



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

FIRST SECTION

DECISION

Application no. 10763/06
Sergey Sergeyevich ZAGRADSKIY against Russia
and eighteen other applications
(see list appended)

The European Court of Human Rights (First Section), sitting on
7 October 2014 as a Committee composed of:

Khanlar Hajiyeu, *President*,

Erik Møse,

Dmitry Dedov, *judges*,

and Søren Prebensen, *Acting Deputy Section Registrar*,

Having regard to the above applications lodged on the dates listed in the
appendix,

Having regard to the declarations submitted by the respondent
Government requesting the Court to strike the applications out of the list of
cases and the applicants' replies to those declarations,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. A list of the applicants and their representatives is set out in the
appendix.

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. The applicants complained, among other matters, about poor
conditions of their detention in Russian penitentiary facilities.

4. The applications have been communicated to the Government.

THE LAW

A. Joinder of the applications

5. Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and consider them in a single decision.

B. The complaints concerning the conditions of detention

6. The applicants complained that the conditions of their detention in Russian penitentiary facilities amounted to inhuman and degrading treatment prohibited under Article 3 of the Convention.

7. By letters submitted on different dates, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the applications. They further requested the Court to strike the applications out of the list of cases in accordance with Article 37 of the Convention.

8. By the above declarations, the Russian authorities acknowledged that the violations of Article 3 of the Convention and stated their readiness to pay the following amounts to the applicants as just satisfaction: 6,625 euros (EUR) to Mr Zagradskiy, EUR 8,000 to Mr Kislitsyn, EUR 20,250 to Mr Kozlov, EUR 4,155 to Mr Olnev, EUR 4,090 to Mr Yegorov, EUR 4,415 to Mr Usanov, EUR 4,090 to Mr Bannikov, EUR 4,350 to Mr Bozhok, EUR 3,960 to Mr Lednev, EUR 3,700 to Mr Dosayev, EUR 9,375 to Mr Tikhomirov, EUR 4,220 to Mr Semenov, EUR 5,875 to Mr Medvedev, EUR 4,025 to Mr Chizh, EUR 16,000 to Mr Barakhoyev, EUR 8,125 to Mr Malygin, EUR 4,350 to Mr Kapin, EUR 16,875 to Mr Kuklin, and EUR 6,375 to Mr Stetsenko.

9. The remainder of the declaration in each case read as follows:

“The authorities therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as ‘any other reason’ justifying the striking of the case out of the Court’s list of cases, as referred to in Article 37 § 1 (c) of the Convention.

The sum referred to above, which is to cover any pecuniary and non-pecuniary damage, as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This payment will constitute the final resolution of the case.”

10. The applicants did not accept the Government's offers. Some of them expressed the view that the sums mentioned in the Government's declarations were too low, whereas others insisted that the Court should examine their other complaints.

11. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified under (a), (b) or (c) of paragraph 1 of that Article. In particular, Article 37 § 1 (c) enables the Court to strike a case out of its list if:

“...for any other reason established by the Court, it is no longer justified to continue the examination of the application”.

12. It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

13. To this end, the Court will examine carefully the declarations in the light of the principles established in its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03).

14. The Court notes at the outset that since its first judgment concerning the inhuman and degrading conditions of detention in Russian penitentiary facilities (see *Kalashnikov v. Russia*, no. 47095/99, ECHR 2002-VI), it found similar violations in more than a hundred cases against Russia. It follows that the complaints raised in the present applications are based on the clear and extensive case-law of the Court.

15. Turning next to the nature of the admissions contained in the Government's declarations, the Court is satisfied that the Government did not dispute the allegations made by the applicants and explicitly acknowledged the violations of Article 3 of the Convention.

16. As to the intended redress to be provided to the applicants, the Government have undertaken to pay them compensation in respect of pecuniary and non-pecuniary damages, as well as costs and expenses. Even if the method of calculation employed by the Russian authorities in respect of the conditions-of-detention complaints did not correspond exactly to the guidelines established by the Court in the pilot judgment (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 172, 10 January 2012), what is important is that the proposed sums are not unreasonable in comparison with the awards made by the Court in similar cases (see *Cocchiarella v. Italy* [GC], no. 64886/01, § 105, ECHR 2006-V). The Government have committed themselves to effecting the payment of those sums within three months of the Court's decision, with default interest to be payable in case of delay of settlement.

17. The Court therefore considers that it is no longer justified to continue the examination of these cases in the part concerning the above-mentioned complaints. As the Committee of Ministers remains competent to supervise, in accordance with Article 46 § 2 of the Convention, the implementation of the judgments concerning the same issues, the Court is also satisfied that respect for human rights as defined in the Convention (Article 37 § 1 *in fine*) does not require it to continue the examination of this part of the case. In any event, the Court's decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the applications to its list of cases, should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006).

18. In view of the above, it is appropriate to strike the cases out of the list in the part concerning the above-mentioned complaints.

C. The other complaints

19. Some applicants also raised additional complaints with reference to various Articles of the Convention and its Protocols.

20. Having regard to all the material in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols in that part of their applications.

21. It follows that the applications in this part must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations under Article 3 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike a part of the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the applications inadmissible.

Søren Prebensen
Acting Deputy Registrar

Khanlar Hajiyev
President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	10763/06	16/02/2006	Sergey Sergeyevich ZAGRADSKIY 08/12/1982 Kharp	
2.	12346/06	16/02/2006	Valeriy Fedorovich KISLITSYN 04/01/1964 Nizhniy Tagil	
3.	20442/06	23/03/2006	Petr Andreyevich KOZLOV 04/08/1967 Voronezh	
4.	22664/06	01/04/2006	Aleksandr Stanislavovich OLNEV 14/03/1984 Tovarkovo	Andrey Vladimirovich BABUSHKIN
5.	26836/06	18/07/2006	Sergey Ivanovich YEGOROV 17/11/1963 Cheboksary	
6.	3662/07	22/11/2006	Oleg Germanovich USANOV 31/10/1965 Astrakhan	
7.	3876/07	23/03/2007	Ivan Valeryevich BANNIKOV 16/09/1976 Uptar	

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
8.	15188/07	13/03/2007	Sergey Mikhaylovich BOZHOK 18/01/1971 Kolomna	
9.	18150/07	25/03/2007	Ivan Vladimirovich LEDNEV 09/01/1983 Novosibirsk	Anatoliy Ivanovich KVITKO
10.	33181/07	26/06/2007	Yevgeniy Valeryevich DOSAYEV 25/03/1974 Moscow	
11.	34110/07	13/07/2007	Sergey Mikhaylovich TIKHOMIROV 01/12/1951 Sosnoviy Bor	Yevgeniy Valentinovich SHEIN
12.	60004/11	01/09/2008	Sergey Vladimirovich SEMENOV 10/03/1977 Krasnoyarsk	
13.	63971/11	19/12/2011	Yevgeniy Aleksandrovich MEDVEDEV 30/11/1983 Astrakhan	
14.	77032/11	24/11/2011	Andrey Vyacheslavovich CHIZH 13/03/1974 St Petersburg	

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
15.	2118/12	14/11/2011	Sultan Davidovich BARAKHOYEV 30/08/1980 Surkhakhi	Lyudmila Vladimirovna KONSHINA
16.	19706/12	11/05/2012	Aleksey Borisovich MALYGIN 04/01/1966 Murmashi	
17.	20006/12	16/03/2012	Denis Sergeyevich KAPIN 08/12/1982 UKRAINE	
18.	21620/12	05/03/2012	Aleksandr Borisovich KUKLIN 09/06/1976 Kuybyshev	Olga Yevgenyevna MIKHAYLOVA
19.	35753/12	13/08/2012	Sergey Viktorovich STETSENKO 03/05/1976 Chelyabinsk	