



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

THIRD SECTION

**CASE OF SMIRNOV AND OTHERS v. RUSSIA**

*(Applications nos. 74889/16 and 7 others -  
see appended list)*

JUDGMENT

STRASBOURG

14 June 2018

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



**In the case of Smirnov and Others v. Russia,**

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

Alena Poláčková, *President*,

Dmitry Dedov,

Jolien Schukking, *judges*,

and Liv Tigerstedt *Acting Deputy Section Registrar*,

Having deliberated in private on 24 May 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 complaints under Article 13 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, §§ 139-165, 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 complaints under Article 13 of the Convention (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 *Sergey Babushkin*, cited above, §§ 38-45.

### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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.”

13. 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*, no. 16401/12 and 9 others, 21 March 2017), the Court considers it reasonable to award the sums indicated in the appended table.

14. 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 applications admissible;
3. *Holds* that these applications 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 14 June 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt  
Acting Deputy Registrar

Alena Poláčková  
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	Representative name and location	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) <sup>1</sup>
1.	74889/16 17/11/2016	<b>Yevgeniy Aleksandrovich Smirnov</b> 31/08/1979	Vinogradov Aleksandr Vladimirovich Kostroma	IK-1 Kostroma 16/09/2015 to 15/11/2016 1 year and 2 months	2 m <sup>2</sup>	overcrowding, mouldy or dirty cell, infestation of cell with insects/rodents, lack of or insufficient natural light, lack of fresh air, lack of or insufficient electric light, sharing cells with inmates infected with contagious disease, poor quality of food	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	5,000
2.	71845/17 18/09/2017	<b>Anton Andreanovich Troitskiy</b> 21/07/1986	Prokofyeva Viktoriya Pavlovna St Petersburg	IK-6 Republic of Chuvashiya 29/04/2015 to 16/08/2017 2 years and 3 months and 19 days	50 inmates 1.5 m <sup>2</sup>	overcrowding, insufficient number of sleeping places, lack of privacy for toilet, no or restricted access to toilet, no or restricted access to warm water, no or restricted access to shower, inadequate temperature, lack of fresh air, poor quality of food, no or restricted access to potable water, lack of requisite medical assistance, sharing cells with inmates infected with contagious disease	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	5,000
3.	71866/17 20/09/2017	<b>Mikhail Arkadyevich Klovov</b> 11/06/1973		IK-11 Nizhniy Novgorod Region 04/06/2012 to 29/08/2017 5 years and 2 months and 26 days	60 inmates 1.6 m <sup>2</sup>	overcrowding, insufficient number of sleeping places, infestation of cell with insects/rodents, lack of or insufficient electric light, sharing cells with inmates infected with contagious disease, no or restricted access to toilet, no or restricted access to shower, poor quality of food		5,000
4.	71925/17 21/09/2017	<b>Vladimir Nikolayevich Shiyanov</b> 11/06/1975		IK-8 Bashkortostan Republic 10/11/2015 to 12/07/2017 1 year and 8 months and 3 days	180 inmates 1.4 m <sup>2</sup> 8 toilets	lack of fresh air, overcrowding, lack of or restricted access to leisure or educational activities, lack or inadequate furniture, lack of privacy for toilet, lack of or inadequate hygienic facilities, no or restricted access to warm water, no or restricted access to shower, poor quality of food, lack of or insufficient electric light	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	5,000

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5.	71945/17 07/09/2017	<b>Pavel Borisovich Tolstykh</b> 18/03/1981		IK-11 Nizhniy Novgorod Region 03/08/2015 pending More than 2 years and 8 months and 18 days	1.4 m <sup>2</sup>	overcrowding, lack of fresh air, lack of or insufficient natural light, lack of or insufficient electric light, lack of or inadequate hygienic facilities		7,000
6.	71962/17 12/09/2017	<b>Andrey Stanislavovich Poskrebyshv</b> 06/06/1985		IK-2 Zabaykalskiy Region 03/09/2015 pending More than 2 years and 7 months and 18 days	80 inmates 1.7 m <sup>2</sup>	overcrowding, lack or inadequate furniture	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	7,000
7.	73984/17 06/10/2017	<b>Igor Vladimirovich Shalyakin</b> 03/04/1971		IK-2 Zabaykalskiy Region 01/02/2017 pending More than 1 year and 2 months and 20 days	1.5 m <sup>2</sup>	overcrowding	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	5,800
8.	74152/17 04/10/2017	<b>Oleg Leonidovich Artemenkov</b> 15/10/1967		IK-11 Nizhniy Novgorod Region 21/03/2016 pending More than 2 years and 1 month	140 inmates 2 m <sup>2</sup>	poor quality of food, no or restricted access to warm water, lack of toiletries		6,800

<sup>1</sup> Plus any tax that may be chargeable to the applicants.