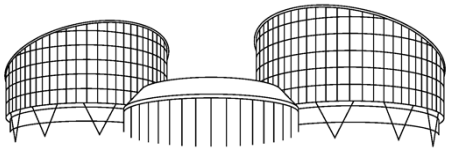

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF VERSHININ v. RUSSIA

(Application no. 18506/09)

JUDGMENT

STRASBOURG

13 March 2014

This judgment is final but it may be subject to editorial revision.

In the case of Vershinin v. Russia,

The European Court of Human Rights (First Section), sitting as a Committee composed of:

Khanlar Hajiyev, *President,*
Julia Laffranque,
Dmitry Dedov, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 18 February 2014,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 18506/09) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Eduard Yuryevich Vershinin ("the applicant"), on 14 January 2009.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

3. On 17 January 2012 the application was communicated to the Government.

4. On 13 April 2012 the Government submitted a unilateral declaration inviting the Court to strike out the application. They acknowledged that a part of the applicant's detention did not comply with the requirements of Article 3 of the Convention and offered to pay a sum of money. They further submitted that the complaints about the remaining period of the detention were inadmissible.

5. On 5 March 2013 the Court decided not to accept the unilateral declaration as it did not cover the entire period of the applicant's detention. It invited the Government to submit observations on the admissibility and the merits of the case.

THE FACTS

6. The applicant was born in 1973 and lives in Irkutsk.

7. During several periods between 21 May and 11 December 2008 the applicant was held in the temporary detention facility (IVS) of Angarsk in the Irkutsk Region, which was severely overcrowded, with up to eight detainees occupying a 12 sq. m cell. According to the applicant, the cell was

not equipped with either tables or benches. Bed linen was not distributed. Drinking water and daily walks were not available.

8. On 23 November 2011 the Irkutsk Regional Prosecutor, in response to the applicant's complaint, acknowledged that the conditions of his detention in the Angarsk IVS between May 2008 and May 2009 had violated the relevant domestic legislation.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

9. The applicant complained that the conditions of his detention in the Angarsk IVS between 21 May and 11 December 2008 had violated Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

10. The Government submitted that the applicant's detention in the IVS could not be regarded as a "continuous situation" as it had been punctuated with transfers to other penitentiary facilities. Accordingly, they considered that the Court was competent, by virtue of the six-month rule, to take into account only the most recent period of the applicant's detention starting from 23 July 2008. The applicant maintained his complaints.

11. The Court has previously found that short periods of an applicant's absence from a specific facility during his pre-trial detention, when he is temporarily taken out out of that facility for interviews and other procedural acts or medical treatment, and then returned back, have no incidence on the continuous nature of that detention (see *Sorokin v. Russia*, no. 67482/10, § 27, 10 October 2013). Accordingly, the Court rejects the Government's argument relating to the application of the six-month rule to the earlier periods of the applicant's detention.

12. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

13. The Government acknowledged that the applicant's conditions of detention between 23 July and 11 December 2008 did not comply with the requirements of Article 3 of the Convention

14. Having regard to the applicant's factual allegations of extreme overcrowding, which were undisputed by the Government, to the findings of the domestic authorities (see paragraph 8 above) and to the Government's acknowledgement of a violation of Article 3 in respect of a part of the applicant's detention, the Court considers that the conditions of the applicant's detention in the Angarsk IVS amounted to inhuman and degrading treatment.

15. There has accordingly been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention in the period between 21 May and 11 December 2008.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

16. As to the remainder of the application, the Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, it does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. Accordingly, the Court rejects it as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

18. The applicant claimed 81,000 euros (EUR) in respect of non-pecuniary damage.

19. The Government considered that the amount was excessive and contradicted the Court's case-law (here they referred to *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, 10 January 2012, and, *mutatis mutandis*, to *Kasarakin v. Russia and 5 Other Applications* (dec.), no. 31117/07, 6 December 2012). They submitted that in case of finding of a violation of the Convention, the applicant should be awarded no more than EUR 3,744.

20. Having regard to its case-law in similar cases, the Court awards the applicant EUR 5,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

21. The applicant did not claim any costs or expenses. Accordingly, there is no call to make an award under this head.

C. Default interest

22. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint regarding the conditions of the applicant's detention admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage to be converted into Russian roubles at the rate applicable at the date of settlement;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 13 March 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

Khanlar Hajiyev
President