



## Grishin v. Russia

App. No. 30983/02, Eur. Ct. H.R. 925 (2007).

**Country:** Russia

**Region:** Europe

**Year:** 2007

**Court:** European Court of Human Rights European Court of Human Rights

**Health Topics:** Chronic and noncommunicable diseases, Health care and health services, Health systems and financing, Medicines, Prisons, Violence, Water, sanitation and hygiene

**Human Rights:** Freedom from torture and cruel, inhuman or degrading treatment

### Facts

The applicant, a Russian national, filed several European Convention on Human Rights Article 3 violations (inhuman or degrading treatment) during his prison term. He claimed that his serious medical state (ischaemic heart disease, exertional angina, hypertension, myopia and chronic bronchitis) was not treated appropriately, that he was beaten by investigating officers and cellmates (alleging broken teeth and a serious cerebral trauma), that he was detained in overcrowded detention facilities (corroborated by testimony) lacking sufficient light, ventilation, sanitary facilities. The applicant alleges the facilities contained cockroaches and blood-sucking insects, and that he was forced to use toilets (painful for him on account of his medical state) with no partition walls making him the subject of mockery by cellmates. He claimed the medical services provided to him were inadequate and that he was denied appropriate medicines, medically recommended procedures including surgery on his prostate adenoma.

### Decision and Reasoning

The Court began by pointing out that when the events in issue lie within the exclusive knowledge of the authorities, as in the case of persons within their custody, strong presumptions of fact will arise in respect of injuries occurring during such detention.

The Court held there had been no violation of Article 3 regarding his ill-treatment after arrest or during detention as the applicant failed to adduce any proof to substantiate these allegations. Medical records indicated that the applicant suffered from hypertension, cardiac ischaemia, exertional angina and myopia before his arrest and there was a lack of evidence by way of medical reports to corroborate the additional injuries complained of.

While the Court noted that the State must ensure that the health and well-being of a detainee are adequately provided for and that necessary medicines are available to him (from its stock or via relatives), the applicant did not provide a medical opinion confirming that he was inadequately treated. His specific allegations concerning failures to perform an encephalogram, a CT scan, a neurosonogram or an audiogram, to prescribe him physiotherapy and to operate on him for his prostate adenoma were likewise unsupported by any medical opinion.

The Court did find a violation of Article 3 on account of the degrading and appalling conditions under which the applicant was detained. The applicant's assertion that cells were filled to three times their capacity or more, resulting in a situation wherein each inmate had less than 1.0 sq. m of personal space and occasionally even less than 0.6 sq. m was corroborated by eye witnesses. The Court agreed that for over a year the applicant was confined to an extremely congested cell with inadequate sanitary facilities, poor levels of hygiene and insufficient levels of daylight and ventilation.

### Decision Excerpts

"72. Finally, the Court notes that the lack of appropriate medical treatment in prison may by itself raise an issue under Article 3, even if the applicant's state of health does not require his immediate release. The State must ensure that given the practical demands of imprisonment, the health and well-being of a detainee are adequately secured by, among other things, providing him with the requisite medical assistance (see *Kudła v. Poland* [GC], no. 30210/96, §§ 93-94, ECHR 2000-XI; see also *Hurtado v. Switzerland*, judgment of 28 January 1994, Series A no. 280-A, opinion of the Commission, pp. 15-16, § 79). In particular, unavailability

of the necessary medical equipment may raise an issue under Article 3 if it has negative effects on the applicant's state of health or causes suffering of a certain intensity (see *Mirilashvili v. Russia* (dec.) no. 6293/04, 10 July 2007)."

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