



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

THIRD SECTION

CASE OF POLESHCHUK AND OTHERS v. RUSSIA

*(Application no. 2420/09 and 8 others -
see appended list)*

JUDGMENT

STRASBOURG

8 February 2018

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

In the case of Poleshchuk and Others v. Russia,

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

Luis López Guerra, *President*,

Dmitry Dedov,

Jolien Schukking, *judges*,

and Liv Tiggerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 18 January 2018,

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

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Russian Government (“the Government”).

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the inadequate conditions of their detention. Some applicants also raised other complaints under the provisions of the Convention.

THE LAW**I. JOINDER OF THE APPLICATIONS**

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicants complained principally of the inadequate conditions of their detention. They relied on Article 3 of the Convention, which reads as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

7. The Court notes that the applicants were kept in detention in poor conditions. The details of the applicants’ detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Kudła v. Poland* [GC], no. 30210/96, §§ 90-94, ECHR 2000-XI, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 139-65, 10 January 2012). It reiterates in particular that extreme lack of space in a prison cell or overcrowding weighs heavily as an aspect to be taken into account for the purpose of establishing whether the impugned detention conditions were “degrading” from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see, amongst many authorities, *Karalevičius v. Lithuania*, no. 53254/99, §§ 36-40, 7 April 2005).

8. In the leading case of *Sergey Babushkin v. Russia*, no. 5993/08, 28 November 2013, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the applicants’ conditions of detention were inadequate.

10. These complaints are therefore admissible and disclose a breach of Article 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

11. Some applicants submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in *Idalov v. Russia* [GC], no. 5826/03, §§ 103-08, 22 May 2012, concerning the conditions of transport; *M.S. v. Russia*, no. 8589/08, §§ 80-86, 10 July 2014, pertaining to absence of domestic remedies for a complaint about the poor conditions of transport; and *Sergey Babushkin*, cited above, §§ 38-45, regarding the lack of effective remedies to complain about inadequate detention conditions.

IV. REMAINING COMPLAINTS

12. In applications nos. 61636/10 and 40973/14, the applicants also raised other complaints under various Articles of the Convention.

13. The Court has examined the applications listed in the appended table and 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, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

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

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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.”

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Sergey Babushkin v. Russia*, (just satisfaction), no. 5993/08, 16 October 2014, and *Mozharov and Others v. Russia*, nos. 16401/12 and 9 others, 21 March 2017), the Court considers it reasonable to award the sums indicated in the appended table.

16. 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. *Decides* to join the applications;
2. *Declares* the complaints concerning the inadequate conditions of detention and the other complaints under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of the applications nos. 61636/10 and 40973/14 inadmissible;
3. *Holds* that these complaints disclose a breach of Article 3 of the Convention concerning the inadequate conditions of detention;

4. *Holds* that there has been a violation of the Convention as regards the other complaints raised under well-established case-law of the Court (see appended table);
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State 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 amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 8 February 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Luis López Guerra
President

APPENDIX

List of applications raising complaints under Article 3 of the Convention
(inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Inmates per brigade Sq. m. per inmate Number of toilets per brigade	Specific grievances	Other complaints under well-established case-law	Amount awarded for pecuniary and non- pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	2420/09 26/11/2008	Aleksandr Dmitriyevich Poleshchuk 17/08/1958	IK-4 Ulyanovsk 12/04/2010 to 16/06/2016 6 year(s) and 2 month(s) and 5 day(s)		overcrowding, no individual sleeping place, the width of passage between sleeping places is about 60 cm, leaking roof, dampness, high humidity, cold, plaster falling from the walls and ceiling, the ceiling and walls covered with slime and fungus, poor quality of food and water	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	20,800
2.	61636/10 31/08/2010	Andrey Aleksandrovich Arkhangelskiy 14/06/1972	IK-8 Yamalo-Nenetsk Region 14/12/2004 to 14/10/2010 5 year(s) and 10 month(s) and 1 day(s)	100 inmate(s) 1.5 m ²	inadequate temperature, insufficient number of sleeping places, lack of or inadequate hygienic facilities, lack of or insufficient natural light, lack of or poor quality of bedding and bed linen, lack of privacy for toilet, lack or inadequate furniture, lack or insufficient quantity of food, mouldy or dirty cell, no or restricted access to running water, no or restricted access to shower, no or restricted access to toilet, overcrowding	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	5,500
3.	40973/14 15/05/2014	Aleksandr Petrovich Novik 16/10/1968	IK-29 Sorda Kirov Region 29/03/2013 to 20/11/2013 7 month(s) and 23 day(s) IK-29 Sorda Kirov Region 15/01/2014 to 23/04/2014 3 month(s) and 9 day(s)	230 inmate(s) 1.8 m ² 8 toilet(s)	14 sinks, no hot water, inadequate quality of running water, cold, no warm seasonal shoes provided, unpleasant odour from toilet and smoking area permeated the premises, unsanitary conditions, infestation with insects and rodents, poor food quality, weekly shower for 20 min. for 45 inmates with 8 pairs of cold/hot water taps, squat toilet in outhouse.	Art. 3 - inadequate conditions of detention during transport - during transport by prison van between November 2013 and May 2014, Art. 13 - lack of any effective remedy in domestic law about the conditions of transport,	6,500

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						Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	
4.	36095/16 02/08/2016	Denis Mikhaylovich Sevastyanov 09/07/1975	LIU-4 Chita 01/05/2015 to 26/06/2016 1 year(s) and 1 month(s) and 26 day(s)	150 inmate(s) 1.5 m ² 5 toilet(s)	overcrowding, inadequate temperature, lack of or inadequate hygienic facilities, lack of fresh air	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	5,000
5.	47517/16 03/08/2016	Aleksandr Sergeevich Zakharov 10/07/1979	IK-29 Primorskiy Region 22/12/2015 to 02/08/2016 7 month(s) and 12 day(s)	106 inmate(s) 1.7 m ²	insufficient number of sleeping places, no or restricted access to running water, lack of requisite medical assistance		3,600
6.	49418/16 11/08/2016	Maksim Georgiyevich Bets 24/07/1983	IK-23 Irkutsk Region 31/07/2015 to 04/08/2016 1 year(s) and 5 day(s) Prison hospital (PNO KTB-1) Krasnoyarsk 22/05/2016 to 25/07/2016 2 month(s) and 4 day(s)	1 m ²	lack of fresh air, passive smoking, lack of or insufficient natural light, lack of or insufficient electric light, lack of privacy for toilet, no or restricted access to shower no or restricted access to toilet, no or restricted access to shower, lack of privacy for toilet, lack of fresh air, lack of or insufficient natural light	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	5,000
7.	50469/16 16/08/2016	Valeriy Anatolyevich Glukhikh 05/01/1988	IK-2 Tyumen 03/11/2008 to 22/02/2016 7 year(s) and 3 month(s) and 20 day(s)	110 inmate(s) 2 m ² 14 toilet(s)	overcrowding, lack of fresh air, poor quality of food, inadequate temperature, bunk beds, infestation of cell with insects/rodents, mouldy or dirty cell, lack of requisite medical assistance, sharing cells with inmates infected with contagious disease, no or restricted access to shower	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	5,000

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8.	56900/16 20/01/2017	Ivan Vasilyevich Kulik 26/09/1972	IK-25, IK-29 Kirov Region 17/05/2012 pending More than 5 year(s) and 7 month(s) and 2 day(s)	179 inmate(s) 2 m ² 18 toilet(s)	lack of or inadequate hygienic facilities, poor quality of potable water, poor quality of food, no or restricted access to shower, no or restricted access to running water, lack of fresh air, lack of or insufficient physical exercise in fresh air, passive smoking, no or restricted access to warm water, lack of or poor quality of bedding and bed linen		7,800
9.	60289/16 10/01/2017	Ilya Vladimirovich Lindo 11/10/1982	IK-2 Zabaikalskiy Region 19/02/2012 pending More than 5 year(s) and 10 month(s)	2.3 m ²	lack of or insufficient natural light, lack of or insufficient electric light, lack of fresh air, passive smoking, lack of or inadequate hygienic facilities, lack of privacy for toilet, no or restricted access to warm water, infestation of cell with insects/rodents, no ventilation	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention -	8,000

1. Plus any tax that may be chargeable to the applicants.