



Government failure to deal with inhuman treatment of so-called “outcast” prisoners

In today’s Chamber judgment¹ in the case of [S.P. and Others v. Russia](#) (application no. 36463/11) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 3 of the European Convention on Human Rights (prohibition on inhuman or degrading treatment) in respect of all the applicants, and

a violation of Article 13 (right to an effective remedy) taken in conjunction with Article 3 in respect of all the applicants, except S.P., V.D., and A.T.

The case concerned the treatment of the applicants when serving sentences in penal institutions in various parts of Russia. Within an informal prisoner hierarchy, they had been categorised as “outcasts”.

The Court found in particular that the existence of a hierarchy and the applicants’ placement at its lowest rung amounted to inhuman and degrading treatment. The Government had failed to address, deal with, or even acknowledge that situation and had thus failed to protect the applicants from the suffering they had had to endure.

Principal facts

The applicants are 11 Russian nationals. They have all been convicted of crimes and have either served their custodial sentences or are currently serving sentences. The facilities where they were placed were located in Kostroma, Sverdlovsk, and Irkutsk Regions, and the Republics of Komi, Mariy El, and Mordovia.

Inter-prisoner relations in the Russian penal system are governed by an informal code of conduct known as “the rules” (*понятия*). Under these “rules”, prisoners are divided into four main “castes” (*масть*): the “criminal elite” or “made men” (*авторитеты* or *блатные*), the highest grouping; “collaborators” or “reds” (*козлы* or *красные*), who enforce order alongside the prison officers; “lads” (*мужики*), who make up the vast majority of inmates; and a category of “outcasts” called “cocks” (*петухи*), “untouchables” or “downgraded” (*опущенные, обиженные*).

The applicants assert, among many other things, that within this system they were categorised as “outcasts”. As a result of this they were given tasks considered by the other prisoners to be too degrading. According to the applicants, prisoners can be downgraded to “outcast” for a huge variety of “offences”, including stealing, being a “snitch”, sex-crime convictions, and so forth. The stigma followed them from facility to facility. If they did not carry out their degrading tasks, they could be subject to violence or sexual violence. “Outcasts” were forbidden from touching any other prisoners or their possessions, and had to stay in separate living quarters and eat at designated places with special cutlery.

According to the applications these practices were tacitly endorsed by prison staff.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

The applicants complained several times to various authorities, including the federal ombudsman, to no avail. They alleged that the prison authorities were complicit in the informal hierarchy system.

The applicants A.T. and A.M. lodged separate civil claims, which were respectively summarily rejected or dismissed by the Russian courts.

Complaints, procedure and composition of the Court

Relying on Articles 3 (prohibition on inhuman or degrading treatment) and 13 (right to an effective remedy), the applicants complained of the suffering allegedly caused by their informal status as “outcasts” in the prisoner hierarchy, and of not having had an effective remedy for that complaint.

The applications were lodged with the European Court of Human Rights on various dates between 2013 and 2017.

The European Prison Litigation Network (*Réseau européen de contentieux pénitentiaire*) was granted leave to make submissions as a third-party intervenor in the case.

The procedures for processing cases against the Russian Federation are set out [here](#).

Judgment was given by a Chamber of seven judges, composed as follows:

Pere **Pastor Vilanova** (Andorra), *President*,
Georgios A. **Serghides** (Cyprus),
Yonko **Grozev** (Bulgaria),
Jolien **Schukking** (the Netherlands),
Peeter **Roosma** (Estonia),
Ioannis **Ktistakis** (Greece),
Andreas **Zünd** (Switzerland),

and also Olga **Chernishova**, *Deputy Section Registrar*.

Decision of the Court

The Court reiterated that Article 3 of the Convention enshrined one of the most fundamental values of a democratic society, prohibiting in absolute terms torture or inhuman or degrading treatment or punishment irrespective of the circumstances. Noting the credible and consistent submissions by the applicants, the extensive academic research and reporting on the subject, and the failure of the Government to engage with the applicants’ assertions, the Court found that it established that the informal prisoner hierarchy existed; that the applicants had been assigned to the lowest group in that hierarchy and subjected to the treatment of which they complained of; and that the domestic authorities had been, or ought to have been, aware of both the impugned hierarchy and the applicants’ inferior status within it and hence their particular vulnerability.

Noting the enduring stigmatisation and physical and social segregation, their assignment to menial labour, denial of basic needs such as bedding, hygiene and medical care, threats of violence and also occasional physical and sexual violence, the Court considered that the applicants had suffered mental anxiety and physical suffering for a period of years that had to have exceeded the unavoidable suffering inherent in detention. It amounted to inhuman and degrading treatment.

Concerning the State’s responsibility, the Court stated that the applicants’ complaints about their situation should have prompted action by the prison officers in the first place. That was entirely lacking. There had not even been a policy to punish prisoners who had committed or threatened violence against others. With reference to its previous case-law and the obvious flaws in the protection systems in place, the Court ruled that the failure to deal with the treatment of “outcasts” was a structural problem in the Russian penal system.

It found that the Russian authorities took no steps to acknowledge the issue or to protect the applicants from the ill-treatment they had suffered. Furthermore, there had been no effective remedy available to the applicants to complain of their situation, with even the Ombudsman conceding that such complaints had no chance of success.

In view of the Government's failure to address, deal with, or even acknowledge the inhuman and degrading treatment to which the applicants had been subject while under State control, the Court found that there had been a violation of Article 3 of the Convention, and a violation of Article 13 in respect of those applicants that had raised that complaint.

Just satisfaction (Article 41)

The Court held that Russia was to pay the applicants the amounts claimed in respect of non-pecuniary damage up to a maximum of 20,000 euros (EUR) and the amounts claimed in respect of respect of costs and expenses up to a maximum of EUR 850.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.