



Russia must reform prison handcuffing regime

In today's **Chamber judgment**¹ in the case of [Shlykov and Others v. Russia](#) (application no. 78638/11) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights, and

a violation of Article 6 § 1 (right to a fair trial).

The case concerned the applicants' being handcuffed every time they left their prison cells. It also concerned the conditions of the prison regime applied to one applicant, and access to civil proceedings to complain of their handcuffing for another two of the applicants.

The Court found in particular that handcuffing the applicants every time they left their cells had been a violation of their rights. It found that the prison regime applied to Mr Shykov had amounted to inhuman and degrading treatment. It also found that preventing two of the applicants from attending their civil proceedings had denied them a fair trial.

Principal facts

The applicants, Vladislav Yuryevich Shlykov, Aleksandr Livonovich Kereksha, Aleksey Aleksandrovich Pulyalin and Anton Alekseyevich Korostelev, are Russian nationals who were born in 1973, 1976, 1986 and 1987 and are detained in Solikamsk, Khabarovsk, Ukhta and Kharp (all Russia) respectively.

The applicants were convicted of various crimes and sentenced to life imprisonment. They were held in correctional colonies and remand prisons and were routinely handcuffed when leaving their cells as they had committed violent crimes or were considered to be dangerous prisoners. They were handcuffed for all purposes, including ablutions and meeting with their lawyer.

Mr Shlykov and Mr Kereksha did not complain of their handcuffing to the domestic courts because they believed that the then remedies had been ineffective. Mr Pulyalin and Mr Korostelev did lodge complaints with the domestic courts, which were dismissed.

Mr Shykov also gave details of the conditions of his prison regime, arguing that they were inadequate.

It is unclear how often the handcuffing regime in respect of the applicants was reviewed.

Complaints, procedure and composition of the Court

Relying on Article 3, the applicants complained of their routine handcuffing in prison. Mr Shykov also complained of the prison regime more generally.

Relying on Article 6 § 1, Mr Pulyalin and Mr Korostelev complained that their civil case concerning their handcuffing regime had been examined in their absence.

The application was lodged with the European Court of Human Rights on 27 October 2011.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Judgment was given by a Chamber of seven judges, composed as follows:

Paul **Lemmens** (Belgium), *President*,
Georgios A. **Serghides** (Cyprus),
Dmitry **Dedov** (Russia),
María **Elósegui** (Spain),
Darian **Pavli** (Albania),
Anja **Seibert-Fohr** (Germany),
Peeter **Roosma** (Estonia),

and also Olga **Chernishova**, *Deputy Section Registrar*.

Decision of the Court

Article 3

The Court reiterated that Article 3 of the Convention enshrined one of the most fundamental values of democracies, prohibiting torture, inhuman and degrading treatment regardless of the circumstances. To be engaged, the suffering endured had to go beyond what could reasonably be expected in detention. For the Court, use of handcuffs did not normally give rise to rights violations; however, the systematic handcuffing of a prisoner when leaving a cell could be considered a violation.

The Court noted that in the applicants' cases they remained handcuffed for long periods over many years and that this had been damaging to their self-esteem. There had been no legal requirement to impose this measure. The Court also noted that there did not appear to have been any regular review of the regime imposed, and thus on what grounds the authorities could have ordered and maintained the restrictions.

In sum, handcuffing the applicants every time they left their cells had been a violation of their rights.

The Court also found a violation of Article 3 in respect of the prison regime applied to Mr Shlykov.

Article 6 § 1

The Court noted that the relevant applicants had not been allowed to attend their civil proceedings. It had previously found violations in similar cases against Russia. The Court concluded that there had also been a rights violation in this case.

Article 41 (just satisfaction)

The Court held that Russia was to pay Mr Shlykov 3,000 euros (EUR), and Mr Pulyalin and Mr Korostelev EUR 1,950 each in respect of non-pecuniary damage and to Mr Korostelev EUR 850 in respect of costs and expenses.

Article 46 (binding force and enforcement)

Regarding the handcuffing, the Court considered that it would be appropriate for Russia to take measures under the supervision of the Committee of Ministers under Article 46 of the Convention to secure the rights of the applicants. It pointed out that this would also have effects beyond the current cases. It thus considered a finding of a violation sufficient in Mr Kereksha's case.

The judgment is available only in English.

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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.