



## Practice of keeping remand prisoners in a metal cage during court hearings amounted to degrading treatment

In today's Grand Chamber judgment in the case of [Svinarenko and Slyadnev v. Russia](#) (application nos. 32541/08 and 43441/08), which is final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 (prohibition of torture and of inhuman or degrading treatment or punishment) of the European Convention on Human Rights; and,**

**a violation of Article 6 § 1 (right to a fair trial within a reasonable time).**

The case essentially concerned the practice of keeping remand prisoners in metal cages during hearings on their cases.

The Court found that holding the applicants in a metal cage during court hearings on their case was a degrading treatment for which there could be no justification. Such treatment constituted in itself an affront to human dignity in breach of Article 3.

### Principal facts

The applicants, Aleksandr Svinarenko and Valentin Slyadnev, are Russian nationals who were born in 1968 and 1970 respectively. Mr Svinarenko is currently serving a prison sentence in the Murmansk region. Mr Slyadnev lives in the settlement of Sinegorye in the Yagodninskiy District of the Magadan Region (Russia).

Both applicants were charged, in 2002 and 2003 respectively, with a number of offences, committed as members of a gang led by another man, including robbery with the use of violence. Mr Svinarenko was detained on remand, while Mr Slyadnev was serving a prison sentence following his conviction in another case. Shortly after his early conditional release from prison, he was remanded in custody in connection with the new charges.

In a first jury trial before the Magadan Regional Court, both applicants were acquitted and released in June 2004. In December 2004, the Supreme Court of the Russian Federation quashed the judgment – in particular on the grounds that some of the candidate jurors had concealed certain information from the court and that the presiding judge had failed to sum up all evidence – and remitted the case for fresh examination. The hearings in the second trial against the applicants, who were tried together with two co-defendants, were adjourned on several occasions, among other things because jurors were unable to attend. In December 2005, both applicants were again detained on remand. In December 2006, Mr Svinarenko was acquitted, while Mr Slyadnev was convicted of extortion and “arbitrary unlawful acts” with the use of violence. In June 2007, the Supreme Court quashed that judgment and remitted the case for re-hearing. Mr Svinarenko was detained on remand in August 2007 in connection with another criminal case.

<sup>1</sup> Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

The third trial was also delayed on several occasions, in particular because the number of candidate jurors was initially insufficient at several hearings. In March 2009, Mr Svinarenko was ultimately acquitted of all charges against him and Mr Slyadnev, who had continuously been detained on remand since December 2005, was convicted of “arbitrary unlawful acts” with the use of violence and acquitted on the remaining charges.

While in detention on remand, the applicants were placed in a metal cage – measuring about 1.5 by 2.5 metres – during court hearings. Armed guards remained beside the cage.

Following Mr Svinarenko’s acquittal, he brought compensation proceedings against the State. In October 2009, he was awarded compensation for pecuniary damage and, in March 2010, for non-pecuniary damage incurred by him as a result of his criminal prosecution.

## Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment or punishment), the applicants alleged that their confinement in a metal cage in a courtroom during their trial – a standard practice applied to each and every suspect and accused detained on remand in Russia – had amounted to degrading treatment. They also complained under Article 6 § 1 (right to a fair trial within a reasonable time) about the excessive length of the criminal proceedings against them.

The case originated in two applications lodged with the European Court of Human Rights on 5 May and 2 July 2008 respectively. In its Chamber judgment of 11 December 2012, the Court joined the applications, declared them partly admissible and held unanimously that there had been a violation of Article 3 and a violation of Article 6 § 1. The case was referred to the Grand Chamber at the Government’s request. A Grand Chamber hearing took place on 18 September 2013.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,  
Josep **Casadevall** (Andorra),  
Guido **Raimondi** (Italy),  
Ineta **Ziemele** (Latvia),  
Mark **Villiger** (Liechtenstein),  
Peer **Lorenzen** (Denmark),  
Boštjan M. **Zupančič** (Slovenia),  
Danutė **Jočienė** (Lithuania),  
Ján **Šikuta** (Slovakia),  
George **Nicolaou** (Cyprus),  
Luis **López Guerra** (Spain),  
Vincent A. **de Gaetano** (Malta),  
Linos-Alexandre **Sicilianos** (Greece),  
Helen **Keller** (Switzerland),  
Helena **Jäderblom** (Sweden),  
Johannes **Silvis** (the Netherlands),  
Dmitry **Dedov** (Russia),

and also Michael **O’Boyle**, *Deputy Registrar*.

## Decision of the Court

The Court rejected a preliminary objection by the Russian Government that Mr Svinarenko could not claim to be a victim of the alleged violations of the Convention, as he had been fully acquitted and awarded compensation. The Court noted that, although the compensation proceedings had come to

an end in March 2010, the Government had not made their plea before the Chamber took its decision on the admissibility and the merits on 11 December 2012. The Government had not pointed to any exceptional circumstances that would have prevented them from raising the objection in a timely manner.

### Article 3

The Court examined the complaint under Article 3 in so far as it concerned the third trial against the applicants. They had not raised their complaint before any national court, alleging that confinement in a metal cage in the courtroom was a standard practice in Russia, thus implying that there had been no legal remedies to be exhausted at national level. The Court noted that they had therefore been required to lodge their applications no later than six months from the time the situation complained of ceased to exist. By having lodged their application in 2008, they had complied with the six-month rule only with regard to the third trial.

Placing defendants in metal cages when they appeared before a court in criminal proceedings while remanded in custody had been a standard practice in several Member States, which had previously belonged to the Soviet Union, but some of them had abandoned this measure in recent years, in particular Armenia and Georgia. In Russia, where it had been introduced in 1994, recourse to metal cages in courtrooms remained an approved practice. The Court noted that the practice was regulated by an unpublished ministerial order, which was problematic in itself, given the fundamental importance of the rule of law in a democratic society which presupposed the accessibility of legal rules.

In recent years, the Court had examined, in Chamber judgments, a number of cases concerning the use of metal cages in the courtroom and had found a violation of Article 3 in this regard for the reason that such treatment had not been justified by security considerations given the circumstances of the respective case, such as the applicants' personality, the charges against them, their criminal records or their behaviour.

In the present case, the Grand Chamber noted the Government's argument that recourse to a cage was justified to ensure proper conditions for holding the trial, having regard to the violent nature of the crimes with which the applicants had been charged, together with, in particular, their criminal records and victims' and witnesses' fears of the applicants' unlawful behaviour. However, while agreeing that order and security in the courtroom were indispensable for the proper administration of justice, the Court underlined that the means chosen for ensuring such order and security must not involve measures of restraint which by virtue of their level of severity would bring them within the scope of Article 3. Article 3 prohibited in absolute terms torture and inhuman or degrading treatment or punishment, which is why there could be no justification for any such treatment.

As to whether the "minimum level of severity" had been reached to bring the measure within the scope of Article 3, the Court observed that the applicants had been tried by a jury court, that a large number of witnesses had been present and the hearings had been open to the general public. The Court considered that the applicants' exposure to the public eye in a cage must have undermined their image and must have aroused in them feelings of humiliation, helplessness, fear, anguish and inferiority. They had been subjected to this treatment during the entire jury trial which lasted more than a year, with several hearings held almost every month.

Furthermore, the applicants must have had objectively justified fears that their exposure in a cage during court hearings conveyed to their judges a negative image of them as being dangerous, thus undermining the presumption of innocence.

The Court found no convincing arguments to the effect that holding a defendant in a cage during a trial was a necessary means of physically restraining him, preventing his escape, dealing with disorderly or aggressive behaviour, or protecting him against aggression from outside. Its continued

practice could therefore only be understood as a means of degrading and humiliating the caged person.

Against that background, the Court found that the applicants had been subjected to distress of an intensity exceeding the unavoidable level of suffering inherent in their detention during a court appearance, and that, therefore, their confinement in a cage had attained the “minimum level of severity” to bring it within the scope of Article 3.

The Court did not consider that the use of cages in this context could ever be justified under Article 3, contrary to what the Government had sought to show in their submissions to the Grand Chamber. Furthermore, the Court was of the view that the threat to security alleged by the Government was, in any event, unsubstantiated.

The Court reiterated that the very essence of the Convention was respect for human dignity and that the object and purpose of the Convention as an instrument for the protection of individual human beings required that its provisions were interpreted and applied so as to make its safeguards practical and effective. It found that holding a person in a metal cage during a trial constituted in itself – having regard to its objectively degrading nature which was incompatible with the standards of civilised behaviour that were the hallmark of a democratic society – an affront to human dignity in breach of Article 3.

The Court concluded that the applicants’ confinement in a metal cage in the courtroom had amounted to degrading treatment. There had accordingly been a violation of Article 3.

### Article 6

As regards the complaints under Article 6 § 1 concerning the length of the criminal proceedings against the applicants – which had lasted six years and ten months in the case of Mr Svinarenko and six and a half years in the case of Mr Slyadnev – the Court did not see any reason to depart from the Chamber’s finding. In particular, there had been significant delays attributable to the State during the period when the case was pending before the trial court for the second and the third time which had amounted to at least a year. During that time the applicants had been detained on remand, so that particular diligence had been required of the courts to administer justice expeditiously. While taking into account the complexity of the case and the difficulties which the trial court had faced, the Court underlined that the State remained responsible for the efficiency of its justice system.

The Court concluded that the length of the criminal proceedings had been unreasonable. There had accordingly been a breach of Article 6 § 1.

### Just satisfaction (Article 41)

The Court held that Russia was to pay each applicant 10,000 euros (EUR) in respect of non-pecuniary damage, and it was to pay EUR 2,000 to Mr Svinarenko and EUR 4,000 to Mr Slyadnev in respect of costs and expenses.

### Separate opinions

Judges Raimondi and Sicilianos, as well as Judges Nicolaou and Keller, expressed joint concurring opinions. Judge Silvis also expressed a concurring opinion. These opinions are annexed to the judgment.

*The judgment is available in English and French.*

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**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.