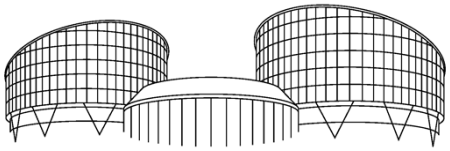

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF S.P. AND OTHERS v. RUSSIA

(Applications nos. 36463/11 and 10 others – see appended list)

JUDGMENT

Art 3 (substantive) • Inhuman and degrading treatment • Segregation, humiliation and abuse of prisoners by fellow inmates on account of inferior status in informal prisoner hierarchy tolerated by prison staff • Applicants' stigmatisation, assignment to menial labour and denial of basic needs, enforced by threats of violence and occasional physical and sexual violence and resulting in constant fear over years • Failure of domestic authorities to take individual protective measures • Lack of State action to address systemic problem Art 13 (+ Art 3) • Lack of effective remedy

STRASBOURG

2 May 2023

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of S.P. and Others v. Russia,

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

Pere Pastor Vilanova*, President*,
Georgios A. Serghides,
Yonko Grozev,
Jolien Schukking,
Peeter Roosma,
Ioannis Ktistakis,
Andreas Zünd*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the eleven applications (see the application numbers in the appendix) 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 eleven Russian nationals who are identified by their first initials only, pursuant to a decision by the President of the Section not to have their names disclosed;

the decision to give notice to the Russian Government ("the Government") of the complaints relating, in particular, to their situation within an informal prison hierarchy and the absence of effective domestic remedies, as well as other aspects of their detention, and to declare inadmissible the remainder of the applications;

the decision to give priority to application no. 45049/17;

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the European Prison Litigation Network (*Réseau européen de contentieux pénitentiaire*) which was granted leave to intervene by the President of the Section;

the decision of the President of the Section to appoint one of the sitting judges of the Court to act as *ad hoc* judge, applying by analogy Rule 29 § 2 of the Rules of the Court (see, for the similar situation and an explanation of the background, *Kutayev v. Russia*, no. 17912/15, §§ 4-8, 24 January 2023);

Having deliberated in private on 21 March 2023,

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

INTRODUCTION

1. The case concerns the alleged inhuman and degrading treatment of the applicants in Russian penal facilities because of their inferior position in an informal prisoner hierarchy. It also concerns the alleged lack of effective domestic remedies for their complaints in that regard.

THE FACTS

2. The names of the applicants' representatives are listed in the appendix.

3. The Government were initially represented by Mr G. Matyushkin and Mr M. Galperin, former Representatives of the Russian Federation to the European Court of Human Rights, and later by their successor in this office, Mr M. Vinogradov.

I. THE APPLICANTS' SITUATION AS "OUTCAST" PRISONERS

4. The applicants are convicted offenders who have either completed or are currently serving their sentences in correctional facilities located in the Kostroma, Sverdlovsk, and Irkutsk Regions, and the Republics of Komi, Mariy El, and Mordovia. The details of the applicants' prison terms, including the facility numbers and dates of imprisonment, are provided in the appendix.

5. The applicants' main grievance relates to being subjected to inhuman and degrading treatment on account of their subordinate status in an unofficial prisoner hierarchy which obtains in Russian correctional facilities and is backed by an informal code of conduct of the criminal underworld commonly referred to as "the rules" (*понятия*). This code divides prisoners into four major categories or "castes" (*масть*). Drawing on their personal experience, their complaints to the authorities (see paragraphs 22-33) and extensive research on, and official reports about, the prisoner hierarchy in Russian prisons (see paragraphs 44-58 below), the applicants provided the following description of their treatment as "outcast" prisoners within an informal prisoner hierarchy in Russian penal facilities.

6. The group at the top of the hierarchy are the "criminal elite" or "made men" (*авторитеты* or *блатные*). The criminal elite's function includes maintenance and interpretation of the informal inmate code, particularly when dealing with inter-prisoner conflicts. They are usually hardened criminals with multiple convictions who enforce the informal hierarchy by threats and violence. The informal code of conduct prevents them from doing any kind of work or cooperating with prison staff.

7. "Collaborators" or "reds" (*козлы* or *красные*), who work with the prison officers to enforce order or carry out administrative tasks such as managing or distributing supplies, make up a semi-privileged class.

8. The vast majority of inmates fall into the broad category known as "blokes" or "lads" (*мужики*). They accept the informal code of conduct while refraining from active cooperation with the prison authorities.

9. The applicants belong to the category at the bottom of the informal prisoner hierarchy, "outcasts", which is also known – among many other names – as "cocks" (*петухи*), "untouchables" or "downgraded" (*опущенные, обиженные*). The "outcast" applicants have been allocated jobs that were considered unsuitable for other inmates due to their "unclean"

nature. Their chores included cleaning pit latrines, squat toilets, shower rooms, bathhouses, or exercise yards. According to Mr S.P. and Mr A.T., prison staff ensured that a specific number of "outcasts" were available in each brigade to carry out the "dirty work" which was considered degrading and was shunned by other inmates.

10. The materials submitted by the applicants show that the list of actions that can lead to a prisoner's "downgrading" is long and includes, for example, stealing from other prisoners, failing to repay a debt, being an informant or "snitch", having an unclean or unhygienic appearance or manner, or accidentally touching the person of another "outcast" or his property. Other "transgressions" punishable by "downgrading" include a conviction for sexual offences and crimes against children, and also admitting to having ever engaged in anal or oral sex, whether consensually or by force.

11. The applicants Mr V.D., Mr A.S., and Mr S.I. were assigned to the "outcasts" category after they had been convicted of sexual offences. In the case of Mr V.D., the prison authorities disclosed information about the offences of which he had been convicted by placing his photograph on a notice board in a common area with the caption "inclined to paedophilia". Some other applicants were classified as "outcasts" after they had accidentally touched the belongings or person of another "outcast" prisoner (Mr M.Y.) or had been in contact with something considered "unclean", such as the toilet floor (Mr A.O.). Some others carried over their status from a juvenile facility or a previous period of detention spent in a secure compound together with "outcast" prisoners (Mr A.M., Mr I.A.). Some applicants were accused, or accidentally told others, that they had engaged in sexual activities prohibited under the prisoners' informal code of conduct, which had led to their downgrading (Mr I.K.).

12. The stigma associated with the applicants' status as "outcasts" was permanent: if transferred to another prison or penal institution, they had to disclose it to their fellow inmates or face punishment for concealing their status (Mr A.M.). On the applicants' arrival at the facility, an informal overseer (*смотрящий*) would assign the "outcasts" to either do menial chores or provide sexual services to other inmates. According to the applicants, had they refused to provide the services they had been assigned to, they would have been subjected to severe beatings and sexual or sexualised violence.

13. One of the applicants (Mr V.I.) who had been forced to provide sexual services to other prisoners contracted HIV. He tested negative for HIV on his admission to the facility in March 2012 but tested positive in January 2016.

14. The segregation of "outcasts" applicants was both symbolic and physical: they were assigned separate and distinct living quarters and had to have their own cutlery and kitchen utensils. They were forbidden from touching other prisoners' furniture, cutlery or personal items. If they did so, the items would become "dirty" and could no longer be used by others for

fear of "contamination". "Outcasts" applicants were also forbidden from touching or shaking hands with others; they had to give way to inmates from other categories when walking in corridors and keep to the wall to let them through.

15. In the sleeping area, the "outcast" applicants were given the least comfortable beds, and if there were not enough "outcast" beds available, they were forced to sleep on the floor for several weeks and even months until an "outcast" bed became available (Mr A.O., Mr M.Y.). "Outcast" beds were placed in the "outcasts' corner" which had sheets hung around it to ensure physical separation from the rest of the dormitory.

16. The "outcast" applicants were assigned a specific table in the canteen and a particular washbasin, and they were not allowed to eat or sit anywhere else. Their cutlery often had a special mark, such as a hole punched or drilled in their bowls and spoons (Mr S.P., Mr V.D., Mr A.O.). They were not allowed to store their food in communal fridges or enter the cooking area where other inmates heated their food (Mr A.O., Mr M.Y.).

17. The "outcast" applicants could use the communal showers after everyone else had finished, and they were not allowed to use the communal laundry. They had to wash their own clothing and bed linen, and Mr V.D. had to cut his own hair.

18. The "outcast" applicants were only allowed to see a general practitioner or specialist doctor after all other prisoners had been attended to, leading to Mr. S.P. going without dental treatment for five years because of the lengthy wait times and a dentist visiting only once or twice a month.

19. The "outcast" applicants were subjected to verbal abuse and threats of violence, with Mr A.O. being a victim of physical violence. Mr A.S. reported being regularly beaten during his time at the facility, with severe beating occurring on 11 December 2018, and being stabbed in the chest with a sharp object on 16 March 2019.

20. The applicants reported that prison staff practices frequently demonstrated a tacit endorsement of the informal hierarchy. During an initial assessment, staff would ask questions about a prisoner's "status" to decide where they should be allocated. In some facilities, staff physically separated prisoners according to their informal status. Staff also did not equally distribute cleaning jobs on a rota basis.

21. Mr V.D. suggested that prison staff could have transferred all "outcasts" to a separate unit where they would be safe. However, this would have led to prisoners in the remaining units having to do "dirty work", which they might have revolted against. Mr I.A., Mr A.O. and Mr M.Y reported being detained in a unit accommodating only "outcast" prisoners. Mr I.A. also stated that when he requested to be transferred to a "safe place", the authorities placed him in the "personal safety compound" (*помещение личной безопасности*), which was a practically separate unit for "outcasts". According to Mr I.A., under the rules of the informal code of conduct, a

request to be transferred to the safety area implies acknowledging an inmate's downgrading to the "outcasts".

II. COMPLAINTS TO THE AUTHORITIES

22. According to the applicants, the prison authorities were not just aware of the existing informal hierarchy system but also complicit in it, which rendered any complaints to the administration not just ineffective but also dangerous. However, they did attempt to complain to various State bodies with the authority to oversee penal facilities.

A. Complaints to regional departments of the Federal Service for the Execution of Sentences

23. Mr A.T. complained to the Ombudsman about being forced to perform cleaning duties in the correctional facility. On 17 October 2011 the Ombudsman forwarded the complaint to the Sverdlovsk regional department of the Federal Service for the Execution of Sentences ("FSIN"). On 18 November 2011 a deputy head of the department wrote to Mr A.T. stating that, according to statements from the prison authorities and other prisoners, he had never been required to perform any cleaning duties other than two hours of regular community work per week.

24. On 21 February 2017 Mr S.I. complained to the internal security department of the FSIN about hardships resulting from his position in the informal hierarchy. Since he never received any response from the FSIN, he lodged a new complaint with the regional prosecutor's office, which then forwarded it to the Ulyanovsk regional department of the FSIN. The FSIN responded that they had never received the applicant's complaint of 21 February 2017.

B. Complaint to the Federal Security Service

25. On 7 December 2018 Mr S.I. complained to the Federal Security Service of beatings, humiliation, sexual assault and bullying by some inmates. His complaint was forwarded to the Investigative Committee, the regional prosecutor's office and the Main Department of the FSIN. He received no response from those authorities.

C. Civil claims

1. Mr A.T. (application no. 35817/13)

26. On 19 March 2012 Mr A.T. sued the prison staff in a civil court, seeking compensation in respect of non-pecuniary damage sustained as a result of being forced to perform compulsory labour and having to work every

day without pay. In response to the claim, the prison authorities submitted that they had never subjected him to forced labour and that he had been forced to do cleaning chores by other inmates. They further claimed that they had not been aware of the situation, as he had never complained about it.

27. On 18 September 2012 the Tagilstroyevskiy District Court of Nizhniy Tagil dismissed the claim, finding that, while Mr A.T. had "performed cleaning duties in unit no. 4", he had been "made to perform this activity by prisoners who [were] not parties to the present case, rather than by the prison staff". It further held that the prison authorities had not been responsible for that situation because Mr A.T. had "displayed a passive approach to protecting his labour rights".

28. Mr A.T. appealed on the grounds that the prison authorities had been aware of his situation. On 8 February 2013 the Sverdlovsk Regional Court summarily rejected his appeal.

2. Mr A.M. (application no.78224/16)

29. In 2015 Mr A.M. brought a civil claim against the prison staff, seeking compensation in respect of non-pecuniary damage in connection with its failure to provide him with bed linen and hygiene items, and to protect him against discrimination on account of his status in the informal hierarchy. He enclosed statements by other inmates corroborating his allegations. One inmate also provided a certificate from his medical file which explicitly made reference to his "degraded social status" and had been signed by a general practitioner and psychiatrist.

30. On 12 May 2015 the Tverskoy District Court of Moscow dismissed Mr A.M.'s claim, holding that he had failed to submit any evidence showing that the prison staff had acted unlawfully.

D. Complaint to the Ombudsman (Commissioner for Human Rights)

31. Mr A.M. complained of the stigmatisation of "outcast" prisoners to the Ombudsman who, on 16 January 2016, replied as follows:

> "Your complaint ... concerning violations of the rights and legitimate interests of convicted prisoners who (according to you) possess degraded social status ... has been examined.
>
> I do not deny that we are well aware, and not just from films or books, of the problem of having convicted prisoners divided into castes ... However, pursuant to Article 19 § 1 of the Russian Constitution, all people shall be equal before the law and court. With respect to convicted prisoners, this requirement means that all convicted prisoners are equal before the [Code on the Execution of Sentences] ... It should be noted that our applicable legislation does not contain any provisions allowing prison officers to humiliate convicted prisoners or allowing one group of prisoners to humiliate others. It is hardly conceivable that a facility governor or supervising prosecutor would publicly admit that nearly all penal facilities secretly subdivide prisoners into the 'elite', 'blokes', 'collaborators', 'degraded social status', as well as 'activists', 'reds', 'blacks',

> etc.; in other words, it is unlikely that they would admit that they were disrespecting the [equality] requirements of the law. For that reason, any direct inquiry or complaint about the existing unregulated conditions of detention of prisoners having degraded social status will elicit a predictable response from those authorities: the subdivision of convicted prisoners into different status groups in such-and-such a facility has not been established and there has therefore been no evidence of humiliation or inhuman and degrading treatment."

32. The Ombudsman advised Mr A.M. to use the existing domestic remedies, including complaints to supervising prosecutors, the courts, public monitoring commissions and human rights defenders, and informed him that his complaint had been forwarded to the Irkutsk regional prosecutor for consideration.

33. On 27 January 2016 the Irkutsk regional prosecutor forwarded Mr A.M.'s complaint to the Krasnoyarsk regional prosecutor who, in turn, sent it to the district prosecutor's office and the governor of the penal facility where he was being held. On 7 April 2016 the district prosecutor wrote to Mr A.M. that his allegations were unfounded and that all prisoners, without distinction, could use any available living premises and equipment.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LEGAL FRAMEWORK

A. Prisoners' rights

34. The Code on the Execution of Sentences (Law no. 1-FZ of 8 January 1997) provides that prisoners have the right to be treated courteously by prison officers. They must not be subjected to cruel or degrading treatment or punishment (Article 12 § 2).

35. Prisoners have the right to send suggestions, applications and complaints to the administration of the penal facility, the higher prison authorities, the courts, prosecutor's offices, State and municipal bodies, the Ombudsman, public monitoring commissions, public associations and international bodies for the protection of human rights (Article 12 § 4).

36. Prisoners have the right to personal safety. The governor may decide, on his own initiative or at the request of the prisoner, to transfer him to a safe place or take other measures to remove the threat to his personal safety (Article 13).

37. The only type of work which prisoners may be required to do without pay is for the improvement (*благоустройство*) of the prison grounds or surrounding area. The duration of such work may not exceed two hours per week. Prisoners carry out such work in their own time and on a rota basis (Article 106).

38. Chapter XXVII of the Internal Rules of Penal Facilities, approved by Ministry of Justice Order no. 295 of 16 December 2016, governs the

arrangements for transfer of an inmate to safety. Rule 184 provides that if a prisoner's personal safety is threatened by other prisoners, he has the right to address the prison authorities verbally or in writing, which are obliged to take immediate measures to ensure his personal safety. Rule 187 specifies that a transfer of such a person to a "safe place" is ordered by the governor, or deputy governor, for a period not exceeding ninety days.

B. Internal structure of correctional institutions

39. The Regulations on Prisoner Units in Correctional Institutions, approved by Ministry of Justice Order no. 259 of 20 December 2005, stipulates that all inmates should be divided into units of between fifty and one hundred people (paragraph 3). Dividing prisoners into units serves in particular to ensure their personal safety (paragraph 1). Prisoners remain in the unit during their entire time in prison. A committee allocates inmates to units based on their personality traits.

C. Conceptual Frameworks for the Development of the Penal System

40. The Conceptual Framework for the Development of the Penal System until 2020 (Government Resolution no. 1772-r of 14 October 2010) acknowledged, among other external and internal factors that endanger the normal functioning of correctional institutions, "threats from the 'criminal elite' [from outside prisons] and threats 'from inside prisons' coming from leaders of prisoner groups with a [destructive] attitude."

41. The Conceptual Framework for the Development of the Penal System in 2017-2025 (Government Resolution no. 2808-r of 23 December 2016) acknowledged the persistent issue of prisoners' safety related to illegal actions or the negative influence of leaders and members of "criminally oriented groups".

42. The current Conceptual Framework, which covers the development of the penal system until 2030 (Government Resolution no. 1138-r of 29 April 2021), contains no mention of the informal prisoner hierarchy.

II. COMMITTEE FOR THE PREVENTION OF TORTURE

43. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in the report on its visit to Russia carried out from 21 May to 4 June 2012 [CPT/Inf (2013) 41], reported that its delegation had received detailed descriptions of direct threats, by staff, of physical ill-treatment by other inmates or of being "downgraded" in the informal prisoner hierarchy through organised sexual assault by other inmates or forced physical contact with prisoners referred to as "cocks" (paragraph 77). It went on to explain, in footnote 23, that "cocks" (*nemyxu*)

were a caste of "untouchables" in the informal hierarchy among prisoners in FSIN facilities. Such persons were rejected by other inmates for various reasons (for having suffered sexual abuse or committed sex offences, for example, or for simply having been in contact with other so-called "cocks") and were considered to run a greater risk of being ill-treated by other prisoners. The CPT called upon the Russian authorities to adopt a strategy at federal level for combating inter-prisoner violence and intimidation related to the informal hierarchy among inmates (paragraph 79).

III. REPORTS AND RESEARCH SUBMITTED BY THE APPLICANTS

A. Academic research

44. In his seminal research into the organisation of prison life in post-Soviet Russia, entitled "Prison subculture in Russia" (*Тюремная субкультура в России*, Moscow 2001, pp. 98-105), Dr A. Oleinik, PhD in Economics and Sociology, made the following observations:

> "The caste system has had a long history in Russian prisons. Informal categories of prisoners had existed in Russian *katorga* (hard labour) camps long before the Revolution in October 1917 ... The establishment of forced labour camps [in the USSR] did not abolish informal classification but rather reinforced it, although it became less diversified ... The categories are universally present, irrespective of the geographic location of the penal facility or its security type ...
>
> Outcasts, marginalised members of the prison community are collectively designated with the term 'colours' (*масти*) ... They have no right of citizenship in the world of the prison. They are excluded from the social life and their daily exchanges are limited to the community of other outcasts. 'We had a separate cell for outcasts – they were grouped there on purpose. I mean, the officers had decided it. So as to avoid any problems ...' [reminisces a former prisoner]. Despite their marginal situation, members of this group are large in number: they make up from a few to several dozens of the entire prison population ...
>
> 'Cocks' (*петухи*) were forcibly converted into passive homosexuals for the offences which are seriously reprehensible from the standpoint of prison morals and ethics: violence against children, informing on other prisoners or stealing from them ... 'When I went to the colony for the first time in 1970, there were just three – three! – 'cocks' in the entire colony of 1,200 prisoners. Then I went to the colony again and there were twenty-three of them. In 1973 I was released and [d]etained again. I came to Medyn in the Kaluga Region, and there was a block chock-full of them – they lived separately, the administration kept them under lock. And now? There are legion of them in every block ...' [stated a current prisoner] ..."

45. A doctoral thesis by Dr Yu. Blokhin, senior lecturer in criminal law and member of the public monitoring commission of the Rostov Region, entitled "Administrative and legal measures for minimising the negative influence by gangs of criminally-minded convicts in prisons" (*Организационно-правовые меры нейтрализации негативного влияния групп осужденных отрицательной направленности в тюрьмах*, PhD in

Law, Rostov-on-Don Law Institute of the Ministry of the Interior, Rostov-on-Don 1999, pp. 94-95), observed:

> "Relegating a prisoner to the class of 'outcasts' puts him on the lowest rung of the hierarchy, depriving him of virtually all rights. Far from being temporary, his status will continue throughout his current detention and also in any future detention periods. This state of affairs is enforced by the prisoners' informal code of conduct. Thus, an 'outcast' ... who has been transferred to another facility or cell must 'announce' his status. Other prisoners must disclose his status if the 'outcast' chose to hide it. In that case the prisoners who treated him as an equal, who shared the sleeping place or food with him, are considered 'tainted', or befouled. They run the risk of being downgraded to the class of 'outcasts'. The only way they can 'purify' themselves is by murdering or causing grievous harm to the prisoner who has hidden his status as an 'outcast'. Naturally, this compels the 'outcast' to voluntarily declare his status upon transfer to another facility or in the event of a new sentence.
>
> In that way, the prisoner is deprived of his rights for the entire duration of the custodial sentence. If he was downgraded to 'outcasts' by force, his human needs and his actual condition are in stark contradiction. Quite naturally, this is not conducive to his rehabilitation."

46. Doctoral research by Dr M. Shakiryanov, professor of criminal law in the Kazan Law Institute of the Ministry of the Interior, entitled "Criminal traditions of prisoners in penal facilities and the ways to suppress them" (*Преступные традиции среди осужденных в исправительных учреждениях и борьба с ними*, PhD in Law, St Petersburg University of the Ministry of the Interior, St Petersburg 2004, pp. 95, 105-07), found:

> "Methodological recommendations by the [Main Directorate for the Execution of Sentences] of the Ministry of Justice on the ways to neutralise illegal activities of criminal leadership in penal facilities subdivide all prisoners ... into four informal categories: very securely privileged (*особо устойчиво привилегированные*) ('criminal elite' ...), securely privileged ('blokes', 'lads'), insecurely privileged ('bulls' ...) and securely non-privileged ('outcasts' of many varieties) ...
>
> The treatment of 'outcasts' is extremely cruel. Their humiliation is the greatest in juvenile offenders institutions and medium security correctional facilities. In prison-type facilities, enhanced and maximum security facilities, 'outcasts' make up [1] to [5]% of the population. In medium security facilities their number can go up to 10 to 12%, and up to 20% in juvenile offenders institutions. The softer the security, the greater their number. In some facilities, entire units are full of them ...
>
> According to informal prison regulations, 'outcasts' have separate sleeping places within the special enclosure known as a 'monkey cage' (*обезьянник*). They have a separate table in the mess, their own places in the cinema room, separate cutlery and specific jobs. They sweep the yard, take out the toilet bucket and clean the cesspools ... Others cannot take anything from them. They can throw something at them, taking care not to touch them accidentally. It is acceptable to use ['outcasts'] to pass objects to the punishment cell when the cell is separated from the living premises by a no-pass strip. In this case it is considered that the objects passing through the hands of 'outcasts' have not been tainted. The reason for this exception is that 'outcasts' are sent to rake the no-pass strip while others are banned from accessing it. Personal lovers of the 'criminal elite' enjoy a privileged position among 'outcasts', they are not beaten and are exempted from work and may occasionally receive presents for their 'services'. Thus,

any reciprocal bodily contact with 'outcasts' is forbidden; even talking to them is not recommended. Yet, a homosexual act with members of this group is not considered prohibited contact.

The informal stratification of prisoners is conservative to the extreme; for that reason, the upgrading of one's status ... is extremely rare and complicated or even impossible for the categories of 'outcasts' and 'collaborators'. At the same time, downgrading the rung on the hierarchical ladder is a rather frequent occurrence in the criminal underworld ... Quite often downgrading is performed by way of a forced same-sex act.

The administration of remand prisons and correctional facilities is forced to take into account the existence of categories of prisoners, even though all prisoners must be treated equally among themselves and before the law by virtue of Article 8 of the Code on the Execution of Sentences. They cannot put a member of the 'criminal elite' or a 'bloke' in a cell where 'outcasts' are held. If the administration decides to do so, the outcome would be that either the 'criminal leader' has been downgraded, or he injures someone or will be injured. Thus, in practice, it is the prisoner who decides which cell he goes to ..."

47. For his doctoral thesis, Dr A. Zosimenko interviewed 193 prisoner patients in the psychiatric hospital of the Yaroslav regional department of the FSIN who had been victims of sexual abuse in penal facilities or had been downgraded to the lowest category, and reviewed the medical files of thirty of those patients ("Mental disorders in prisoners connected with the subculture specific to custodial facilities (sexual violence and threats of violence)") (*Психические расстройства у осужденных, связанные с субкультуральными особенностями мест лишения свободы (сексуальное насилие и его угроза)*, PhD in Psychiatry, Serbsky State Research Centre for Social and Forensic Psychiatry, Moscow 2004, pp. 104, 106-07, 111-14). His findings were as follows:

"Detainees who were victims of sexual violence or symbolic downgrading did not have a realistic opportunity to prevent that action from being taken against them. The reason for this is that the decision to perpetrate violence is made by the criminal leadership. An overwhelming majority of prisoners follow their orders unquestioningly, whereas the official administration of penal facilities has little formal control over them ...

In both groups of prisoners the most common reaction to downgrading was the development of a psychogenic disorder [67% among victims of sexual violence and 37% among the symbolically downgraded] ... The second most common behaviour was so-called 'withdrawal' ... that involved a temporary breakdown of communication with others [30% of rape victims and 25% in the second group] ...

An important additional traumatic factor for victims of sexual violence and symbolically downgraded prisoners ... was the artificially created social isolation within the penal community. It was achieved through physical segregation of that group of prisoners inside the premises that were the least adapted for living; in rare cases when the group lived together with the other prisoners, they were allocated the objectively worst sleeping places (if such places were in short supply, they were put on the floor, underneath the lower tier of bunk beds) or subjectively inferior – according to the rules of the underworld – places, such as the beds close to the toilet or located in the farthest, dimly lit corner of the cell."

Dr Zosimenko found that the majority of prisoners surveyed (54% of rape victims and 44% of the others) had not sought help from staff, knowing that they would not be able to restore their previous social status, which had been forfeited forever, and fearing further repercussions. Of those who had sought assistance, 6% and 5% in the two groups respectively had not received any response. For others, the following measures were implemented:

(1) Transferring the victim to another unit or cell (6% and 7% respectively) to isolate him from the offenders and prevent further acts of violence and humiliation both on their and on his part.

(2) Isolating the victim from the rest of prisoners to give him time to adapt to his new social status (11% and 10% respectively). It was frequently done by way of disciplining the victim for imaginary or exaggerated transgressions and isolating him in the punishment cell (*ШИЗО*) or prison-like cells (*ПКТ*).

(3) Punishing the offenders (6% and 1% respectively). Dr Zosimenko pointed out that, while subjectively important for the victim, punishment was not capable of improving his reputation with the prisoners. The six-fold difference between the two groups was accounted for by the objective, provable nature of a sexual act that left physical marks on the victims, as opposed to the oral and unrecorded order to ostracise the victim coming from the criminal leadership.

(4) Admitting the victim to the prison hospital (69% and 42% respectively). The purpose of the measure was twofold: firstly, a medical examination and treatment of a psychosomatic disorder caused by the violence against the victim, and secondly, long-term isolation of the victim from the offenders.

48. A textbook on Penal Psychology, prepared for the educational institutions of the Ministry of Justice by Mr Yu. Dmitriev and Mr B. Kazak (Rostov-on-Don, 2007), set out the history and structure of the prison subculture:

Chapter 15. Prison subculture in the penal community

"... In the early 1950s, at least half of incidents in labour camps and colonies were linked with the criminal elite's desire to maintain an exploitative way of living. They frequently committed violent rape, beatings and even murders. A new class of prisoners has emerged – 'outcasts' (*обиженные, опущенные, девки*). Unwritten rules forbade them from sharing the cell with other prisoners, taking food at the same table or performing certain types of work ...

... In recent years the make-up of the said group [of 'outcasts'] has undergone substantial changes. Previously it had been made up to a large extent of passive homosexuals (there had been less than 10 such prisoners in the facility). In recent years the group has expanded by incorporating prisoners unable to repay a card debt, suspected of collaborating with the administration or expelled from higher castes for violating the code of conduct ...

One-to-one correctional work with that category of prisoners is complicated because many prison officers, just like other prisoners, avoid any communication with them ..."

49. A study of sixty inmates in the prison hospital in the Perm Region carried out jointly by Dr N. Uzlov, university professor and PhD in Medicine, and Major S. Araslanov, the head of that hospital's reception and triage service, entitled "Resilience and psychological well-being of convicts in relation to their prison rank" (*Жизнестойкость и психологическое благополучие заключенных в соответствии с их тюремной иерархией*), Psychology and Law, no. 2, 2012), found:

> "One of the major obstacles on the way to the rehabilitation in a penal facility is the antisocial subculture with its specific values, codes of conduct, networks of informal relations and a well-established division of prisoners into castes ...
>
> A total of sixty prisoners aged 24 to 60 who perform manual maintenance duties in the sorting medical unit of the transit facility KTB-7 in the Perm Region – out of the total staff of 98 – have been studied ... In accordance with the prisoner hierarchy, they are divided into 'outcasts' (16 persons), 'collaborators' (17 persons) and 'blokes' (65 persons) ...
>
> A large number of 'outcasts' (11 persons, or 68.7%) acquired that status while underage. The reasons for relegating them into this group were as follows:
>
> (1) rape-related offences – two;
>
> (2) dealings with the prison staff – one;
>
> (3) psychological and physical pressure on the part of other prisoners in remand prisons (sex-themed discussions in which, for example, they mentioned performing oral sex on a woman; beatings) – six (37.5%);
>
> (4) personal choice motivated by a lack of resources (they can get cigarettes or tea for performing certain work, such as cleaning toilets or taking out the rubbish bin) or by a desire for certain psychological comfort – seven (43.7%).
>
> In the KTB-7 facility, 'outcasts' perform the following tasks: (1) maintenance of the raked no-pass strip marking the inner boundary of the facility (doing so is a major transgression for prisoners from other categories which can lead to downgrading); (2) maintenance of the dump; (3) plumbing works (unclogging sewage pipes); (4) cleaning toilets in the residence.
>
> The findings of the psychological study have demonstrated that 'outcasts' consider their situation to be rather acceptable. This can be accounted for by the relative comfort of the conditions of their detention: they have a separate living section, separate place in the mess, separate time slot in the bathhouse, etc. Since their status is essentially fixed – and, by virtue of prison laws, virtually permanent – they do not need to prove themselves to other prisoners or prison officers. Lastly, they feel their value and importance for the facility because they carry out the tasks that no one else can do ..."

50. In his doctoral thesis, "Criminological description of group crime in penal facilities and measures to counter it" (*Криминологическая характеристика групповой преступности в пенитенциарных учреждениях и меры противодействия ей*), PhD in Law, Samara Law Institute of the FSIN, Samara 2016, pp. 67-68, Major S. Bondarenko, former operational officer and head of the operational department of the IK-6 facility, reported as follows:

"'Outcasts' ... occupy the lower rung on the hierarchical ladder and that category is rather numerous. The 'outcast' status is permanent and determines his entire life in the penal system ...

For many decades, the administration of certain facilities has struggled to suppress the division of prisoners into informal categories. At best, their attempts resulted in mass refusal of food; at worst, consistent disobedience and other violations of the internal order. The following method was also used: all 'outcasts' were grouped together in a separate unit in order to protect them against insults and humiliation from other prisoners. However, a new, even crueller stratification was soon established within that unit.

The division into informal categories exists in almost every penal facility. Depending on the specific features of the institution, distribution of prisoners among categories may vary.

There are facilities in which the numbers of the 'criminal elite' are reduced to a minimum; they are segregated in the locked premises and have no influence on the masses of prisoners. Such facilities are few and far between, and the crime level in those facilities is below the Russian average. Positive examples include the IK-7 facility in Meleuz in the Bashkortostan Republic and the IK-6 Black Dolphin facility in Sol-Iletsk in the Orenburg Region."

51. In their research into the psychological characteristics of inmates' unlawful behaviour in correctional facilities, Dr A. Bykov and his colleagues from the Research Institute of the FSIN (*Личность осужденного – пенитенциарного правонарушителя: общая характеристика, основы детерминации профилактического воздействия*, Journal of the Nizhny Novgorod Academy of the Ministry of the Interior, Nizhniy Novgorod 2017, pp.64-73) identified the key catalysts for illegal activities in Russian prisons, which are directly connected to an inmate's position in the hierarchy:

"(1) mistakes in picking the various groups of inmates (work units, training classes, placement in dormitories, etc.) and failure to take into account the gravity of the crimes committed, ethnic origin, racial controversies and mental deviations;

(2) the belief of a certain number of inmates that the majority of actions of correctional facility employees are aimed at worsening the life of inmates;

(3) lack of useful employment of inmates in correctional institutions, excessive free time;

(4) the obligation to wear a prison uniform, which 'provokes identification of an individual with the criminal environment.'"

B. Report of the public monitoring commission

52. A report by members of the public monitoring commission of the Sverdlovsk Region on a monitoring visit to the IZ-66/1 facility in Yekaterinburg on 31 January 2012 stated as follows:

"Cell 101 (26.4 sq. m, 10 sleeping places, 15 inmates) holds some prisoners infected with tuberculosis. Some people sleep on the floor; the governor of the facility, [Mr] Mamedov, commented that inmates decided among themselves who was an 'outcast' and had to sleep on the floor ...

Findings of the limited inspection of ensuring the rights of prisoners, recommendations:

– it is outrageous that relations between prisoners in the SIZO-1 facility are governed by 'the rules' (*понятия*) rather than by the Internal Rules of [Penal Facilities], and it gets even more outrageous when this becomes the norm for the facility governor ..."

C. Survey on the situation of prison "outcasts" in the Perm Region

53. In 2018 members of the Public Council at the Perm regional department of the FSIN (*Общественный совет при ГУФСИН по Пермскому краю*), an entity set up to provide advice to the prison authorities on the resocialisation of convicted offenders and compliance with human rights standards, and members of the public monitoring commission of the Perm Region (*Общественная наблюдательная комиссия Пермского края*) launched the project "Saving prison outcasts. Public action to combat discrimination against prisoners with a lower social status in facilities in the Perm Region" (*Спасти тюремных изгоев. Общественное противодействие дискриминации осуждённых с пониженным социальным статусом в местах заключения Пермского края*). They carried out a survey of prisoners across all penal institutions in the Perm Region, including remand, juvenile and female-only facilities, to determine their views on and attitudes to the situation of "outcast" prisoners. To that end, they visited twenty-four of the region's thirty-four facilities, interviewed twenty-three prison directors and 115 staff, and received 615 completed surveys from prisoners in the "outcast" and other groups.

54. The study found that "outcasts" made up 9.7% of the total prison population of 12,582 in the twenty-four facilities surveyed. The percentage was lowest in remand prisons and facilities for first-time offenders (4-6%), significantly higher in facilities for repeat offenders (15-16%), and highest in high security facilities (21%).

55. The main reasons for "downgrading" included conviction for a sexual offence (45.4% of the "outcasts" surveyed), "voluntary downgrading" (20.4%), stealing from others (11.1%), "accidental contamination" (touching another "outcast" or his property) (11.1%), homosexual orientation (10.2%), unpaid debts (6.5%), asking the prison authorities to be placed in a safe place (6.5%), and "snitching" (4.6%). The ritual of "downgrading" involved being told to take one's stuff to the "outcasts' corner" (39.8% of the "outcasts" surveyed), having a hole punched in one's cutlery (6.5%), making a tattoo or scar (5.6%) and rape (3.7%).

56. The respondent "outcasts" reported abuse and violence from other prisoners: verbal abuse and insults (27.8%), beatings (6.5%), kicks and punches (6.5%), being robbed of food or cigarettes (5.6%), being forced to perform other people's work duties (4.6%), sexual violence (3.7%), taking responsibility for other people's transgressions (1.9%). Prison staff also

subjected the "outcasts" to verbal abuse (17.6%) and threats (4.6%), forced them to do dirty work (5.6%) and beat or punched them (5.6%).

57. The "outcasts" were assigned to clean toilets (55.6% of the "outcast" respondents), clean dormitories or cells (52.8%), work in production (51.9%), clean the outdoor area (45.4%), do maintenance work (38.9%), wash clothes for other prisoners (37.0%), clean the canteen (13.0%) and provide sexual services for others (8.1% of the respondents outside of the "outcasts" group).

58. When asked for their views on the existence of "outcasts", a third of the prisoners did not respond. Of those who did, about half thought that their existence was a "normal phenomenon" because "one [was] responsible for one's own fate" or because "there [were] also scapegoats on the outside". A quarter of the prisoners considered their existence "abnormal" but unavoidable either because "prison life [was] like this" or because "people who agree[d] to be outcasts [could not] be helped". Some 2.3% of the respondents expressed the view that authorities should combat the problem of "outcasts" by creating the same conditions for all prisoners.

59. When asked whether "outcasts" complained to the prison authorities, the prisoners outside the "outcast" group thought that they did (38.2%) or did not (4.6%); the others did not know or refused to reply. In the "outcast" group, 83.4% said that they did not complain to the prison authorities or refused to reply; 16.7% said that they did. In the latter group, 55.5% received a positive or partly positive reply to their complaint.

60. The study concluded that the prison staff was not only comfortable with having the informal hierarchy but that it had become an important part of it. During interviews, some prison officers claimed that "outcasts" were the most difficult and conflict-prone group to work with, while others, conversely, found them useful as they enabled them to keep the facility clean.

THE LAW

I. PROCEDURAL MATTERS

A. Joinder of the applications

61. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

B. Jurisdiction

62. 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 application

(see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

C. Procedural succession in respect of Mr M.Y.

63. The applicant Mr M.Y. (application no. 49247/15) died in 2018. His widow, Ms M.Y., informed the Court of her wish to continue the proceedings in his stead. The Government objected on a basis that the rights under Article 3 of the Convention were eminently personal and non-transferable.

64. The Court has previously accepted that in applications concerning Article 3 of the Convention, a close relative of the deceased applicant has standing to pursue the application (see *Magnitskiy and Others v. Russia*, nos. 32631/09 and 53799/12, § 176, 27 August 2019, with further references). Having regard to the subject matter of the application, the Court considers that Ms M.Y. has a legitimate interest in pursuing the proceedings in Mr M.Y.'s stead.

II. ALLEGED VIOLATIONS OF ARTICLES 3 AND 13 OF THE CONVENTION

65. The applicants complained that they had suffered inhuman and degrading treatment on account of their status as "outcasts" in the informal prisoner hierarchy, in breach of Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

All the applicants, except Mr S.P., Mr V.D. and Mr A.T., also complained that they had had no effective domestic remedy for their grievances, in breach of Article 13 of the Convention, which reads:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

66. The Government submitted that the applications were inadmissible for non-exhaustion of domestic remedies. In their view, the applicants should have complained to the prison staff to ensure their personal safety or to be transferred to another facility. The Government further stated that lodging a verbal or written complaint with a prosecutor could have also been an effective remedy. Supervisory inspections carried out by prosecutor's offices in prisons were an important tool for the protection of the rights of prisoners, as they were designed to uncover even minor violations of Russian law. Finally, the applicants could have brought their complaints before the

domestic courts. The Government asserted that the applicants' concerns about the disclosure of their complaints were unfounded, as all prisoner correspondence were sent to the relevant authorities in sealed envelopes. If they did not want to send their complaints from the facilities, they could have given them to their friends or family to send on their behalf.

67. The applicants submitted that the Government had failed to demonstrate a single remedy genuinely capable of improving their situation. The Court had already found that there were no effective domestic remedies in respect of poor conditions of detention in Russian penal facilities, and their situation was not identical but relevantly similar on account of the structural nature of the problem. Even where some applicants had tried the remedies suggested by the Government, their attempts to complain to the authorities had been unsuccessful. The applicants cited the example of Mr A.M., who filed numerous complaints with various authorities, including the courts, but was unable to obtain relief. In general, it would have been absurd to complain of degrading treatment to the prison authorities, who were well aware of the prisoner hierarchy, tolerated and even encouraged its existence for the sake of "order". A transfer to another facility would not have improved any of the applicants' situations because the "outcast" label followed an inmate during his entire prison life regardless of the facility in which he was detained. Moreover, sending a complaint through a family member or friend – as the Government suggested – would have revealed the applicants' stigmatised status.

68. The Court considers that the issue of domestic remedies is closely linked to the merits of the applicants' complaint that they suffered inhuman and degrading treatment in connection with their place in the informal prisoner hierarchy. For that reason, the Court joins the Government's objection of non-exhaustion to the merits of the complaint (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 70, 10 January 2012).

B. Merits

1. Submissions by the parties

(a) The Government

69. The Government submitted that the applicants' allegations were unsubstantiated as they had never complained to the domestic authorities and the alleged ill-treatment had not been established. They did not comment on the situation of "outcast" prisoners in Russian prisons in general or on the applicants' assertion that they belonged to that group. The Government pointed out that bodily injuries, inhuman or degrading treatment and moral coercion were criminal offences under Russian law. The Code on the Execution of Sentences required the prison governor to ensure the personal safety of prisoners and transfer them, if necessary, to isolated premises or

another facility. A set of measures had been implemented to counteract the influence of the criminal underworld, which included identifying criminal leaders and people having a negative influence on other prisoners and isolating them, punishing prisoners who adhered to criminal traditions and providing legal information to prisoners. The public monitoring commissions operating since 2008 had carried out spontaneous visits to penal facilities and submitted their reports to the Federal Service for the Execution of Sentences ("the FSIN").

70. The Government provided detailed information on the educational courses available to prisoners, the number of books and audiovisual media in prison libraries, as well as the number of music bands, sports groups and computer terminals. They also reported on a successful trial run of a "convict improvement centre" in five experimental facilities. As a result of improved video surveillance methods, the number of recorded crimes had decreased by 16%. The Government concluded that active measures were being taken to prevent the formation of the informal hierarchy by filling prisoners' leisure with cultural and educational activities and improving supervision.

71. In the case of Mr V.D., his allegations of threats and pressure from other prisoners had been refuted by the written statements of two other prisoners and prison officers. His account of the informal prisoner hierarchy was not related to any action or omissions by the State authorities but represented his subjective perception of how distinct categories of prisoners had been formed, including by reason of the offences they had committed, and the relations between them. As regards the injuries allegedly sustained by Mr A.S., the Government submitted that some had not attained the minimum level of severity to fall within the scope of Article 3, while others had been self-inflicted. The allegations by Mr A.T. that he had been subjected to forced labour in a facility had also been found to be unsubstantiated, both by the prosecutor and the courts.

(b) The applicants

72. The applicants submitted that there had been no genuine attempts on the part of the Russian authorities to combat inter-prisoner violence and abuse in prisons linked to the informal prisoner hierarchy, either at local or federal level. The abuse and deprivations they had experienced because of their low status in the prisoner hierarchy amounted to inhuman and degrading treatment. Neither prison officers nor the supervising authorities had taken any concrete steps to prevent the informal code of conduct from being enforced in the facility to the detriment of "outcasts" and to ensure a safe environment for them. The Government statistics on the range of educational activities did nothing to improve the situation.

73. The applicants from facilities in the Kostroma Region submitted that the prisoner hierarchy had existed since at least the 1940s and had been documented by prominent Russian writers, including Alexander

Solzhenitsyn. The hierarchy was a consequence of putting prisoners together in large dormitories where up to a hundred inmates lived in cramped conditions. The system was self-perpetuating. In the absence of efficient policing, large all-male groups always ostracised the weakest members, who became "outcasts". The 2010 Russian penal reform provided for the replacement of dormitories with smaller cells, but financial constraints had prevented the reform plans from going ahead. The problem of "outcasts" would not be solved until the Government implemented a comprehensive and clear action plan.

74. Mr A.M. submitted that the prison authorities encouraged, albeit covertly, the hierarchy among prisoners. By dividing prisoners into upper and lower castes, the administration could easily direct and control prisoners through tacit arrangements with the upper caste of "criminal elite" and "collaborator" prisoners showing their allegiance to the administration, and by manipulating other inmates into submission using their fear of being downgraded to the lowest caste. The prison authorities were an active player in the process of segregating prisoners; they had adapted to the prevailing informal rules and taken advantage of them in order to facilitate the task of controlling inmates, thus reinforcing their illegal categorisation. Mr A.M. also referred to the latent nature of the alleged violation. The authorities did not admit to the existence of an underground subculture in the institutions under their control. However, they could not possibly ignore the existence of the hierarchy and the influence of criminal leaders. The Conceptual Framework on the Development of the Penal System in 2017-25 conceded as much.

75. Mr V.D. stated that the prison authorities had displayed his photograph and details of his offence on a public notice board. He claimed that the authorities had obtained three written statements from his fellow prisoners, contrary to the Government's claim that there were only two. One of them had explicitly described him as an "outcast", and it was that statement that the Government withheld from the Court. Mr V.D. presented that statement to support his allegations (see paragraph 71 above).

76. Mr S.P. presented a copy of a questionnaire distributed to prisoners by the prison staff at IK-6 in the Mari El Republic. The questionnaire asked inmates about their mental well-being, their relationships with other prisoners and staff, and their suggestions for improving the prison's facilities, such as the canteen, library, and medical unit. Among other matters, it included questions whether the inmates followed "criminal traditions" and about their attitude towards "outcasts", offering three possible responses: "contemptuous" (*презрительное*), "neutral" or "I beat [them] whenever I get a chance" (*бью при каждом удобном случае*).

(c) Third-party intervener

77. The third-party intervener, European Prison Litigation Network, argued that the obligation of State authorities to ensure the welfare of prisoners in their care was firmly established in the case-law of the Court. That obligation could entail additional measures to monitor vulnerable prisoners (they referred to *Pantea v. Romania*, no. 33343/96, § 192, ECHR 2003-VI (extracts)), accommodate them in separate cells (*Karaman and Others v. Turkey*, no. 60272/08, § 55, 31 January 2012) or segregate them from potential attackers (*Rodić and Others v. Bosnia and Herzegovina*, no. 22893/05, § 71, 27 May 2008). Any measures for the protection of vulnerable prisoners should form part of a carefully designed strategy for dealing with inter-prisoner violence (*D.F. v. Latvia*, no. 11160/07, § 87, 29 October 2013). The intervener suggested that the obligation to secure the welfare of prisoners should also include an "obligation of normalisation". This would require creating conditions of detention that resemble, as much as possible, life outside prison and fostering trust-based communication between prison officers and prisoners. The intervener also proposed an obligation to establish independent monitoring bodies composed of members of the public having the mandate to investigate abuse in prisons.

2. The Court's assessment

(a) General principles

78. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of a 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, among many other authorities, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV).

79. In the context of deprivation of liberty, the Court has consistently stressed that Article 3 imposes an obligation on the Contracting States not only to refrain from provoking ill-treatment, but also to take the necessary preventive measures to ensure the physical and psychological integrity and well-being of persons deprived of their liberty (see *Premininy v. Russia*, no. 44973/04, § 83, 10 February 2011). 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 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 health and well-being are adequately secured (see *Muršić v. Croatia* [GC], no. 7334/13, § 99, 20 October 2016, and *Ananyev and Others*, cited above, § 141).

80. Another important factor in the Court's assessment of the State's compliance with its obligations under Article 3 is whether the prisoner was part of a particularly vulnerable group, for instance because he belongs to a

category at a heightened risk of abuse (see *Stasi v. France*, no. 25001/07, § 91, 20 October 2011, concerning homosexuals; *J.L. v. Latvia*, no. 23893/06, § 68, 17 April 2012, concerning police collaborators; *D.F. v. Latvia*, cited above, §§ 81-84, and *M.C. v. Poland*, no. 23692/09, § 90, 3 March 2015, concerning sexual offenders; *Sizarev v. Ukraine*, no. 17116/04, §§ 114-15, 17 January 2013; and *Totolici v. Romania*, no. 26576/10, §§ 48-49, 14 January 2014, concerning former police officers).

(b) Establishment of the facts

81. The Court notes that the case concerns essentially the applicants' allegations that they have been subjected to humiliating treatment and physical abuse as a result of being part of a group of "outcast" prisoners. The allegations are based on the description of their personal experience as "outcast" prisoners they provided to the Court, their complaints to the domestic authorities, and the response of those authorities. Furthermore, the allegations are supported by numerous reports and research that document the existence of a distinctive set of informal norms in Russian penal facilities that are enforced through informal methods, including punishment for breaching the rules. The Government neither confirmed nor denied the applicants' allegations concerning the existence of an informal prisoner hierarchy and their place within it; in fact, they avoided any mention of the term "outcast prisoners" or any similar term in their observations.

82. The informal nature of the prisoner hierarchy, relating as it does to embedded patterns of behaviour, namely abuse and ritualistic and symbolically degrading treatment meted out to "outcast" prisoners by other prisoners, make it an inherently difficult subject for the Court's examination. The Court will therefore have to consider the applicants' complaints taking into account all the information from different sources provided by them, including official reports and academic research, in order to establish the veracity of the applicants' allegations. It reiterates that an accumulation of identical or analogous breaches which are sufficiently numerous and interconnected may amount not merely to isolated incidents or exceptions but to a pattern or system (see *Ireland v. the United Kingdom*, 18 January 1978, § 159, Series A no. 25, and *Cyprus v. Turkey* [GC], no. 25781/94, § 115, ECHR 2001-IV).

83. The most recent and comprehensive recapitulation of the Court's approach to the matters of evidence can be found in its decision *Ukraine and the Netherlands v. Russia* [GC] (dec.), no. 8019/16 and 2 Others, §§ 434-49, 30 November 2022. In particular, the Court reiterates that the strict application of the principle *affirmanti incumbit probatio* is not always appropriate. Where the respondent State fails to provide a satisfactory and convincing explanation in respect of events that lie wholly, or in large part, within the exclusive knowledge of the domestic authorities or fails to comply with a request by the Court for material which could corroborate or refute the

allegations made before it, the Court can draw inferences and combine such inferences with contextual factors. Before it can do so, however, there must be concordant elements supporting the applicant's allegations. The level of persuasion necessary for reaching a particular conclusion and the distribution of the burden of proof, are intrinsically linked to the specificity of the facts, the nature of the allegations made, and the Convention right at stake.

84. Turning to the circumstances of individual cases, the Court notes that the applicants have provided detailed accounts of the events that led to their classification as "outcast" prisoners, as described in paragraph 11 above and summarised in the appendix. The applicants have provided evidence to support their claims, including specific details and, in one case (Mr A.M.), documented medical records. Additionally, it is clear that both other prisoners and prison staff were aware of their "outcast" status. In fact, some of the applicants were even placed in special units exclusively for "outcast" prisoners, as was the case with Mr A.O.

85. The applicants' accounts of the abuse they faced because of their "outcast" status were similar, despite being held in far-off and distant places at different times. This, and the reports and academic research documenting the informal prison hierarchies within the Russian prison network, lends credence to their description of the treatment they have personally suffered, and the abuse resulting from it. The applicants described being constantly segregated, both socially and physically, with separate beds, tables, cutlery with holes, different visiting times for the bathroom and TV room, lower quality food, and restricted access to medicine. All the applicants, without exception, were forced to perform what was considered "dirty work", such as cleaning latrines, shower rooms and courtyards (see the appendix and paragraphs 9-21 above). The segregation and the work they were forced to perform were enforced by physical violence and threats of violence (Mr V.I., Mr A.S.) and also sexual violence in respect of some applicants.

86. The accounts given by the applicants coincide with the descriptions of an informal prisoner hierarchy in academic papers which likewise refer to the existence of four broadly defined categories of prisoners and the abuse and deprivations suffered by the group of "outcast" prisoners (see paragraphs 46 and 56 above). It is significant that much of that research was conducted by current or former members of the prison staff or members of public monitoring commissions who have had the advantage of observing the situation of "outcast" prisoners on the ground (see paragraphs 45, 47, 49, 50 and 51 above). The studies consistently documented the hierarchy system and the existence of "outcast" prisoners and the treatment to which they were subjected as a widespread practice in Russian prisons that had been in place for decades (see paragraphs 47 and 56 above) and had affected a considerable number of inmates (see paragraphs 46, 49 and 50 above).

87. The Court further observes that, while distinct prisoner groupings and an inmate code based on informal norms are relatively common features of

prison structures around the world, the informal hierarchy appears to be an entrenched feature of Russian correctional facilities. Researchers traced the origins of the status system to hard labour camps in the Russian Empire and forced labour camps in the USSR and reported a prisoner's observation that the number of "outcast" prisoners had grown over time (see paragraphs 44 and 46 above). The report on the visit to Russia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 2012 indicated, in particular, the existence of the status system and described the predicament of "outcast" prisoners in a manner corresponding to the account supplied by the applicants and found in academic research (see paragraph 43 above).

88. There are also sufficiently strong indications that the domestic authorities have been aware of the informal hierarchy. The public monitoring commission of the Sverdlovsk Region reported a prison governor's indifferent reaction to the plight of "outcast" prisoners sleeping on the floor and found it outrageous that both prisoners and prison staff would abide by an informal code of conduct rather than official regulations (see paragraph 52 above). The Ombudsman's office conceded that the existence of prisoner statuses was a matter of public knowledge but that no official authority would admit it (see paragraph 31 above). As recently as 2018, members of monitoring entities were granted access to penal facilities in the Perm Region to conduct large-scale research on the situation of "outcast" prisoners, which included interviews with inmates and staff (see paragraphs 53-60 above). They found that as many as one in ten prisoners was relegated to that category and were forced to do "dirty work" and routinely subjected to abuse in the ways the applicants also described. The study concluded that the prison staff was not only aware of the informal hierarchy but that it had used it to maintain order in the facilities (see paragraph 60 above). As noted above, the Government, despite having unrestricted access to the information about persons in custody, chose not to engage with the applicants' detailed submissions and did not provide an alternative account of events.

89. In the light of the above, namely the credible and consistent description by the applicants of the treatment they have suffered, the consistent findings of the different reports and academic research and the failure of the Government to provide a satisfactory and convincing response to this evidence, the Court finds it established that the applicants have been subjected to the treatment of which they complain before the Court, on the part of fellow prisoners and on account of their status within the informal prisoner hierarchy.

(c) Whether the treatment to which the applicants were subjected reaches the threshold of Article 3

90. The Court will next examine whether the treatment to which the applicants were subjected falls within the scope of Article 3 of the

Convention. It reiterates that ill-treatment must attain a minimum level of severity if it is to fall within the scope of that provision. Ill-treatment that attains such a minimum level of severity usually involves actual bodily injury or intense physical or mental suffering. However, Article 3 cannot be limited to acts of physical ill-treatment; it also covers the infliction of psychological suffering. Where treatment humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, it may be characterised as degrading and also fall within the prohibition of Article 3 (see *Ananyev and Others*, cited above, § 140, and *Begheluri v. Georgia*, no. 28490/02, § 100, 7 October 2014).

91. The Court notes that, while not every applicant was subjected to physical violence in connection with their status as "outcast" prisoners, Mr A.O. and Mr A.S. did suffer physical attacks, while Mr V.I. was forced to provide sexual services to a member of "criminal elite". Physical and sexual violence undisputedly constitute forms of ill-treatment falling within the scope of Article 3 of the Convention.

92. The Court also reiterates that acts of abuse other than physical violence may also constitute ill-treatment because of the psychological harm they cause to human dignity. In particular, a threat of ill-treatment can also amount to a form of ill-treatment because of the fear of violence it instils in the victim and the mental suffering it entails (see *Gäfgen v. Germany* [GC], no. 22978/05, § 108, ECHR 2010). The applicants' submissions, and the material they produced, coincided in that the threat of physical violence was a constant in the life of "outcast" prisoners, and indicate that all applicants have faced such a threat (see paragraph 12 above for the applicants' submissions, paragraph 56 above on abuse and violence suffered by that group). Mr S.P. reported that hurting "outcast" prisoners was considered a reaction to their presence, common enough to be included in a questionnaire about prisoners' attitudes towards them (see paragraph 75 above). The Court accepts that living in a state of mental anguish and fear of ill-treatment was an integral part of the applicants' experience as "outcast" prisoners, which was in turn a consequence of the hierarchical categorisation of the prisoners' population. It undermined human dignity of the applicants by debasing them and instilling in them a sense of inferiority *vis-à-vis* other inmates. This amounted to a form of degrading treatment prohibited by Article 3 of the Convention.

93. A further indication of degrading treatment meted out to the "outcast" applicants manifested itself in the arbitrary restrictions and deprivations they endured in their daily life. Their separation from the other inmates took place on physical and symbolic levels. They were allocated the least comfortable places in the dormitory and canteen and prohibited from using any other areas under threat of punishment. Their access to prison resources, including showers and medical care, was limited or excluded; they could only use what

was left over from the other groups of inmates. They were also forbidden from coming into proximity, let alone touching, other prisoners under threat that that person would become "contaminated". In the Court's view, denial of human contact is a dehumanising practice that reinforces the idea that certain people are inferior and not worthy of equal treatment and respect. The resulting social isolation and marginalisation of the "outcast" applicants must have caused serious psychological consequences (see the supporting data on psychological consequences in paragraph 47 above).

94. Allocation of work duties on the basis of status, with "outcast" applicants being forced to perform jobs and occupations deemed "unclean" or otherwise unacceptable for the other prisoners, further debased them and perpetuated the feelings of inferiority. Not only were the applicants forced to do menial types of work, such as cleaning latrines or shower cubicles, they also were held in low esteem and looked down upon for doing the work considered to be inherently degrading. The status-based allocation of work served to perpetuate the separation of the "outcast" applicants: they were assigned to do "dirty work" because of their status, and anyone who, be it by accident, touched a thing an item deemed "unclean" was liable to "downgrading" (see paragraph 11 above).

95. Moreover, the sense of inferiority and powerlessness among "outcast" applicants would have been intensified due to the permanence of the stigma attached to their low status. An informal rule required them to reveal their status when transferred to another institution, and failing to do so could result in severe punishment. The enduring nature of the stigma removed any prospect of improvement for the "outcast" applicants, even after a lengthy period of detention (see paragraph 12 of their submissions and paragraphs 45-49 above on the enduring status of "outcast" prisoners).

96. In the light of the above, the Court finds that the applicants' stigmatisation and physical and social segregation, coupled with their assignment to menial labour and denial of basic needs such as bedding, hygiene and medical care, enforced by threats of violence and also occasional physical and sexual violence, has led them to endure mental anxiety and physical suffering that must have exceeded the unavoidable level of suffering inherent in detention (compare with *Rodić and Others*, cited above, § 73, and *Alexandru Marius Radu v. Romania*, no. 34022/05, § 48, 21 July 2009), even if not all applicants have been subjected to physical or sexual violence. That situation which the applicants endured for years on account of their placement in the group of "outcast" prisoners amounted to inhuman and degrading treatment within the meaning of Article 3 of the Convention.

(d) State's obligation to protect the applicants from ill-treatment

97. The Government declined to take any responsibility for the ill-treatment alleged by the applicants, denying any failure or omission on the

part of the prison staff. In their view, as no complaint had been lodged by the applicants, the prison staff could not be expected to protect them.

98. The Court reiterates that the absence of any direct State involvement in acts of ill-treatment that meet the condition of severity such as to engage Article 3 of the Convention does not absolve the State from its obligations under this provision (see *Gjini v. Serbia*, no. 1128/16, § 77, 15 January 2019). In this connection, the Court refers to the relevant principles concerning State responsibility, supervision and control in relation to detention, as well as the obligation to protect an individual from inter-prisoner violence, which are set out in the case of *Premininy* (cited above, §§ 82-88). In particular, the national authorities have an obligation to take measures to ensure that individuals within their jurisdiction are not subjected to torture or to inhuman or degrading treatment or punishment, including such ill-treatment administered by private individuals (see *Premininy*, cited above, § 84, and *D.F. v. Latvia*, cited above, §§ 83-84). The extent of this obligation of protection depends on the particular circumstances of each case (see *Stasi*, cited above, § 79).

99. Turning to the present case, the Court reiterates its finding above that the applicants belonged to a group of "outcast" prisoners which was the target of inter-prisoner violence. The phenomenon of an informal prisoner hierarchy – which is the primary cause of the inhuman and degrading treatment of the "outcast" applicants – has been a widespread and well-known problem in Russian penal facilities (see paragraphs 86-89 above). Prison staff and the authorities in general ought to have been aware both of the existence of the prisoner hierarchy and of the applicants' status within in. Some of the applicants disclosed their status to the authorities, while the situation of others must have been obvious to those familiar with the system and occasionally documented in official records (Mr M.Y., Mr A.M.). It was therefore impossible to ignore the risks of inhuman and degrading treatment which the applicants confronted on a daily basis throughout the term of their imprisonment. As the authorities had, or ought to have knowledge, of the risk which the applicants in this vulnerable category faced (see paragraph 88 above), it falls to the Government to explain what measures have been taken to address the applicants' vulnerability (see *D.F. v. Latvia*, cited above, § 87).

100. The Court reiterates that responding to abuse and ill-treatment in a prison context requires, first and foremost, prompt action by prison staff, including by ensuring that the victim is protected from recurrent abuse and can access the necessary medical and mental health services. Such a response should include the coordination of security staff, forensic, medical, and mental health practitioners and the facility administration (see *Premininy*, cited above, §§ 54 and 87). However, in the present case, notwithstanding the existence of a serious and continued risk to the applicants' well-being, the prison staff did not deploy any specific and prompt security or surveillance measures to prevent the informal code of conduct from being enforced on the

applicants, or consider how the applicants could be protected from abuse and harassment. It also appears that the prison staff did not have a proper classification policy which would have included screening for the risk of victimisation and abusiveness, consideration of the traits known to place someone at risk and of an individual's own perception of vulnerability, which is critical to ensuring that potential predators and potential victims are not housed together.

101. Furthermore, there is no indication that prison staff had a standardised policy of punishments for inmates who perpetrated violence seeking to enforce informal code of conduct on others (see *Premininy*, cited above, § 88). The allegations by Mr A.S. that he had been assaulted and beaten for an alleged transgression of the prisoners' code of conduct were not properly investigated (see paragraph 19 above). The educational measures suggested by the Government were clearly insufficient to tackle a situation of continuing abuse and ill-treatment. The absence of such a policy shows that prison violence was not taken sufficiently seriously and that the prison staff were prepared to allow detainees to act with impunity to the detriment of the rights of other inmates, including the right guaranteed by Article 3 of the Convention.

102. It further appears that the domestic authorities do not have an action plan to address the problem at structural level and have been unable to indicate any effective domestic remedies capable of offering redress to the applicants affected by it. On giving notice of each of these cases to the Government, the Court asked them to explain "what concrete measures a prosecutor or a court [was] empowered to take in order to improve the situation [of 'outcast' prisoners]" and to provide "all relevant documents concerning the policy of combating violence and intimidation in penal institutions linked to the informal prisoner hierarchy that are capable of demonstrating the efficiency of such a policy". Apart from mentioning the possibility of applying to a prosecutor or a court (see paragraph 66 above), the Government did not produce any policy documents or individual legal acts, referring to the predicament of "outcast" prisoners as a group or individually, and gave no indication as to what concrete measures could be taken to improve it.

103. The complaints concerning the degrading effects of an informal prisoner hierarchy are similar to other complaints that arise from structural problems. These problems involve a failure within the system rather than being solely related to the individual circumstances of an applicant. The Court has previously examined the effectiveness of domestic remedies suggested by the Russian Government to tackle structural problems in penal facilities and found them to be ineffective. It has emphasised, in particular, that the Government were unable to show what redress could have been afforded to the applicant by a prosecutor, a court, or any other State agency for a problem of a structural nature (see *Ananyev and Others*, cited above, §§ 100-19, as

regards conditions of detention in remand prisons; *Butko v. Russia*, no. 32036/10, §§ 42-47, 12 November 2015, as regards conditions of detention in correctional facilities; and *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 144-56, 9 April 2019, as regards conditions of prisoners' transport).

104. Bearing in mind the structural nature of the problem, individual measures, such as the opening of an inquiry, temporary placement in a "safe place" or transfer to another facility, would not have addressed the core issue at the heart of the applicants' grievances. Even if the complaints by the "outcast" applicants had been properly investigated and specific incidents of violence or ill-treatment had been sanctioned, this would not have changed the power structures underlying the informal prisoner hierarchy or the applicants' subordinate place in that hierarchy. A transfer to another facility would have done nothing to remove the stigma attached to the "outcast" status which the applicants were bound to carry with them for as long as they remained in facilities governed by an informal code of conduct. Similarly, the possibility of placement in a "safe place" was, under domestic law, a temporary measure, which implied that the individual would be brought back to his regular unit no more than ninety days later (see paragraph 38 above).

105. The circumstances of the present case provide a further illustration of the shortcomings of the existing remedies. Some applicants sought to improve their situation by lodging complaints with the regional departments of the FSIN, the Ombudsman and even the Federal Security Service (see paragraphs 23-25 above). Their complaints were then forwarded to supervising prosecutors or other departments of the FSIN, which summarily rejected them, without hearing the complainants or collecting additional evidence. The Ombudsman conceded that such complaints lacked any prospect of success. In response to one such complaint, the Ombudsman not only admitted the existence of an informal hierarchy as a matter of public knowledge, but also indicated that complaints in this regard were in all likelihood liable to be rejected (see paragraph 31 above).

106. As regards the systemic remedies required in this type of case, the Court finds it inexplicable that the Conceptual Frameworks for the Development of the Penal System, policy documents which are supposed to outline the main challenges facing the penal system and contain measures to address them, did not even identify the informal prisoner hierarchy as a problem calling for the particular attention of the prison authorities (see paragraphs 40-42 above).

107. The Court accordingly finds that the domestic authorities have taken no steps to protect the applicants from inhuman and degrading treatment associated with their status as "outcast" prisoners. Moreover, the Russian authorities currently have no effective mechanisms to improve the applicants' individual situation or an action plan for dealing with the issue in a comprehensive manner. Considering that no effective remedies have been

available to the applicants and that the authorities have taken no action to address the problem in a systematic way, the Court dismisses the non-exhaustion objection raised by the Government.

(e) Conclusion

108. In sum, the Court finds it established, on the basis of the evidence provided by the applicants and largely unrefuted by the Government, that the applicants belonged to a particularly vulnerable category of "outcast" prisoners. As a result, they were subjected to segregation, humiliating practices and abuse in their daily life while in detention, and were at a heightened risk of inter-prisoner violence. Being subjected to such treatment, for years, has amounted to inhuman and degrading treatment. The State authorities were aware, or ought to have been aware, of the applicants' vulnerable situation which moreover was a part of a systemic and wide-spread pattern. However, the domestic authorities did nothing to acknowledge, let alone address, that problem and took no general or individual measures to ensure the applicants' safety and well-being. In view of the extent of the problem, the Russian authorities' failure to take action can be seen, in the present case, as a form of complicity in the abuses inflicted upon the prisoners under their protection.

109. There has accordingly been a violation of Article 3 of the Convention in respect of all applicants and also a violation of Article 13, taken in conjunction with Article 3, in respect of the applicants who raised that complaint (see paragraph 65 above).

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

110. In the light of its findings concerning the applicants' complaints under Articles 3 and 13 of the Convention, the Court takes the view that it has examined the main legal question raised in respect of their situation and does not need to give a separate ruling on the admissibility or merits of the remaining complaints (see, for a similar approach, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

111. 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."

112. The applicants claimed amounts ranging from 5,000 euros (EUR) to EUR 100,000 in respect of non-pecuniary damage and also submitted claims for the costs and expenses set out in the appendix.

113. The Government considered that their claims were excessive and unsubstantiated.

114. The Court awards the applicants EUR 20,000 each or such smaller amount as was actually claimed, in respect of non-pecuniary damage, plus any tax that may be chargeable. It also awards EUR 850 or such smaller amount as was actually claimed, in respect of legal costs to the applicants who had not been granted legal aid in the proceedings before the Court.

115. 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. *Holds* that it has jurisdiction to deal with the applicants' complaints in so far as they relate to facts that took place before 16 September 2022;

3. *Decides* that the widow of Mr M.Y. (application no. 49247/15) may pursue the proceedings in his stead;

4. *Joins* the Government's objection as to the alleged non-exhaustion of domestic remedies to the merits and dismisses it;

5. *Declares* the applicants' complaints under Articles 3 and 13 admissible;

6. *Holds* that there has been a violation of Article 3 in respect of all the applicants;

7. *Holds* that there has been a violation of Article 13, taken in conjunction with Article 3, in respect of all the applicants, except Mr S.P., Mr V.D., and Mr A.T.;

8. *Holds* that there is no need to examine the remainder of the complaints;

9. *Holds*

   (a) that the respondent State is to pay, 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) to each applicant, EUR 20,000 (twenty thousand euros) or such smaller amount as was actually claimed, plus any tax that may be chargeable, in respect of non-pecuniary damage;
(ii) to the applicants who have not been granted legal aid, EUR 850 (eight hundred and fifty euros) or such smaller amount as was actually claimed (see the appendix), plus any tax that may be chargeable to them, in respect of costs and expenses;

(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;

10. *Dismisses* the remainder of the claims for just satisfaction.

Done in English, and notified in writing on 2 May 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova Deputy Registrar	Pere Pastor Vilanova President

APPENDIX

App no.	Date of introduction	Applicant's initials	Representative	Penal facility and region	Dates of stay	Just satisfaction claims, EUR
36463/11	20/04/2011	S.P.	Eduard Valentinovich MARKOV	IK-6 Mari El Republic	08/10/2010 - the date of introduction	Non-pecuniary damage (NPD) 50,000 Legal costs 3,670 Legal aid granted
Mr S.P. was sentenced to eight years in a high-security prison for a violent offence. Upon arriving at the facility, he shared a cup of tea with another prisoner who was part of the "outcasts" group. In June 2011, thirty-two out of 900 prisoners were part of that group. They were required to do menial chores considered to be "dirty work", such as cleaning bathrooms. The "outcast" inmates were allocated a specific table in the canteen and were prohibited from socializing with other prisoners. They were provided with lower quality food and their cutlery had holes in it to signify their low standing. They were allocated the least comfortable beds, had to use a separate room for long-term family visits, and were not allowed to store their food in the communal fridge or use the common cooking area. Mr S.P. had spent five years without dental treatment because he could only see a dentist after everyone else, and a dentist only came once or twice a month.						
11235/13	01/01/2013	V.D.	Oksana Vladimirovna PREOBRAZHENSKAYA	IK-49 Komi Republic	06/07/2010 - the date of introduction	NPD 16,250 Legal costs 4,800 Legal aid granted
Mr V.D., who was sentenced to twelve years in prison for sexual abuse of a minor, was ordered to undergo regular mental health monitoring by prison medical staff. From October 2011 to May 2012, the applicant's photo was displayed on the prison notice board with a caption that read "inclined to paedophilia", resulting in him being labelled an "outcast" and assigned to do menial chores. He was also subjected to regular insults and violence. He was required to use a separate table at the canteen and was not permitted to use the communal fridge, the facilities at the common cooking area, and TV room. He was forbidden to use the services of a barber, so he had to cut his own hair. The applicant alleged that all these restrictions were not only enforced by the inmates but also by the administration in order to prevent conflicts. He explained that prison staff could have transferred all "outcasts" to a separate unit where they would be safe, but this would have led to prisoners in the remaining units having to do "dirty work", which they might have revolted against. He brought a civil claim against the prison authorities seeking compensation for non-pecuniary damage, alleging that the disclosure of his mental health record caused him distress and suffering. By judgment of 02/08/2012, as upheld on appeal on 18/10/2012, the Syktyvkar Town Court dismissed his claim. In the meantime, on 13/02/2012, the prosecutor's office of the Komi Republic ordered the prison authorities to change the caption under the applicant's photograph as it violated his right to the confidentiality of his medical records. On 29/03/2012, the prison authorities informed the prosecutor that the wording had been changed to "committed a sexual offence".						

App no.	Date of introduction	Applicant's initials	Representative	Penal facility and region	Dates of stay	Just satisfaction claims, EUR
35817/13	19/02/2013	A.T.	Zinaida Ivanovna KULTANOVA	IK-13 Sverdlovsk Region	18/04/2009 - the date of introduction	NPD 82,000 Pecuniary damage (PD) 7,000
Mr A.T. was forced by other inmates, under threat of violence, to clean the toilets, washrooms, locker rooms in the dormitory and bath house, and take out the rubbish. He worked daily without pay or holidays. Since he was doing the "dirty" tasks, he was assigned to the lowest rung of the prison hierarchy, and was not allowed to eat or socialise with other inmates. The facility administration maintained a set number of outcasts per brigade. The applicant lodged a civil claim for compensation in connection with forced labour (see the Facts section for details on how the claim was dealt with).						
44982/15	25/08/2015	A.O.	Aleksandr Vladimirovich VINOGRADOV	IK-4 Kostroma Region	15/04/2013 - 30/04/2015	NPD 40,000 Legal costs 457
Upon arriving at the facility, Mr A.O. slipped in the restroom and touched the floor with both hands. The inmates who witnessed the incident decreed that he had become "contaminated" by coming into contact with excrement. As a result, the facility administration assigned him to a brigade made up exclusively of "outcasts", comprising around 55 people in a facility of 500 prisoners. Under threat of physical and sexual violence, Mr A.O. was forced to clean toilets and shower rooms. He was subjected to regular insults and beatings. After he was assigned to the "outcasts" brigade, he slept on the floor until a bed designated for lower caste inmates became available. Together with other "outcasts", he was allocated to a separate table at the canteen. They had to use cutlery that had holes drilled through it, and they often received spoiled, leftover food. Mr A.O. was forbidden to eat or sit anywhere else or to touch other inmates' clothing or property and could not store his food in the communal fridge or use the common cooking area.						
49247/15	15/09/2015	M.Y.	Aleksandr Vladimirovich VINOGRADOV	IK-1 Kostroma Region	01/11/2005 - 20/03/2015	NPD 20,000 Legal costs 454

App no.	Date of introduction	Applicant's initials	Representative	Penal facility and region	Dates of stay	Just satisfaction claims, EUR
Mr M.Y. was placed at the bottom of the hierarchy after he was seen sitting with an "outcast". He was assigned to do undesirable tasks, such as cleaning toilets and shower rooms and taking out the garbage. For two months, he slept on the floor while he waited for a bed designated for lower-caste inmates to become available. The prison staff refused to provide an extra bed as it would become "untouchable" and could not be used by other inmates. He was not allowed to use the communal laundry and had to wash his bed linen at night. Together with other "outcasts", he was allocated to a separate table in the canteen. They had to use cutlery with holes drilled through it and often received spoiled, leftover food. Mr M.Y. was forbidden to eat or sit anywhere else or to touch other inmates' clothing or property. During outdoor activities, he was required to keep a distance from other prisoners and step aside to let them pass first if they crossed paths in the dormitory. The prison staff were aware of his situation and maintained a certain number of outcast prisoners in each brigade for them to perform the "dirty" tasks.						
77227/16	03/12/2016	V.I.	Aleksandr Vladimirovich VINOGRADOV	IK-1 Kostroma Region	07/03/2012-06/09/2016	NPD 30,000 Legal costs 520
Mr V.I. was forced to provide sexual services to a "made man" under threat of physical violence or sexual abuse by other inmates. He reported that he had been infected with HIV while in detention, as he had tested negative for HIV upon admission to the facility in March 2012 and had tested positive in January 2016. Despite his requests, the prison governor refused to provide him with anti-retroviral therapy and said that he did not need it because he would soon be released. During outdoor activities, Mr V.I. was required to keep a distance from other prisoners and stay in a designated space. He was not allowed to store his food in the communal fridge or use the common cooking area and could only use the communal shower, watch TV and eat after everyone else. Along with other "outcasts", he was assigned a separate washstand and used cutlery with holes drilled through it.						
78224/16	17/11/2016	A.M.	Oksana Vladimirovna PREOBRAZHENSKAYA	IK-23 Irkutsk Region	28/09/2012 – the date of introduction	NPD 150,000 Legal costs 5,400 Legal aid granted
Since 2005 Mr A.M. served multiple convictions in various facilities in the status of an "outcast". He provided evidence from his fellow inmates and a certificate from the prison medical unit stating his condition as a person with "inferior social status" («Состоит на учете с пониженным социальным статусом»). Other inmates subjected him to insults, beatings, and sexual abuse. He was assigned to clean the bathrooms and do other inmates' laundry. He was not permitted to eat with other inmates or to use the communal fridge, or allowed to work in the canteen or other facilities that required him to touch the food or cutlery of other inmates. He submitted many complaints to the Ombudsman, supervising prosecutors, and filed a civil claim against the facility management, seeking compensation for their failure to provide him with bed linen, hygiene articles and to protect him against discrimination based on his status within the informal hierarchy (see the Facts section for details on how the complaints were dealt with).						

App no.	Date of introduction	Applicant's initials	Representative	Penal facility and region	Dates of stay	Just satisfaction claims, EUR
45049/17	26/06/2017	A.S.	Aleksey Nikolayevich LAPTEV	IK-1 Mordovia Republic	13/12/2016 - the date of introduction	NPD at the Court's discretion Legal costs 18,000
Mr A.S. was placed at the bottom of the hierarchy due to his conviction for sexual offences. He was required to do menial tasks and had to sit at a separate table in the canteen and use cutlery with holes. He was not allowed to eat or sit anywhere else, touch other inmates' clothing or property, or store his food in the communal fridge or use the common cooking area. He was regularly subjected to beatings, threats and insults. On 11/12/2018, Mr A.S. was attacked by other inmates resulting in a bruise on his eyebrow and a cut on his cheek, as stated in the facility's medical records. On 28/01/2019, the police declined to open a criminal investigation into the assault. On 16/03/2019, an inmate stabbed Mr A.S. in the chest. He was taken to prison hospital with a penetrating stabbing-cut wound to his right thorax. Due to threats from the inmates and prison staff, Mr A.S. chose not to make a complaint about that incident.						
52291/17	10/07/2017	I.A.	Aleksandr Vladimirovich VINOGRADOV	IK-1 Kostroma Region	10/07/2014- 07/07/2017	NPD 15,000 Legal costs 500
During his previous stay at the IK-4 facility in the Kostroma Region, Mr I.A. had requested to be placed in a secure compound, known as "помещение личной безопасности", which was exclusively populated by "outcast" inmates. Being transferred to this compound was seen as an admission of his demotion to a lower status. The brigade had around ten "outcasts" who were assigned to do menial chores, Mr I.A. was responsible for cleaning the toilets. During outdoor activities, Mr I.A. had to maintain a distance from other prisoners and step aside to let them pass first if they crossed paths in the dormitory. He was not allowed to store his food in the communal fridge or use the common cooking area. Together with other "outcasts", he was allocated to a separate table at the canteen. They had to use cutlery that had holes drilled through it and often received spoiled, leftover food.						
69425/17	12/09/2017	I.K.	Aleksandr Vladimirovich VINOGRADOV	IK-1 Kostroma Region	06/11/2008- 05/09/2017	NPD 15,000 Legal costs 500

App no.	Date of introduction	Applicant's initials	Representative	Penal facility and region	Dates of stay	Just satisfaction claims, EUR
Mr I.K. was unable to deny the accusation that his girlfriend had performed oral sex on another man, and as a result, he was ritually humiliated and degraded to a lower status by having his head pulled through a toilet seat. For two months, he slept on the floor in the "outcasts' corner" separated from the rest of the dormitory by sheets until a bed designated for lower status inmates became available. Together with other "outcasts", he was assigned a separate table at the canteen and had to use cutlery with holes drilled through it, and often received spoiled, leftover food. Mr I.K. was not allowed to eat or sit anywhere else, touch other inmates' clothing or property, or use the communal laundry. He had to wash his own bed linen during the night. During outdoor activities, he had to maintain a distance from other prisoners and step aside to let them pass. The administration reportedly keeps a certain number of "outcasts" in each brigade to perform the "dirty work" that other categories of inmates will not do.						
70086/17	05/12/2017	S.I.	Self-representation	IK-5 Mordovia Republic	13/05/2016 - the date of introduction	NPD 250,000
Mr S.I. was placed at the bottom of the prison hierarchy at the remand prison because he was charged with a sexual offence. Upon arriving at IK-5, he was placed with the "outcasts" and assigned to perform menial tasks. He was regularly subjected to insults and beatings from both the inmates and the facility's administration. Along with other "outcasts" (over 50 inmates), he was not allowed to sit at the common table, use the communal laundry, or communicate with higher-ranking inmates unless it was necessary. The administration reportedly tolerated a hierarchy among the prisoners and Mr S.I.'s attempts to complain about this were met with threats and beatings. He lodged complaints with several authorities but to no avail (see the Facts section for details on how the complaints were handled).						