



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

Communicated on 19 May 2014

FIRST SECTION

Application no. 32476/07
Anton Yuryevich GLUSHCHENKO against Russia
and ten other applications
(see list appended)

1. Application no. 32476/07, *Glushchenko v. Russia* (introduction date 23 June 2007)

A. Facts

Conditions of detention in a remand prison

Between 22 April 2005 and 5 May 2005 the applicant was held in remand prison IZ-77/4 in Moscow. The prison was overcrowded. Thus, the applicant's cell measuring 17 sq. m was equipped with 10 sleeping places and accommodated up to 14 inmates.

Thereafter the applicant was transferred to remand prison IZ-77/2 of Moscow, where he was held between 5 May 2005 and 16 March 2007. The prison was also overpopulated. Thus, the applicant's cell was equipped with 20 sleeping places and accommodated up to 35 inmates.

The applicant submitted the following evidence in support of the above allegations: a number of complaints to various authorities and their replies partly acknowledging his claims.

Conditions of post-conviction detention

Between an unspecified date in March 2007 and at least 23 June 2007 the applicant served the sentence in IK-3 (Russian designation ЯО-100/3), a correctional institution located in the Smolensk Region. The building accommodating the applicant's unit of up to 300 inmates was not equipped with toilets. They had to use an outdoor shed for that purpose.

Conditions of transport

In the time period from 18 July 2005 to 22 December 2006 the applicant was transported by prison van between the remand prison and the courthouse in Moscow. The applicant described the conditions of transport in the following manner: (i) the vans were overcrowded: they carried up to 20 detainees in a compartment measuring 3 sq. m; (ii) no heating or ventilation was available; (iii) on the days of transport the applicant was not given food or drinking water.

On 16 March 2007 the applicant was transported by rail from the remand prison in Moscow to a correctional colony in the Smolensk Region. The compartment where he stayed accommodated 17 other detainees as well as their possessions. It was not possible to use toilets during the whole trip.

The applicant submitted the following evidence in support of the above allegations: his complaints to various authorities and their replies.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention and prison transport.

C. Inadmissible complaints

(i) Unlawfulness and a lengthy judicial review of detention in April-May 2005, and an excessive overall length of the pre-trial detention: lodged out of time, convicted at first instance on 22 September 2006 by the Khoroshevskiy District Court of Moscow; (ii) lack of medical care in prison: no documents submitted; (iii) excessive length of the trial: manifestly ill-founded, it lasted for one year and two months; (iv) the applicant disagrees with the discontinuation of several charges due to exhaustion of their statutory time-limits: incompatible *ratione materiae* / not a victim; (v) bias of the first-instance court: manifestly ill-founded, no evidence of partiality.

1. Application no. 34138/09, *Asyutina v. Russia* (introduction date 6 May 2009)**A. Facts***Conditions of post-conviction detention*

Between 4 March 2004 and 21 August 2009 the applicant served the sentence in IK-9 (Russian designation УФ-91/9), a correctional institution located in Novosibirsk.

The dormitory in which the applicant slept measured 130 sq. m and presented 100 sleeping places and actually accommodated up to 100 inmates. The living premises were not equipped with ventilation. Hot water was not available. In addition, the applicant complained about the following aspects of the detention: restricted access to natural light. The applicant

submitted the following evidence in support of the above allegations: a statement by a cellmate.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) complains about the criminal proceedings (convicted on 3 July 2003 by the Novosibirsk Regional Court): lodged out of time; (ii) refusal of an early release and the complaints about the related proceedings: incompatible *ratione materiae*.

1. Application no. 63462/09, *Moiseyev v. Russia* (introduction date 21 December 2009)

A. Facts

Conditions of post-conviction detention

Between 10 December 2007 and 20 October 2009, while serving his sentence in IK-7 (Russian designation ЖХ-385/7), a correctional institution located in Mordoviya Republic, the applicant stayed in several cells of the facility's penal ward (ШИЗО).

The cells were overcrowded. They measured 10 sq. m and actually accommodated up to 4 inmates. In addition, the applicant complained about the following aspects of the detention: (i) the only window was small and dirty, restricting access to natural light. The artificial lighting was dim; (ii) the cell was infested with vermin; (iii) no partition between the toilet and the rest of the cell; (iv) no ventilation.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) ill-treatment by prison wardens: manifestly ill-founded. According to the case file, the applicant, who had often behaved aggressively in the past, assaulted prison guards, and they had to use force to subdue him. These findings are corroborated, in particular, by materials of an ensuing investigation and the court proceedings. There is nothing in the case file to depart from these conclusions. The use of force was made necessary by the applicant's own conduct and does not seem excessive in the circumstances of the case (*Borodin v. Russia*, no. 41867/04, §§ 78-79, 6 November 2012). Moreover, the applicant did not submit any medical documents proving that he sustained any injuries at all; (ii) erroneous assessment of evidence by the trial court and claims of innocence (convicted for the assault on the guards

on 30 September 2009 by the Supreme Court of the Republic of Mordoviya): fourth instance; (iii) lack of adequate time and facilities to prepare the defence: non-exhaustion, not raised on appeal; (iv) censorship of the applicant's correspondence by the prison authorities: manifestly ill-founded, the applicant submitted many replies from his addressees which show that his correspondence was not hindered.

1. Application no. 1607/10, *Sinyanskiy v. Russia* (introduction date 7 December 2009)

A. Facts

Conditions of post-conviction detention

Between 13 February 2008 and 3 March 2010 the applicant served the sentence in IK-18 (Russian designation УФ-91/18), a correctional institution located in Novosibirsk.

The applicant was assigned to Unit 5. The dormitory in which the applicant slept presented 50 sleeping places and actually accommodated up to 150 inmates. The sanitary premises were extremely cramped: the entire unit comprising up to 150 individuals had to use the only available 5 water taps and 5 toilet pans.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Inadequate medical assistance in prison: no evidence submitted; (ii) family visits in prison, frequent searches in the dormitory: non-exhaustion, not raised at the domestic level; (iii) ill-treatment, damage of property by prison guards: no evidence submitted, no complaints lodged at the domestic level

1. Application no. 3936/10, *Novoseltsev v. Russia* (introduction date 24 March 2011)

A. Facts

Conditions of post-conviction detention

Between 21 July 2010 and 24 January 2011 the applicant served the sentence in IK-10 (Russian designation УФ-91/10), a medical correctional institution located in the Novosibirsk Region.

The dormitory in which the applicant slept was overcrowded: there were only 50 bunk beds while the unit comprised 116 detainees. In addition, the applicant complained about the following aspects of the detention: (i) some inmates had to sleep in corridors; (ii) the temperatures in the living

premises in winter were between 0 and +7 C; (iii) there were only 20 places in the shower per approximately 3,000 detainees.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Ill-treatment in a correctional colony: no prima facie evidence. Moreover, at the domestic level the applicant tried to complain about the unlawfulness of prison officials' actions, rather than to institute criminal proceedings against them. In any event, he never challenged the prosecutor's decisions to courts; (ii) refusal of an early release: no such right under the Convention; (iii) the applicant claims that he was unlawfully detained in the colony for two extra days after the planned date of his release: non-exhaustion, not raised at the domestic level / unsubstantiated, the applicant did not provide a copy of the court decision ordering to release him and thus the correct date of the release cannot be established; (iv) inadequate medical assistance: manifestly ill-founded, according to the case file the applicant received medical care and was transferred to a medical correctional facility for treatment.

1. Application no. 8298/10, *Dovgan v. Russia* (introduction date 14 April 2010)

A. Facts

Conditions of post-conviction detention

Between 12 May 2006 and 14 April 2010 the applicant served the sentence in IK-15 (Russian designation УЧ-398/15), a correctional institution located in the Rostov Region.

The dormitory in which the applicant slept measured 24 sq. m and presented 24 sleeping places and actually accommodated up to 28 inmates. The living premises were not equipped with ventilation. Hot water was not available. In addition, the applicant complained about the following aspects of the detention: the dormitory was infested with vermin.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Conditions of detention in a remand prison from 12 May 2005 to 12 May 2006: lodged out of time; (ii) unfair criminal proceedings (convicted on 17 April 2008 by the Presidium of the Rostov Regional Court): lodged out of time.

1. Application no. 11215/10, *Dolgov v. Russia* (introduction date 1 August 2011)**A. Facts***Conditions of post-conviction detention*

Between 24 December 1999 and 1 August 2011 the applicant served the sentence in IK-2/1 (Russian designation YT-389/02-02), a correctional institution located in the Perm Region.

The applicant's cell measured 10 sq. m and actually accommodated up to 3 inmates. It was not equipped with ventilation. In addition, the applicant complained about the following aspects of the detention: (i) no access to natural light; (ii) outdoor exercise once a week.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Conditions of detention in a remand prison in 1996: incompatible *ratione temporis*; (ii) inadequate medical assistance: no evidence submitted.

1. Application no. 11642/10, *Dorofeyev v. Russia* (introduction date 28 December 2009)**A. Facts***Conditions of detention in a remand prison*

Between 4 and 7 December 2010 the applicant was held in remand prison IZ-13/2 in Mordoviya Republic. The prison was overcrowded. Thus, the applicant's cell measuring 15 sq. m was equipped with 5 sleeping places and accommodated up to 5 inmates. In addition, the applicant complained about the following aspects of the detention: (i) no ventilation.

Between 7 December 2010 and 13 January 2011 the applicant was held in remand prison IZ-13/1 in Mordoviya Republic. The prison was overcrowded. Thus, cell 88 measuring 7.4 sq. m (of them only 5.4 sq. m of living space) was equipped with 2 sleeping places and accommodated 2 inmates.

Between 13 January and 6 April 2011 the applicant was held in remand prison IZ-77/4 of Moscow. The prison was overcrowded. Thus, cell 414 measuring 28 sq. m accommodated up to 9 inmates.

Conditions of post-conviction detention

Between 1 September 2006 and 3 December 2010 the applicant served the sentence in IK-10 (Russian designation ЖХ-385/10), a correctional institution located in Mordoviya Republic.

The dormitory in which the applicant slept measured 16 sq. m and presented 10 sleeping places and actually accommodated up to 10 inmates. The living premises were not equipped with ventilation.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Forced labour: non-exhaustion, not raised at the domestic level; (ii) in October 2010 the Supreme Court of Russia quashed the appeal judgment in the applicant's criminal case in supervisory review proceedings and ordered a new appeal hearing. It further ordered the applicant's detention until 31 December 2010 pending the hearing. Subsequently the Supreme Court extended the detention until 1 February 2011. For unknown reasons, the next extension took place only on 1 March 2011. The applicant complains that between 1 February and 1 March 2011 he was detained without a legal basis in violation of Article 5-1 (c). Manifestly ill-founded. As the Supreme Court quashed only the appeal judgment, but not the first-instance one, the applicant's detention during that period was covered by the provision of Article 5-1 (a); (iii) the applicant complains that the judicial review of the extension order of 1 March 2011 was excessively long: manifestly ill-founded, in took 15 days (the decision was taken on 16 March 2011).

1. Application no. 18605/10, *Severin v. Russia* (introduction date 13 March 2010)

A. Facts

Conditions of post-conviction detention

Between 19 May 2009 and 19 May 2010, while serving his sentence in IK-9 (Russian designation УЧ-398/9), a correctional institution located in the Rostov Region, the applicant stayed in a so-called "cell-type premises" (единое помещение камерного типа, ЕПКТ).

The applicant's cell was not equipped with ventilation. Hot water was not available. In addition, the applicant complained about the following aspects of the detention: (i) no partition between the toilet and the rest of the cell; (ii) no access to natural light; (iii) only 1.5 hours of outdoor exercise allowed per day; (iv) poor general sanitary conditions.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Ill-treatment by policemen and ineffective investigation: manifestly ill-founded. It was established that the applicant's injuries (three abrasions on his right wrist) appeared as the result of his handcuffing during the arrest. This version appears plausible considering its initial support by the applicant himself (he complained about the alleged ill-treatment only ten days later), and the nature of the injuries. Such use of force does not seem excessive in the circumstances of the case. The complaint about the procedural aspect is also manifestly ill-founded. On 16 December 2006 an investigator of the local prosecutor's office, after examining the concerned police officers, two other witnesses, the applicant, the results of his forensic examination and the other documents related to his arrest, decided not to open the criminal proceedings into the applicant's alleged ill-treatment. The decision was later upheld by the judgments of 13 August and 14 October 2009. Firstly, the refusal to open criminal proceedings appears to be well reasoned. The applicant does not indicate any concrete action which the investigator failed to perform or any other important evidence which he overlooked. Secondly, the applicant, being represented by a professional lawyer, does not explain his failure to challenge the decision for more than three years. Therefore, he failed to demonstrate the due diligence and interest in following the investigation and his complaint concerning the alleged ill-treatment and the lack of an effective investigation in that regard is inadmissible for failure to comply with the six-month rule (cf. *Manukyan v. Georgia* (dec.), no. 53073/07, §§ 24-33, 9 October 2012); (ii) inadequate medical care in prison: manifestly ill-founded, it follows from the case file that the applicant received the necessary treatment; (iii) degrading treatment in the prison, unlawful personal search: non-exhaustion, not raised at the domestic level.

1. Application no. 36819/10, *Novikov v. Russia* (introduction date 6 May 2010)

A. Facts

Conditions of detention in a remand prison

Between 25 January 2009 and 18 January 2010 the applicant was held in remand prison IZ-22/1 in the Altay Region. The prison was overcrowded. Thus, cell 22 measuring 12 sq. m was equipped with 8 sleeping places and accommodated up to 13 inmates; cell 73 measuring 10 sq. m was designed for 3 and housed up to 6 individuals.

Conditions of post-conviction detention

Between 18 January 2010 and an unspecified date in early 2011 the applicant served the sentence in IK-10 (Russian designation УБ-14/10), a correctional institution located in the Altay Region.

The applicant was assigned to Unit 10. The dormitory in which the applicant slept measured 70 sq. m and actually accommodated up to 60 inmates. The sanitary premises were extremely cramped: the entire unit comprising up to 200 individuals had to use the only available 8 water taps and 6 toilet pans.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) Ill-treatment: non-exhaustion, the applicant failed to challenge the refusals to open an investigation in courts; (ii) unlawful arrest and subsequent unregistered detention on 15-16 January 2009: lodged out of time; (iii) unlawful search: non-exhaustion, not raised at the domestic level; (iv) lack of adequate time and facilities to prepare the defence (convicted on 24 December 2009 by the Altay Regional Court): non-exhaustion, not raised on appeal; (v) the remainder of the complaints about the criminal proceedings was introduced in the application form of 31 August 2010 and is thus belated.

1. Application no. 64372/13, *Lyakh v. Russia* (introduction date 3 November 2013)

A. Facts

Conditions of post-conviction detention

Between 9 February 2013 and 3 November 2013 the applicant served the sentence in IK-11 (Russian designation УЗ-62/11), a correctional institution located in the Nizhniy Novgorod Region.

The applicant claims, in particular, that the colony was severely overcrowded to the point when each detainee had less than 2 sq. m of personal space in the dormitory. The applicant submitted the following evidence in support of the above allegations: a statement issued by the regional prosecutor's office acknowledging the overpopulation and the existence of some other problems in the colony.

The applicant brought a civil claim for compensation in connection with inadequate conditions of detention in prison IK-11. By final judgment of 18 September 2012, the Bor Town Court of the Nizhniy Novgorod Region granted the claim and awarded the applicant 4,000 Russian roubles.

B. Complaint

The applicant complains, among other matters, under Article 3 of the Convention about the conditions of detention.

C. Inadmissible complaints

(i) conditions of detention in a prison hospital from 27 December 2012 to 9 February 2013: lodged out of time; (ii) the applicant contracted hepatitis while in prison: manifestly ill-founded, the mere fact of getting infected does not mean a violation of Article 3. What matters is whether the applicant was provided with an adequate medical assistance, which, according to the case file, he received (see *Vasyukov v. Russia*, no. 2974/05); (iii) ill-treatment in prisons: unsubstantiated, no evidence submitted.

COMMON QUESTION

Were the conditions of the applicants' post-conviction detention in their respective penitentiary facilities compatible with Article 3 of the Convention? The parties are requested to answer the following questions in respect of *each dormitory* where the applicants were detained:

(a) What were the dimensions of the dormitories where the applicants were held? How many persons did the dormitories accommodate simultaneously with the applicants?

(b) Was there adequate daylight in the dormitories?

(c) Were the ventilation systems of the dormitories operating?

(d) Were the dormitories equipped with sanitary installations adequate to enable the applicants to comply with the needs of nature when necessary? Did the placement of lavatory pans offer privacy?

(e) How often could the applicants have a shower?

(f) How many hours a day did the applicants spend inside and how many outside?

(g) What were the dimensions of the yards in which the applicants could walk?

CASE SPECIFIC QUESTIONS

Applications nos. 32476/07, 11642/10 and 36819/10

Were the conditions of pre-trial detention of Mr Glushchenko, Mr Dorofeyev and Mr Novikov compatible with Article 3 of the Convention? If the Government consider that the occupancy numbers given by the applicants were inaccurate, they are invited to produce extracts from the prison population register covering at least one day per week during the entire period of the applicants' detention.

Application no. 32476/07

Were the conditions of transport of Mr Glushchenko between the remand prison and the courthouse compatible with Article 3 of the Convention? In particular, the Government are requested to indicate:

(a) How many times was he transported between the remand prison and the courthouse and on which dates?

(b) How long was the way?

(c) How much space was allowed for the applicant in the prison van?

(d) Did the applicant have access to toilet during the trip?

(e) Was drinking water available to him?

APPENDIX

No.	Application no.	Lodged on	Applicant name date of birth	Represented by
1.	32476/07	23/06/2007	Anton Yuryevich GLUSHCHENKO 13/09/1977	Yelena Lvovna LIPTSER
2.	34138/09	06/05/2009	Zoya Vasilyevna ASYUTINA 25/03/1951	
3.	63462/09	21/12/2009	Denis Sergeyevich MOISEYEV 19/04/1981	
4.	1607/10	07/12/2009	Aleksandr Aleksandrovich SINYANSKIY 04/10/1968	
5.	3936/10	24/03/2011	Nikolay Anatolyevich NOVOSELTSEV 26/09/1972	
6.	8298/10	14/04/2010	Vladislav Petrovich DOVGAN 22/01/1974	
7.	11215/10	01/08/2011	Vladimir Ivanovich DOLGOV 09/01/1952	
8.	11642/10	28/12/2009	Sergey Sergeyevich DOROFEYEV 24/05/1973	
9.	18605/10	13/03/2010	Aleksandr Yuryevich SEVERIN 30/09/1986	Marina Alekseyevna DUBROVINA
10.	36819/10	06/05/2010	Mikhail Nikolayevich NOVIKOV 06/05/1970	
11.	64372/13	03/11/2013	Roman Gennadyevich LYAKH 09/12/1971	