



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

SECOND SECTION

CASE OF MELNIK AND OTHERS v. RUSSIA

*(Applications nos. 38217/19 and 9 others –
see appended list)*

JUDGMENT

STRASBOURG

14 March 2024

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

In the case of Melnik and Others v. Russia,

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

Lorraine Schembri Orland, *President*,

Frédéric Krenç,

Davor Derenčinović, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 15 February 2024,

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 Russian Government (“the Government”) were given notice of the applications.

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 permanent video surveillance of detainees in pre-trial or post-conviction detention facilities. 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. JURISDICTION

6. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention. The Court therefore decides that it has jurisdiction to examine the present applications (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

7. The applicants complained principally of the permanent video surveillance of detainees in pre-trial or post-conviction detention facilities. They relied, expressly or in substance, on Article 8 of the Convention.

8. The Court has already established, in an earlier case against Russia, that the national legal framework governing the placement of detainees under permanent video surveillance in penal institutions falls short of the standards set out in Article 8 of the Convention (see *Gorlov and Others v. Russia* (nos. 27057/06 and 2 others, 2 July 2019). In *Gorlov and Others*, the Court summed up the general principles concerning the detainees' right to respect for private life reiterating that placing a person under permanent video surveillance whilst in detention was to be regarded as a serious interference with the individual's right to respect for his or her privacy (*ibid.*, §§ 81-82). It has further concluded that the national law cannot be regarded as being sufficiently clear, precise or detailed to have afforded appropriate protection against arbitrary interference by the authorities with the detainees' right to respect of their private life (*ibid.*, §§ 97-98).

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. It considers, regard being had to the case-law cited above, that in the instant case the placement of the applicants under permanent video surveillance when confined to their cells in pre-trial and post-conviction detention facilities was not "in accordance with law".

10. These complaints are therefore admissible and disclose a breach of Article 8 of the Convention.

IV. 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 well-established case-law (see *Idalov v. Russia* [GC], no. 5826/03, 22 May 2012, and *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 92-156, 9 April 2019, concerning conditions of detention during transport and lack of an effective remedy in that respect, *N.T. v. Russia*, no. 14727/11, §§ 32-57, 2 June 2020, regarding inadequate conditions of detention of prisoners serving a life sentence, *Gorlov and Others*, cited above, relevant to

the lack of an effective remedy in respect of the permanent video surveillance of detainees; and *Anchugov and Gladkov v. Russia*, nos. 11157/04 and 15162/05, 4 July 2013, concerning prisoners' right to vote).

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Gorlov and Others*, cited above, § 120, with further references, which imposed on the respondent State a legal obligation, under Article 46 of the Convention, to implement, under the supervision of the Committee of Ministers, such measures as they consider appropriate to secure the right of the applicants and other persons in their position to respect of their private life; and also *Pukhachev and Zaretskiy v. Russia*, nos. 17494/16 and 29203/16, §§ 14-16, 7 November 2017, *N.T.*, and *Anchugov and Gladkov*, both cases cited above), the Court considers that the finding of a violation constitutes sufficient just satisfaction in the present case in respect of the applicants' complaints related to the permanent video surveillance in detention facilities, lack of an effective remedy in that regard and a violation of the right to vote in legislative elections. It further considers it reasonable to award the sums indicated in the appended table to the two applicants in applications nos. 38217/19 and 45075/22.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Holds* that it has jurisdiction to deal with these applications as they relate to facts that took place before 16 September 2022;
3. *Declares* the applications admissible;
4. *Holds* that these applications disclose a breach of Article 8 of the Convention concerning the permanent video surveillance of detainees in pre-trial or post-conviction detention facilities;
5. *Holds* that there has been a violation of the Convention and its Protocols as regards the other complaints raised under the well-established case-law of the Court (see the appended table);
6. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction in respect of the applicants' complaints about permanent video surveillance in detention facilities, lack of an effective domestic remedy in that regard and illegibility to vote in legislative elections;

7. *Holds*

- (a) that the respondent State is to pay the applicants in applications nos. 38217/19 and 45075/22, 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 March 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Lorraine Schembri Orland
President

APPENDIX

List of applications raising complaints under Article 8 § 1 of the Convention
(permanent video surveillance of detainees in pre-trial or post-conviction detention facilities)

| No. | Application no. Date of introduction | Applicant's name Year of birth | Representative's name and location | Detention facility | Period of detention | Specific circumstances | Other complaints under well-established case-law | Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros) 1 |
|-----|---|--|--|---------------------------|---|---|--|--|
| 1. | 38217/19 03/07/2019 | Aleksey Ivanovich MELNIK 1990 | | IK-31 Komi Republic | 01/11/2020 – pending as of 16/09/2022 | detention in different cells with video surveillance, opposite-sex operators | Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention during transport, Art. 3 - inadequate conditions of detention during transport - transfers by van and train during the period between 19/03/2019 and 19/04/2019: transfer lasting up to 6 hours in a single-occupancy compartment, no or restricted access to toilet, no individual sleeping place during transport by train (up to 23 hours) | 1,000 |
| 2. | 33559/21 24/05/2021 | Andrey Borisovich SAMOKHIN 1974 | Yevenko Alla Borisovna Novokuznetsk | IK-2 OIK-2 Perm Region | 19/02/2002 – pending as of 16/09/2022 | detention in different cells with video surveillance | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities | - |
| 3. | 33590/21 16/06/2021 | Vladimir Aleksandrovich BASTRAKOV 1982 | | IK-25 Komi Republic | 30/05/2018 – pending as of 16/09/2022 | detention in different cells with video surveillance, opposite-sex operators, video surveillance in a lavatory and/or shower room | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities; Prot. 1 Art. 3 - ineligibility to vote in or stand for elections - The applicant is serving a prison sentence. He complains that he was unable to vote in the elections to the State Duma of 19 September 2021 | - |
| 4. | 33699/21 16/06/2021 | Maksim Aleksandrovich GABOV 1990 | | IK-25 Komi Republic | 26/11/2017 – pending as of 16/09/2022 | detention in different cells with video surveillance, opposite-sex operators, video surveillance in a lavatory and/or shower room | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities, Prot. 1 Art. 3 - ineligibility to vote in or stand for elections - The applicant is serving a prison sentence. He complains that he was unable to vote in the elections to the State Duma of 19 September 2021 | - |

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| No. | Application no. Date of introduction | Applicant's name Year of birth | Representative's name and location | Detention facility | Period of detention | Specific circumstances | Other complaints under well-established case-law | Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros) ¹ |
|-----|---|--|--|------------------------------|---|---|--|---|
| 5. | 34481/21 19/06/2021 | Yakov Vladimirovich TSOY 1973 | Yevenko Alla Borisovna Novokuznetsk | IK-2 OIK-2 Perm Region | since 13/03/2001 – pending as of 16/09/2022 | detention in different cells with video surveillance | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities | - |
| 6. | 34535/21 19/06/2021 | Fedor Sergeyevich KOVALCHUK 1981 | | SHIZO in IK-25 Komi Republic | 16/04/2021 - 18/04/2021 | opposite-sex operators, video surveillance in a lavatory and/or shower room | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities, Prot. 1 Art. 3 - ineligibility to vote in or stand for elections - The applicant is detained in IK-25, Komi Republic since 19/02/2010. The applicant is serving a prison sentence. He complains that he was unable to vote in the elections to the State Duma of 19 September 2021 | - |
| 7. | 41167/21 21/07/2021 | Fuad Polad ogly ISKENDEROV 1983 | | IK-25 Komi Republic | 07/06/2018 – pending as of 16/09/2022 | opposite-sex operators | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities | - |
| 8. | 43437/21 13/08/2021 | Arif Abdulla ogly SHABANOV 1992 | | IK-25 Komi Republic | 07/12/2015 - pending as of 16/09/2022 | opposite-sex operators, video surveillance in a lavatory and/or shower room | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities, Prot. 1 Art. 3 - ineligibility to vote in or stand for elections - The applicant is serving a prison sentence. He complains that he was unable to vote in the elections to the State Duma of 19 September 2021 | - |
| 9. | 4711/22 18/12/2021 | Igor Borinoslavovich YEVDOKIMOV 1970 | | IK-29 Kirov Region | December 2016 - 07/09/2021 | opposite-sex operators | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities, | - |

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| No. | Application no. Date of introduction | Applicant's name Year of birth | Representative's name and location | Detention facility | Period of detention | Specific circumstances | Other complaints under well-established case-law | Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros) ¹ |
|-----|---|--|------------------------------------|---------------------------|---|--|--|---|
| 10. | 45075/22 29/08/2022 | Arslan Faritovich SAYFUTDINOV 1986 | | IK-6 Khabarovsk Region | 19/10/2017 – pending as of 16/09/2022 | opposite-sex operators, detention in different cells with video surveillance | Art. 13 - lack of any effective remedy in domestic law in respect of permanent video surveillance in detention facilities and in respect of the conditions of detention, Art. 3 - inadequate conditions of detention under strict imprisonment regime - The applicant, a lifer, is detained 22 hours per day in a cell with no possibility of outdoor exercise, employment or contacts with other inmates. His relevant claims were dismissed by national courts. | 3,000 |

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