not separated from the remaining part of the cell or from the door and an inmate using it was always the subject of observations by a warder or a co-detainee. The cell had no ventilation shaft and it was impossible to open a

window to let the fresh air in as the window was covered by a metal net. The cell was dirty and stuffy. Rats were frequent guests in it, particularly during the night. There were also various insects.

Cells nos. 1 and 3 were identical to cell no. 4 with the only difference that the applicant did not have an inmate.

Cell no. 15 measured approximately 10 square metres and housed three inmates. It had four sleeping places, a sink, a lavatory pan, a table and a cupboard. The applicant submitted that the sanitary conditions in that cell had been similar to those in the previous four cells. He merely added that it had been extremely hot in the cell as he had stayed there in summer, the cell had had not artificial ventilation system and inmates had been unable to open a window.

Cell no. 2 had no more than five square metres of surface, had one bunk, a lavatory pan, a sink and a table. The bunk measured 170 to 50 centimetres. The remaining conditions, including the temperature regimen, lack of privacy, sanitary conditions, were similar to those previously described. The only difference was the lack of drinking water. The facility administration provided 200 grams of water three times a day.

COMPLAINTS

All of the applicants complained under Article 3 of the Convention that the conditions of their detention had been inhuman and degrading. Some of them also raised a complaint under Article 13 of the Convention on account of an absence of an effective domestic remedy.

QUESTIONS

In respect of each applicant's detention -

1. Were the conditions of the applicant's detention in breach of Article 3 of the Convention?

2. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 3, as required by Article 13 of the Convention? In particular, was the award made by the Russian court in line with the awards made by the Court in similar cases?

APPENDIX

| No. | Application no. | Lodged on | Applicant name date of birth place of residence | Represented by |
|------------|------------------------|------------------|--|-----------------------|
| 1. | 49682/06 | 14/09/2006 | Dmitriy Gennadyevich MOSKALEV 25/12/1965 Pechora | |
| 2. | 62796/09 | 28/10/2009 | Andrey Mikhaylovich BABAYEV 08/05/1965 Novomoskovsk | |
| 3. | 13065/10 | 19/01/2010 | Sergey Alekseyevich SAMOKHVALOV 24/05/1977 Cherepovetsk | |