



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

THIRD SECTION

CASE OF FATKIN AND OTHERS v. RUSSIA

*(Application no. 21778/08 and 6 others –
see appended list)*

JUDGMENT

STRASBOURG

29 March 2018

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

In the case of Fatkin 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 Tigerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 8 March 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. THE GOVERNMENT’S REQUEST TO STRIKE OUT APPLICATIONS UNDER ARTICLE 37 § 1 OF THE CONVENTION

6. In certain cases the Government submitted unilateral declarations which did not offer a sufficient basis for finding that respect for human

rights as defined in the Convention does not require the Court to continue its examination of the cases (Article 37 § 1 in fine). The Court rejects the Government's request to strike the applications out and will accordingly pursue its examination of the merits of the cases (see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI).

III. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

7. 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.”

8. 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).

9. 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.

10. 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.

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

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

12. Some applicants submitted other complaints under Article 13 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 *Sergey Babushkin*, cited above, §§ 38-45.

V. REMAINING COMPLAINTS

13. In applications nos. 21778/08, 54510/15 and 4069/17, the applicants also raised other complaints under various Articles of the Convention.

14. 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.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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.”

16. 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.

17. 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. *Rejects* the Government's request to strike certain applications out of its list of cases under Article 37 of the Convention on the basis of the unilateral declarations which they submitted;
3. *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. 21778/08, 54510/15 and 4069/17 inadmissible;
4. *Holds* that these complaints disclose a breach of Article 3 of the Convention concerning the inadequate conditions of detention;
5. *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);
6. *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.
7. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 29 March 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	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) ¹
1.	21778/08 10/04/2008	Valeriy Dmitriyevich Fatkin 23/01/1974	Polozova Anna Borisovna Moscow	IK-10, Mordoviya 14/06/2008 to 01/02/2015 6 year(s) and 7 month(s) and 19 day(s)	8 inmate(s) 2.25 m ²			22,000
2.	22616/13 25/02/2013	Pavel Viktorovich Pushkarev 20/11/1985	Gordeyeva Margarita Vladimirovna Astrakhan	IVS Sochi 12/07/2011 to 14/07/2011 3 day(s) IZ-30/2 Narimanov Astrakhan Region 14/07/2011 to 06/11/2011 3 month(s) and 24 day(s) IZ-30/1 Astrakhan 21/04/2012 to 06/10/2012 5 month(s) and 16 day(s)	3 m ² 1.4 m ² 1.9 m ²	solitary confinement, no food and water, no access to toilet, no walk, no sink, handcuffs not provided with individual sleeping place and had to share one with other inmates, lack of fresh air and natural light, dim electric light on 24/7, infestation with vermin, toilet located close to dinner table, daily walk of 35-40 min., roofed small walking yard, weekly shower for 10-15 min. with 4 shower heads sometimes had to share his sleeping place with other inmates due to overcrowding, lack of fresh air and natural light, weekly bathing in washbasins for 10 min., no hot water, daily walk for 40 min., small and roofed walking yard	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	15,000

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) ¹
				IK-2 Astrakhan 06/11/2012 to 26/05/2016 3 year(s) and 6 month(s) and 21 day(s)	100 inmate(s) 1.6 m ² 3 toilet(s)	4 sinks, lavatory pans not separated from one another, weekly shower with 10 shower heads, small walking yard		
3.	54510/15 26/10/2015	Vasily Yuryevich Rudakov 25/07/1972	Ovchinnikov Mikhail Valeryevich Vladimir	IK-56 Sverdlovsk Region 24/05/2013 pending More than 4 year(s) and 6 month(s) and 26 day(s)		lack of or insufficient natural light, lack of or insufficient electric light, no or restricted access to potable water, lack of or inadequate hygienic facilities, no or restricted access to toilet, no or restricted access to shower, no or restricted access to running water, no or restricted access to warm water, sharing cells with inmates infected with contagious disease, lack of or insufficient physical exercise in fresh air		11,500
4.	3708/16 28/12/2015	Vakhid Bayram Ogly Tagiyev 02/05/1969	Gordeyeva Margarita Vladimirovna Astrakhan	IK-2 of Astrakhan 10/02/2008 to 31/12/2011 3 year(s) and 10 month(s) and 22 day(s) IK-2 of Astrakhan 01/01/2011 pending More than 6 year(s) and 11 month(s) and 19 day(s)	160 inmate(s) 1.3 m ² 4 toilet(s) 110 inmate(s) 2 m ² 4 toilet(s)	overcrowding, lack of appropriate clothes, lack of (regular) physical exercise on fresh air, poor quality of food, lack of (adequate) heating, insufficient number of beds in the cell, lack of drinking water, shower 1 per week 10 min overcrowding, lack of (adequate) heating, poor quality of food, lack of (regular) physical exercise on fresh air, shower 1 per week 10 min, lack of pure drinking water, lack of warm clothes	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	11,000
5.	5002/16 28/12/2015	Aleksey Vasilyevich Tagrayev 17/12/1974	Gordeyeva Margarita Vladimirovna Astrakhan	IK-2 Astrakhan 10/01/2010 pending More than 7 year(s) and 11 month(s) and 10 day(s)	1.3 m ²	overcrowding, insufficient number of beds in the cell, lack of (adequate) heating, poor quality of food, lack of (regular) physical exercise in fresh air, lack of drinking water, lack of warm clothes	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	11,000

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) ¹
6.	38173/16 03/06/2016	Vyacheslav Vyacheslavovich Kononenko 29/01/1984	Alekseyeva Natalya Vasilyevna Krsanoyarsk	IK-17 Krasnoyarsk Region 07/08/2015 pending More than 2 year(s) and 4 month(s) and 13 day(s)	2 m ²	overcrowding, lack of or insufficient natural light, constant electric light, passive smoking, lack of fresh air, lack of or insufficient physical exercise in fresh air		9,300
7.	4069/17 15/12/2016	Denis Igorevich Yurchenko 21/05/1991	Gavrilitsa Irina Aleksandrovna Krasnoyarsk	IK-17 Krasnoyarsk 04/11/2013 to 21/07/2016 2 year(s) and 8 month(s) and 18 day(s)	150 inmate(s) 5 toilet(s)	no or restricted access to toilet, lack of fresh air, lack of requisite medical assistance, lack of winter clothing	Art. 13 - lack of any effective remedy in respect of inadequate conditions of detention	5,000

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