



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

THIRD SECTION

CASE OF N.T. v. RUSSIA

(Application no. 14727/11)

JUDGMENT

Art 3 • Inhuman and degrading treatment • Life prisoners automatically placed, for the first ten years of their sentence, under a strict regime involving segregation, limited outdoor exercise and a lack of purposeful activity • Confinement in double cell having negative effects similar to those of solitary confinement and thus requiring adequate justification • Failure to respect European Prison Rules requiring that security measures be the minimum necessary and regularly reviewed • Routine prolonged handcuffing exceeded legitimate requirements of prison security
Art 46 • General measures • Systemic problem • Reform of regulatory framework required

STRASBOURG

2 June 2020

FINAL

16/11/2020

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of N.T. v. Russia,

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

Paul Lemmens, *President*,
Georgios A. Serghides,
Helen Keller,
Dmitry Dedov,
Alena Poláčková,
Lorraine Schembri Orland,
Ana Maria Guerra Martins, *judges*,
and Milan Blaško, *Section Registrar*,

Having regard to:

the application against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Russian national, Mr N.T. (“the applicant”), on 9 February 2011;

the decision to give notice to the Russian Government (“the Government”) of the applicant’s complaint concerning the compatibility of his regime of detention with the requirements of Article 3 of the Convention and to declare the remainder of his application inadmissible;

the decision not to have the applicant’s name disclosed;

the parties’ observations;

Having deliberated in private on 12 May 2020,

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

INTRODUCTION

The present case concerns the applicant’s allegation that the strict imprisonment regime automatically applied to him in a special-regime correctional colony solely on the grounds of his life sentence, and his routine handcuffing, amounted to inhuman and degrading treatment proscribed by Article 3 of the Convention.

THE FACTS

1. The applicant is a life prisoner currently detained in special-regime correctional colony no. 6 (“IK-6”) in the village of Elban in the Khabarovsk Region. He was represented by Ms L.V. Romanenko, a lawyer practising in the town of Tulun in the Irkutsk Region.

2. The Russian Government (“the Government”) were represented by Mr M. Galperin, Representative of the Russian Federation to the European Court of Human Rights.

3. The facts of the case, as submitted by the parties, may be summarised as follows.

I. THE APPLICANT'S DETENTION IN IK-56

4. On 26 December 2010 the applicant arrived at special-regime correctional colony no. 56, located in the Lozvinskiy settlement in the Sverdlovsk Region ("IK-56"), in order to serve his life sentence. On arrival he was automatically placed under the strict imprisonment regime, which applies to all life prisoners in Russia for at least the first ten years of their sentence.

5. In accordance with the applicable statutory provisions (see paragraphs 19-22 below), under the strict imprisonment regime the applicant was detained separately from the rest of the prison population in a cell holding no more than two people. As submitted by the Government, from 26 December 2010 to 9 January 2011, from 10 November 2014 to 11 June 2015, from 3 November 2015 to 21 January 2017, from 14 April to 26 July 2017 and from 11 September 2017 to 11 March 2018 the applicant was in solitary confinement; from 11 June to 3 November 2015, from 21 January to 14 April 2017 and from 26 July to 11 September 2017 he shared his cell with one cellmate. There is no information about the applicant's detention in the remaining periods.

6. The applicant's cells were not equipped with lavatory pans or running water as the facility did not have a main water supply or sewage system. Inmates were provided with a bucket of water for drinking, washing themselves and cleaning the thirty-litre bucket which they used as a lavatory. In 2014 the applicant lodged an application with the Court, in which he complained of those grievances. In its judgment delivered three years later, the Court found a violation of Article 3 of the Convention on account of the material conditions of the applicant's detention in IK-56 and awarded him compensation for non-pecuniary damage.

7. The applicant had no access to work and spent most of the day locked up in his cell, leaving it only for ninety minutes of outdoor exercise. His contacts with the outside world and permission to spend money were restricted (see paragraphs 23 and 24 below).

8. As submitted by the applicant and not disputed by the Government, from the first day of his detention in IK-56 until the end of 2015, he was handcuffed each time he left his cell, even when he had to empty his heavy thirty-litre lavatory bucket into a cesspool outside the building (there was no sewerage system in the facility). According to the applicant, the latter exercise was not only humiliating, but also painful as he was ordered to keep the bucket in front of him in a position that made the handcuffs press tightly and painfully against his wrists.

9. The applicant was detained in IK-56 for more than seven years and two months before leaving the facility on 11 March 2018. During that period he was never disciplined for misconduct.

II. THE APPLICANT'S REGISTRATION ON THE LIST OF DANGEROUS PRISONERS

10. On 27 March 2018, during his transfer to IK-6 the applicant was put on the list of dangerous prisoners ("prisoners inclined to escape, attack, take hostages, commit suicide or self-injure"). There is no information as to why that decision was taken. After that decision the prison guards started to handcuff him on a regular basis again.

III. THE APPLICANT'S DETENTION IN IK-6

11. The applicant arrived at IK-6 on 9 April 2018. He continued to be detained under the strict imprisonment regime until 27 July 2018, when the ten-year statutory period for compulsory detention under that regime expired.

RELEVANT LEGAL FRAMEWORK

I. DEFINITION AND GOALS OF CRIMINAL PUNISHMENT IN RUSSIAN LAW

12. Article 43 of the Russian Criminal Code of 13 June 1996 (hereinafter "the CC") provides that the aim of criminal punishment is to restore social justice, reform the convicted person and prevent the commission of further offences.

II. LIFE IMPRISONMENT IN RUSSIAN CRIMINAL LAW

13. The sanction of life imprisonment was introduced in the previous Criminal Code (of 1960) as a replacement for the death penalty, by way of clemency.

14. The current CC provides that life imprisonment is to be applied for particularly grave crimes against human life, crimes against the sexual inviolability of children under the age of fourteen, and crimes against the safety of society (including terrorism-related crimes, the setting up and running of criminal syndicates, the aggravated hijacking of planes, ships or trains, particularly serious drug-related crimes, aggravated sabotage, attempts on the lives of those responsible for the administration of justice or the preliminary investigation of crimes, and genocide).

15. A life sentence may replace the death penalty by way of clemency (Article 59 § 3 of the CC).

16. All those sentenced to life imprisonment must serve their sentences in a special-regime correctional colony separately from other prisoners (Article 58 § 1 (r) of the CC).

17. A life prisoner may be released on probation if a court finds that he or she no longer needs to serve the punishment and has served no less than twenty-five years of the sentence (Article 79 § 5 of the CC).

III. DETENTION IN SPECIAL-REGIME CORRECTIONAL COLONIES UNDER A STRICT REGIME

18. On arrival at a special-regime correctional colony (see paragraph 16 above), life prisoners are placed under a strict regime, and must spend at least the first ten years of their sentence under such a regime. That term is to be calculated from the date of arrest, if during detention in a remand prison the detainee was not placed in a disciplinary cell (*карцер*). Any disciplinary offence committed during the first ten years results in an extension of the period of detention under the strict regime (Article 58 of the CC and Article 16 § 10 and Article 127 § 3 of the Code for the Execution of Criminal Sentences (hereinafter “the CES”). Article 87 § 3 of the CES provides that the transfer of a prisoner to a more lenient detention regime is not automatic. A decision to that effect must be taken by the management board of the relevant detention facility.

A. Physical restrictions

19. Under the strict imprisonment regime, life prisoners are detained separately from the rest of the prison population (Articles 80 and 125 of the CES). As a rule, they are placed in cells holding no more than two people. At the prisoner’s request or on the order of the governor (such an order must be made if there is a threat to the prisoner’s own safety), the prisoner may be placed in solitary confinement (Article 127 § 1 of the CES).

20. As a rule, life prisoners are always escorted around the premises of special-regime correctional colonies with their hands behind their backs (Point 47 of the Rules of Internal Order in Penal Facilities, approved by the Ministry of Justice’s Order no. 295 of 16 December 2016). Article 86 of the CES provides that prison guards may apply physical force or special means of restraint (including handcuffs) to prisoners who resist them or refuse to follow orders, or who participate in mass disorder, hostage-taking, attacks, or other dangerous activity; in the event of the escape of a prisoner or the arrest of an escaped prisoner; or if a prisoner harms himself or anyone else.

21. Life prisoners may engage in work, as long as this does not run counter to the requirement for them to remain in their cells (Article 127 § 1 of the CES).

22. Life prisoners under the strict regime are entitled to ninety minutes of outdoor exercise every day (Article 125 § 3 of the CES). Amendments to the CES were introduced by Federal Law no. 410-FZ on 20 December 2017, allowing penal establishments to extend the time allowed for outdoor

exercise to up to three hours if a prisoner demonstrated good behaviour, and the appropriate facilities were available.

B. Restrictions on contact with the outside world

23. Life prisoners under the strict imprisonment regime are entitled to receive and send an unlimited number of letters, postcards and telegrams (Article 91 § 1 of the CES). They may also receive one large and one small parcel a year (Article 125 § 3 of the CES). Incoming or outgoing telephone calls are permitted only in exceptional personal circumstances (Article 92 § 3 of the CES). Lastly, they are entitled to two short-term visits per year; since 17 November 2016 they have also been entitled to one long-term visit per year.

C. Restrictions on spending

24. Prisoners subjected to the strict imprisonment regime may not spend more than 6,600 Russian roubles (RUB) (approximately 90 euros (EUR)) per month on food or day-to-day essentials. This restriction does not apply to the income received from work in detention, pensions or social allowances (Article 88 § 2 and Article 125 § 3 (a) of the CES).

COUNCIL OF EUROPE MATERIAL

I. EUROPEAN PRISON RULES

25. On 11 January 2006 the Committee of Ministers of the Council of Europe adopted Recommendation Rec(2006)2 to member States on the European Prison Rules, the relevant parts of which read as follows:

“Part I

Basic principles

1. All persons deprived of their liberty shall be treated with respect for their human rights.

2. Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody.

3. Restrictions placed on persons deprived of their liberty shall be the minimum necessary and proportionate to the legitimate objective for which they are imposed.

4. Prison conditions that infringe prisoners’ human rights are not justified by lack of resources.

...

6. All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.

...

Part II

Conditions of imprisonment

...

Prison regime

25.1 The regime provided for all prisoners shall offer a balanced programme of activities.

25.2 This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction.

25.3 This regime shall also provide for the welfare needs of prisoners.

...

Release of prisoners

...

33.3 All prisoners shall have the benefit of arrangements designed to assist them in returning to free society after release.

...

Security

51.1 The security measures applied to individual prisoners shall be the minimum necessary to achieve their secure custody.

...

51.3 As soon as possible after admission, prisoners shall be assessed to determine:

- a. the risk that they would present to the community if they were to escape;
- b. the risk that they will try to escape either on their own or with external assistance.

51.4 Each prisoner shall then be held in security conditions appropriate to these levels of risk.

51.5 The level of security necessary shall be reviewed at regular intervals throughout a person's imprisonment.

...

Part VIII

Sentenced prisoners

Objective of the regime for sentenced prisoners

102.1 In addition to the rules that apply to all prisoners, the regime for sentenced prisoners shall be designed to enable them to lead a responsible and crime-free life.

102.2 Imprisonment is by the deprivation of liberty a punishment in itself and therefore the regime for sentenced prisoners shall not aggravate the suffering inherent in imprisonment..."

II. COMMITTEE OF MINISTERS RECOMMENDATION REC(2003)23 TO MEMBER STATES ON THE MANAGEMENT BY PRISON ADMINISTRATIONS OF LIFE SENTENCE AND OTHER LONG-TERM PRISONERS

26. Recommendation Rec(2003)23 was adopted by the Committee of Ministers on 9 October 2003. It recommended that in their legislation, policies and practice on the management of life-sentence and other long-term prisoners, member States be guided by the principles contained in the Appendix to the Recommendation. The relevant parts of those principles read as follows:

“2. The aims of the management of life sentence and other long-term prisoners should be:

- to ensure that prisons are safe and secure places for these prisoners and for all those who work with or visit them;
- to counteract the damaging effects of life and long-term imprisonment;
- to increase and improve the possibilities for these prisoners to be successfully resettled in society and to lead a law-abiding life following their release.

General principles for the management of life sentence and other long-term prisoners

3. Consideration should be given to the diversity of personal characteristics to be found among life sentence and long-term prisoners and account taken of them to make individual plans for the implementation of the sentence (individualisation principle).

4. Prison life should be arranged so as to approximate as closely as possible to the realities of life in the community (normalisation principle).

5. Prisoners should be given opportunities to exercise personal responsibility in daily prison life (responsibility principle).

6. A clear distinction should be made between any risks posed by life sentence and other long-term prisoners to the external community, to themselves, to other prisoners and to those working in or visiting the prison (security and safety principle).

7. Consideration should be given to not segregating life sentence and other long-term prisoners on the sole ground of their sentence (non-segregation principle).

8. Individual planning for the management of the prisoner’s life or long-term sentence should aim at securing progressive movement through the prison system (progression principle).”

III. COMMITTEE OF MINISTERS RECOMMENDATION CM/REC(2014)3 TO MEMBER STATES CONCERNING DANGEROUS OFFENDERS

27. Recommendation CM/Rec(2014)3 was adopted by the Committee of Ministers on 19 February 2014. It recommended that in their legislation, policies and practice on the matter, member States be guided by the

Appendix to the Recommendation, the relevant parts of which read as follows:

“1. For the purpose of this recommendation:

A dangerous offender is a person who has been convicted of a very serious sexual or very serious violent crime against persons and who presents a high likelihood of re-offending with further very serious sexual or very serious violent crimes against persons...

...

27. Risk assessments should involve a detailed analysis of previous behaviours and the historical, personal and situational factors that led to and contributed to it. They should be based on the best reliable information.

...

30. Assessments undertaken during the implementation of a sentence should be seen as progressive, and be periodically reviewed to allow for a dynamic re-assessment of the offender’s risk:

a. Risk assessments should be repeated on a regular basis by appropriately trained staff to meet the requirements of sentence planning or when otherwise necessary, allowing for a revision of the circumstances that change during the execution of the sentence.

b. Assessment practices should be responsive to the fact that the risk posed by an individual’s offending changes over time: such change may be gradual or sudden.

...

33. A clear distinction should be made between the offender’s risks to the outside community and inside prison. These two risks should be evaluated separately.

...

41. Security measures should be set to the minimum necessary, and the level of security should be revised regularly.

...

45. The purpose of the treatment of dangerous offenders should be such as to sustain their health and self-respect and, so far as the length of sentence permits, to develop their sense of responsibility and encourage those attitudes and skills that will help them to lead law-abiding and self-supporting lives...”

IV. SECOND GENERAL REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (“THE CPT”) ON ITS ACTIVITIES (CPT/INF (92)3 [EN])

28. In its Second General Report, published on 13 April 1992, the CPT noted the following in relation to conditions of imprisonment:

“47. A satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial. The CPT has

observed that activities in many remand prisons are extremely limited. The organisation of regime activities in such establishments – which have a fairly rapid turnover of inmates – is not a straightforward matter. Clearly, there can be no question of individualised treatment programmes of the sort which might be aspired to in an establishment for sentenced prisoners. However, prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.”

V. REPORT TO THE RUSSIAN GOVERNMENT ON THE VISIT TO THE RUSSIAN FEDERATION CARRIED OUT BY THE CPT FROM 21 MAY TO 4 JUNE 2012

29. In its report published on 17 December 2013, the CPT noted the following in relation to life prisoners kept in closed-type prison no. 2 in Vladimir and at remand prison no. 1 in Kazan:

“110. Apart from daily access to outdoor exercise, generally taken alone, the life-sentenced prisoners were not offered any structured out-of-cell activities. In both establishments, they generally spent 23 hours a day locked up in their cells, with little to occupy themselves apart from watching TV or reading books.

The CPT would like to recall that life imprisonment can have a number of desocialising effects upon inmates. In addition to becoming institutionalised, the prisoners concerned may experience a range of psychological problems (including loss of self-esteem and impairment of social skills). The Committee calls upon the Russian authorities to develop a programme of purposeful activities for prisoners sentenced to life imprisonment held at Closed-Type Prison No. 2 in Vladimir (including work/education, association, sport, etc.), on the basis of comprehensive individualised sentence plans...

111. As regards security arrangements, the CPT is pleased to learn that, shortly before the visit to SIZO No. 1 in Kazan, the management decided to put an end to the practice of routine handcuffing of lifers when the inmates concerned were taken out of their cells. By contrast, the measure of routine handcuffing applied to all lifers held at “Vladimirskiy Tsentral”. In both establishments, all out-of-cell movements were carried out in the presence of a guard dog and a member of staff of the dog support unit.

In the opinion of the CPT, the above security arrangements are grossly excessive. The Committee recommends that the routine handcuffing of all life-sentenced prisoners when taken out of their cells be discontinued at Closed-Type Prison No. 2 in Vladimir, as well as in any other establishments applying this measure to such inmates. The application of this measure should be exceptional, on the basis of an individual and comprehensive risk and needs assessment carried out by appropriately trained staff...

...

113. Finally, with reference to the situation at “Vladimirskiy Tsentral”, the CPT would like to stress once again that it can see no justification for systematically

segregating life-sentenced prisoners from other inmates serving sentences. Such an approach is not in line with the Council of Europe's Committee of Ministers' Recommendation (2003) 23 of 9 October 2003 on the management by prison administrations of life-sentenced and other long-term prisoners. The report accompanying that recommendation recalls that the assumption is often wrongly made that the fact of a life sentence implies that an inmate is dangerous in prison. The placement of persons sentenced to life imprisonment should therefore be the result of a comprehensive and ongoing risk and needs assessment, based on an individualised sentence plan, and not merely a result of their sentence. The CPT recommends that the Russian authorities review the legislation and practice as regards the segregation of life-sentenced prisoners in FSIN establishments, in the light of these remarks..."

VI. LIVING SPACE PER PRISONER IN PRISON ESTABLISHMENTS: CPT STANDARDS (CPT/INF(2015)44)

30. In the Appendix to its minimum standards, published on 15 December 2015, the CPT noted as follows:

"The CPT has long recommended that prisoners should be offered a range of varied purposeful activities (work, vocation, education, sport and recreation). To this end, the CPT has stated since the 1990s that the aim should be for prisoners – both sentenced and on remand – to spend eight hours or more a day outside their cells engaged in such activities, and that for sentenced prisoners the regime should be even more favourable."

VII. 25TH GENERAL REPORT OF THE CPT (CPT/INF (2016) 10

31. In its 25th General Report, the CPT noted as follows:

"77. ... Prisoners should not be subject to any restrictions which are not required for the maintenance of good order, security and discipline within the prison. In particular, the level of security applied to each individual should be proportionate to the risk presented by the person. The nature of the offence is only one factor in assessing this. As a matter of principle, the imposition of the detention regime of life-sentenced prisoners should lie with the prison authorities and always be based on an individual assessment of the prisoner's situation, and not be the automatic result of the type of sentence imposed ...

78. Equally, except in the assessment phase, life-sentenced prisoners should not routinely be kept apart from other sentenced prisoners, although it would not be objectionable for long-term prisoners to be kept apart from very short-term prisoners. The length of sentence does not necessarily bear any relationship to the level of risk life-sentenced prisoners may represent inside a prison, and the principle of normalisation requires that life-sentenced prisoners can at least associate with other long-term prisoners who have a predetermined release date. The, albeit limited, turnover this can create refreshes the experience of prison for those who are to be incarcerated for a very long time. Concentrating life-sentenced prisoners in a specialised prison also necessarily results in many such prisoners being kept very far from their families and outside contacts. A life sentence will in any event put a good deal of pressure on these relationships; compounding that by locating the prisoner a significant distance away from home reduces the possibility of maintaining what is a crucial element in promoting resocialisation. Further, no additional restrictions should be imposed on life-sentenced prisoners as compared to other sentenced prisoners

when it concerns the possibilities for them to maintain meaningful contact with their families and other close persons. During the first years of imprisonment in particular, restrictions on contacts are likely to disrupt or even destroy such relationships. It is also important that life-sentenced prisoners have genuine access on as regular basis as possible to visits, telephone calls, letters, newspapers, radio and television to maintain their sense of contact with the outside world.

79. Life-sentenced prisoners should have access to as full a regime of activities as possible, and normally in association with other prisoners. Work, education, sports, cultural activities and hobbies not only help pass the time, but are also crucial in promoting social and mental health well-being and imparting transferable skills which will be useful during and after the custodial part of the sentence. The involvement of prisoners in these activities, in addition to their participation in offending behaviour interventions, represents a significant factor in the ongoing assessment of each person's performance. They allow staff of all grades to better understand prisoners and enable the staff to make informed judgments as to when it would be appropriate for the prisoner to progress through the regime and be trusted with lower security conditions...

80. There are undoubtedly some life-sentenced prisoners who are very dangerous. However, the approach should be the same as for other sentenced prisoners and includes: detailed assessments of the individual situation of the prisoners concerned; risk management with plans to address the individual's needs and to reduce the likelihood of re-offending in the longer term, while affording the necessary level of protection to others; regular reviews of security measures. The objective, as with all dangerous prisoners, should be to reduce the level of dangerousness by appropriate interventions and return the prisoners to normal circulation as soon as possible.

81. The CPT calls upon member states to review their treatment of life-sentenced prisoners to ensure that this is in accordance with their individual risk they present, both in custody and to the outside community, and not simply in response to the sentence which has been imposed on them. In particular, steps should be taken by the member states concerned to abolish the legal obligation of keeping life-sentenced prisoners separate from other (long-term) sentenced prisoners and to put an end to the systematic use of security measures such as handcuffs inside the prison.

82. Further, all possible efforts should be made to provide life-sentenced prisoners with a regime tailored to their needs and help them reduce the level of risk they pose, to minimise the damage that indeterminate sentences necessarily cause, to keep them in touch with the outside world, offer them the possibility of release into the community under licence and ensure that release can be safely granted, at least in the overwhelming majority of cases. To this end, procedures should be put in place which allow for a review of the sentence. Obviously, having a purely formal possibility to apply for release after a certain amount of time is not sufficient; member states must ensure, notably through the way they treat life-sentenced prisoners, that this possibility is real and effective."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

32. The applicant claimed that the strict imprisonment regime applied to him as a life prisoner was incompatible with the requirements of Article 3 of

the Convention on account of the severe and excessive statutory measures inherent in that regime, aggravated by his routine handcuffing. Article 3 of the Convention reads as follows:

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

A. Admissibility

33. The parties did not explicitly comment on the admissibility of the complaint.

34. The Court notes that the applicant’s complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties’ submissions

(a) The Government

35. The Government claimed that the conditions of the applicant’s detention and his prison regime were in full compliance with the requirements of Article 3 of the Convention and domestic legislation.

36. The Government also submitted that the applicant’s handcuffing was a necessary measure, justified by the fact that he had been registered on the list of dangerous prisoners on 27 March 2018.

(b) The applicant

37. The applicant maintained his complaints. He submitted written statements by several witnesses confirming the routine use of handcuffs against all life prisoners in IK-56, including the applicant. He contested the justification for that measure submitted by the Government, arguing that the use of handcuffs had started several years before he had been placed on the list of dangerous prisoners, even though he had not committed any disciplinary offence.

2. The Court’s assessment

(a) General principles

38. Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim’s behaviour (see, for example, *Muršić v. Croatia* [GC], no. 7334/13, § 96, 20 October 2016; *Svinarenko and*

Slyadnev v. Russia [GC], nos. 32541/08 and 43441/08, § 113, ECHR 2014 (extracts); and *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

39. In the context of deprivation of liberty, the Court has consistently stressed that, to fall under Article 3, the suffering and humiliation involved must in any event go beyond that inevitable element of suffering and humiliation connected with detention. The State must ensure that a person is detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject him or her to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his or her health and well-being are adequately secured (see *Kudła v. Poland* [GC], no. 30210/96, §§ 92-94, ECHR 2000-XI; *Muršić*, cited above, § 99; *Mozer v. the Republic of Moldova and Russia* [GC], no. 11138/10, § 178, ECHR 2016; and *Svinarenko and Slyadnev*, cited above, § 116).

40. Even the absence of an intention to humiliate or debase a detainee by placing him or her in poor conditions, though a factor to be taken into account, does not conclusively rule out a finding of a violation of Article 3 of the Convention. Indeed, it is incumbent on the respondent Government to organise its prison system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties (see, *inter alia*, *Muršić*, cited above, § 100, and *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, § 114, 9 April 2019, with further references).

41. In *Murray v. the Netherlands* ([GC] no. 10511/10, § 101-04, 26 April 2016) and *Harakchiev and Tolumov v. Bulgaria* (nos. 15018/11 and 61199/12, § 264, ECHR 2014 (extracts)) the Court noted the importance of the principle of rehabilitation and the respect for human dignity guaranteed by Article 3 of the Convention. The Court has stated that the principle of rehabilitation, that is, the reintegration into society of a convicted person, is fully applicable to life prisoners, who must have a prospect of release and who should therefore be allowed to rehabilitate themselves (see *Murray*, cited above, §§ 102 and 103, and *Vinter and Others v. the United Kingdom* [GC], nos. 66069/09 and 2 others, § 119, ECHR 2013 (extracts)).

(b) Application of those principles to the present case

(i) Statutory measures inherent in the strict regime of imprisonment

42. Turning to the application of the general principles to the present case, the Court reiterates that its task is not to review domestic law and practice *in abstracto*, but to determine whether the manner in which they were applied to or affected the applicant gave rise to a violation of the Convention. Therefore it will confine itself, as far as possible, to the examination of the concrete case before it.

43. It is not disputed between the parties that the applicant was isolated from the rest of the prison community during his detention under the strict regime. It appears from the case-file material that for the periods of his detention under the strict regime in respect of which the Government submitted information, the applicant was detained alone (see paragraph 5 above). For the remainder of the period he shared his cell with another prisoner. The applicant was confined to his cell for about twenty-two-and-a-half hours a day, without any purposeful activity, such as work or education (see paragraph 7 above).

44. The Court has already held that all forms of solitary confinement without appropriate mental and physical stimulation are likely, in the long term, to have damaging effects, resulting in the deterioration of mental faculties and social abilities (see *Radev v. Bulgaria*, no. 37994/09, § 48, 17 November 2015). Confinement in a double cell may have similar negative effects if both detainees have to spend years locked up in one cell without any purposeful activity, adequate access to outdoor exercise or contacts with the outside world. Therefore, even if the applicant's isolation was not absolute in certain periods, as he was detained together with another prisoner, the intensity and prolonged duration of that measure in the circumstances of the present case raise an issue under Article 3 of the Convention on account of the considerable negative impact which it had on his well-being and social skills.

45. In accordance with the Court's consistent approach, only particular security reasons which have been obtained throughout detention may justify prolonged isolation (see *Harakchiev and Tolumov*, cited above, § 204, and *Savičs v. Latvia*, no. 17892/03, § 139, 27 November 2012). By the same logic, adequate justification is required for the prolonged detention of prisoners in double cells if the intensity and duration of their segregation are so significant that the effect is comparable to solitary detention.

46. In the present case the Government did not explain the reasons for the applicant's solitary confinement. Nothing suggests that he had made any requests to be detained alone in the cell. In certain periods his solitary confinement was changed by the confinement in double cell. All in all, the applicant was segregated for years solely on the ground of his life sentence, which, in the Court's view, was not sufficient to warrant it.

47. The applicant's segregation ran counter to two instruments to which the Court attaches considerable importance, despite their non-binding character: Recommendation Rec(2003)23 and the European Prison Rules. The first instrument highlights the importance of the principle of non-segregation (see paragraph 26 above) and the second explicitly requires that the security measures applied to prisoners be the minimum necessary to ensure their custody, and that the necessary level of security be reviewed at regular intervals throughout a person's imprisonment (see paragraph 25 above).

48. The applicant's situation was further aggravated by the very limited amount of time he was able to spend outside his cell and the lack of any purposeful activity.

49. The Court has often observed that short periods of outdoor exercise exacerbate the situation of prisoners confined to their cells for the rest of the time (see *Harakchiev and Tolumov*, cited above, § 208, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 151, 10 January 2012).

50. Rule 25.2 of the 2006 European Prison Rules provides that the prison regime should allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction (see paragraph 25 above). In the Second General Report on its activities, the CPT stated that Member States should aim to ensure that prisoners in remand establishments were able to spend a reasonable part of the day (eight hours or more) outside their cells, engaged in purposeful activity of a varied nature, and that regimes in establishments for sentenced prisoners should be even more favourable (see paragraph 28 above). Lastly, in the report on its visit to Russia, the CPT criticised the amount of time that prisoners had to spend locked up in their cells and the absence of structured out-of-cell activities for life prisoners. It highlighted a number of "desocialising" (marginalising) effects which life imprisonment had on inmates and noted that in addition to becoming institutionalised, the prisoners concerned could experience a range of psychological problems, including loss of self-esteem and impairment of social skills (see paragraph 29 above).

51. Lastly, the Court cannot overlook the fact that the applicant's hardship went beyond physical restrictions and involved severe restrictions on his contacts with the outside world and on his spending (see paragraphs 23 and 24 above), which undoubtedly intensified his suffering under that regime.

52. Taken cumulatively, the aforementioned factors (primarily his isolation, limited outdoor exercise and lack of purposeful activity) resulted in intense and prolonged feeling of loneliness and boredom, which caused significant distress to the applicant and due to the lack of appropriate mental and physical stimulation could result in institutionalisation syndrome, that is to say the loss of social skills, and individual personal traits. This amounted to treatment prohibited by Article 3 of the Convention.

(ii) Routine handcuffing

53. The Court observes that it is not disputed by the parties that between 26 December 2010 and the end of 2015 – that is to say, for more than five years – the applicant was routinely handcuffed. His situation was aggravated by the fact that on a regular basis he had to carry a heavy lavatory bucket outside to empty it with his hands cuffed. That exercise caused him physical pain.

54. The practice of routine handcuffing has been consistently criticised by both the CPT (see paragraphs 29 and 31 above) and the Court. The latter has already held that prolonged and unjustified handcuffing may in itself amount to degrading treatment and breach Article 3 of the Convention (see *Kashavelov v. Bulgaria*, no. 891/05, §§ 38-40, 20 January 2011).

55. In the present case, the Government have not put forward any reasons to justify the systemic use of handcuffs against the applicant, apart from the fact that he had been registered on the list of dangerous prisoners on 27 March 2018. However, that does not explain why handcuffs needed to be used on him from the date of his arrival at IK-56 in 2010, particularly if during the entire period of his detention in that facility he had never breached prison discipline. His systemic handcuffing, especially while being escorted around IK-56, a highly secure facility, exceeded what could be reasonably considered necessary.

56. The prolonged handcuffing of the applicant palpably exceeded the legitimate requirements of prison security. It diminished his human dignity and caused him feelings of inferiority, anguish and accumulated distress that went far beyond the unavoidable suffering and humiliation inherent in a sentence of life imprisonment, and thus amounted to treatment proscribed by Article 3 of the Convention.

(iii) Conclusion

57. Assessing the facts of the case, the Court concludes that there has been a violation of Article 3 of the Convention on account of inhuman and degrading treatment to which the applicant had been subjected under strict regime.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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.”

A. Damage

59. The applicant claimed compensation for non-pecuniary damage in the amount of 24,000 euros (EUR) or in an amount to be determined by the Court.

60. The Government left the matter to the Court’s discretion.

61. The Court observes that the applicant has already been awarded compensation for non-pecuniary damage on account of inadequate material conditions of his detention in IK-56 (see paragraph 6 above). Taking that

into account in the present case it awards the applicant EUR 3,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

62. The applicant also claimed 97,821.50 Russian roubles (RUB) (EUR 1,301) for costs and expenses. He asked the Court to pay the amount into the bank account of his representative.

63. The Government left the matter to the Court's discretion.

64. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,000 under that head, plus any tax that may be chargeable to the applicant. The award is to be paid into the representative's bank account as indicated by the applicant.

C. Default interest

65. 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.

III. APPLICATION OF ARTICLE 46 OF THE CONVENTION

66. Article 46 of the Convention provides:

“1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.”

67. The Court reiterates that a judgment in which it finds a breach of the Convention imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, individual or general measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to redress as far as possible its effects. It is primarily for the State concerned to choose, subject to supervision by the Committee of Ministers, the means to be used in domestic law to comply with this obligation. However, with a view to helping the respondent State to fulfil that obligation, the Court may seek to indicate the type of individual or general measures that might be taken in order to put an end to the situation it has found to exist (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC],

no. 47848/08, §§ 158-59, ECHR 2014; *Stanev v. Bulgaria* [GC], no. 36760/06, §§ 254-55, ECHR 2012; *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, § 148, 17 September 2009; and *Broniowski v. Poland* [GC], no. 31443/96, § 194, ECHR 2004-V).

68. In the present case the Court has found that the treatment to which the applicant was subjected under strict regime of imprisonment breached the requirements of Article 3 of the Convention. The violation found flows in large part from the relevant provisions of the CES and therefore discloses a systemic problem which affects each life prisoner during the first ten years of his imprisonment. Taking into account the urgent need to grant them speedy and appropriate redress at domestic level, the Court considers that repeating its findings in similar individual cases would not be the best way to achieve the Convention's purpose. It thus feels compelled to provide assistance to the respondent State in finding appropriate solutions and to the Committee of Ministers in supervising the execution of the judgments.

69. With a view to assisting the respondent State to fulfil its obligations under Article 46, the Court will outline measures that might be instrumental in resolving the structural problem in compliance with the Convention, as it has done in a number of cases concerning the similarly complex issue of inhuman conditions of detention or transport (see *Norbert Sikorski v. Poland*, no. 17599/05, § 161, 22 October 2009; *Orchowski v. Poland*, no. 17885/04, § 154, 22 October 2009; *Ananyev and Others*, cited above, §§ 197-203 and 214-31; *Torreggiani and Others*, nos. 43517/09 and 6 others, §§ 91-99, 8 January 2013; *Harakchiev and Tolumov*, cited above, §§ 278-80; *Varga and Others v. Hungary*, nos. 14097/12 and 5 others, § 102, 10 March 2015; and *Tomov and Others*, cited above, §§ 172-98).

70. The Court notes the efforts that have been made so far by the Russian authorities with a view to improving the various aspects of regime in which life prisoners are detained (see paragraphs 22 and 23 above). However, in the light of the Court's conclusion in the present case, a further reform of the existing regulatory framework is required. The choice of instruments remains fully at the discretion of the respondent Government, which may decide to remove the automatic application of strict regime to all life prisoners, put in place provisions envisaging that strict regime can only be imposed – and maintained – on the basis of an individual risk assessment of each life prisoner, and applied for no longer than strictly necessary and (or) to mitigate the modalities of the strict regime, particularly those which concern physical restrictions, isolation of life prisoners, their access to various activities for the purpose of their socialisation and rehabilitation.

FOR THESE REASONS, THE COURT, UNANIMOUSLY

1. *Declares* the complaint concerning the conditions of the applicant's detention under the strict imprisonment regime admissible;
2. *Holds* that there has been a violation of Article 3 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid into the applicant's representative's bank account as indicated by the applicant;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 2 June 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Registrar

Paul Lemmens
President