



Permanent video surveillance of detainees in their cells was in breach of the Convention

In today's Chamber judgment¹ in the case of [Gorlov and Others v. Russia](#) (application nos. 27057/06 and 2 others) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 8 (right to respect for private life) of the European Convention on Human Rights, and

a violation of Article 13 (right to an effective remedy) in conjunction with Article 8.

It further held, by a majority, that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicants.

The case concerned the permanent video surveillance of detainees in their cells by closed-circuit television cameras.

The Court found in particular that the domestic legal framework regarding permanent video surveillance was not sufficiently clear, precise and detailed to afford appropriate protection against arbitrary interference by the public authorities.

Principal facts

The applicants, Igor Yevgenyevich Gorlov, Denis Viktorovich Vakhmistrov and Viktor Valeryevich Sablin, are Russian nationals who were born in 1965, 1977 and 1976 respectively. The first two applicants are currently serving sentences in penal institutions in the Krasnoyarsk Region (Russia). The third applicant lives in Shilka in the Zabaykalskiy Region (Russia).

After being convicted of several offences, Mr Gorlov was placed in UP-288/T prison in Minusinsk, where he remains to date. His cell is under constant surveillance by prison guards, including female guards, by a closed-circuit television camera ("CCTV camera") installed inside. In the cells in which he has been kept there was a CCTV camera installed above the door, at ceiling level, in such a manner that the entire cell was clearly visible, including the bed. The toilet was located directly below the CCTV camera and was almost entirely hidden from the camera's view by a shield.

Between May 2007 and May 2010 Mr Vakhmistrov also served a sentence in UP-288/T prison. According to him, during his detention in that facility he was unable to take walks and undertake outdoor exercise in wintertime because he was not provided with winter boots of a suitable size, despite numerous requests to that effect. After he had been transferred to the penal institution IK-5 in Krasnoyarsk, his cell was under constant surveillance by prison guards by a CCTV camera installed inside the cell. The prison guard who monitored his cell was a woman.

Whilst serving a prison sentence in the Zabaykalskiy Region, Mr Sablin was transferred to a pre-trial detention centre in the same region and placed in a cell, where he remained until February 2014. According to him, the cell was designed for two inmates, but most of the time he was there alone. The cell was under permanent surveillance by a CCTV camera operated by female guards. It was

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.

installed above the entrance door, in such a manner that the entire cell was clearly visible, including parts of the bed. The toilet was separated by a partition at each side, but had no cover, with the result that the upper part of the cubicle was visible.

On an unspecified date Mr Sablin lodged a complaint with the District Court, arguing that permanent video surveillance of his cell by female operators was humiliating as, in particular, he had to undress in plain view which breached his rights. However, in July 2013 the District Court dismissed his complaint, stating in particular that the situation had not debased Mr Sablin's dignity, as the female officers had acted within their competence and in the performance of their professional duties.

In September 2013 the Regional Court upheld the first-instance judgment on appeal.

Complaints, procedure and composition of the Court

Relying on Article 8, the applicants complained, in particular, that constant surveillance of their cells, at times by female guards, by closed-circuit television cameras had violated their right to respect for their private life. Relying on Article 3, Mr Vakhmistrov also complained that he had been unable to take outdoor exercise during wintertime as the authorities had refused to provide him with appropriate winter footwear. Mr Vakhmistrov and Mr Sablin also relied on Article 13, alleging a lack of effective remedies in respect of any of their complaints.

The applications were lodged with the European Court of Human Rights on 10 May 2006, 11 September 2009 and 6 May 2014.

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

Vincent A. **De Gaetano** (Malta), *President*,
Helen **Keller** (Switzerland),
Dmitry **Dedov** (Russia),
Branko **Lubarda** (Serbia),
Alena **Poláčková** (Slovakia),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),

and also Stephen **Phillips**, *Section Registrar*.

Decision of the Court

Article 8

The Court pointed out that it was not in dispute between the parties that the permanent CCTV monitoring of detainees in their cells had constituted an interference with the applicants' right to respect for their private life. Such interference would breach Article 8 unless it had been "in accordance with the law" within the meaning of Article 8 § 2. The law had thus to be adequately accessible and foreseeable, that is, formulated with sufficient precision to enable an individual to regulate his or her conduct.

In the present case the Government had relied on different legislative provisions and executive orders. After examining them the Court found, however, that the relevant legislative provisions set forth a general rule enabling the administrations of penal institutions and pre-trial detention centres to have recourse to video surveillance, whereas the executive order did no more than reproducing those provisions but not elaborating them. In particular, it was not specified, for example, whether both the common parts and residential areas should be subject to surveillance; at which time of the day it should be operational; its conditions and length; the applicable procedures, and so on.

Whilst the Court accepted that the measure in question had had some basis in national law, it was not convinced that the existing legal framework was compatible with the “quality of law” requirement. In fact, the national legal framework had vested the administrations of pre-trial and penal institutions with unrestricted power to place every individual in pre-trial or post-conviction detention under permanent video surveillance, unconditionally, in any area of the institution, including cells, for an indefinite period of time with no periodic reviews. As it stood, the national law offered virtually no safeguards against abuse by State officials.

Although the Court could accept that it might be necessary to monitor certain areas of penal institutions, or certain detainees on a permanent basis, it found that the existing legal framework in Russia could not be regarded as being sufficiently clear, precise and detailed to afford appropriate protection against arbitrary interference by the authorities with the right to respect for private life. It therefore concluded that the measure had not been “in accordance with the law” as required by Article 8 § 2. Accordingly, there had been a violation of Article 8.

Article 13 in conjunction with Article 8

The Court noted that the relevant court decisions had revealed that the national courts, including those of the highest level – the Constitutional Court and Supreme Court of Russia – generally considered permanent video surveillance to be a necessary element of punishment in the form of imprisonment, as well as part of the mechanism which ensured the personal safety of detainees and staff of the relevant institutions, performance by detainees of their duties and observance of the detention regime. It was thus clear that the domestic law had not presupposed any balancing exercise or enabled an individual to obtain a judicial review of the proportionality of his or her placement under video surveillance with the interests in securing his or her privacy.

However, the thrust of the applicants’ complaint was the absence of any meaningful avenues of redress at national level in their particular situation, that is, their being placed under permanent video surveillance, which had adversely affected their privacy. Hence, the Court found that Mr Vakhmistrov and Mr Sablin had not had at their disposal an effective domestic remedy for their complaint under Article 8, in breach of Article 13.

Other Articles

In the light of all the material in its possession, the Court could not conclude that Mr Vakhmistrov had made a prima facie case as regards the alleged failure of the prison administration to provide him with suitable winter footwear. Thus, this part of the application was manifestly ill-founded and had to be rejected as inadmissible.

Just satisfaction (Article 41)

The Court held that Russia was to pay the second and third applicants 1,800 and 2,000 euros (EUR) in respect of costs and expenses. It further held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicants.

Separate opinions

Judge Keller expressed a partly dissenting opinion, joined by Judge De Gaetano. This opinion is annexed to the judgment.

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.