



### About this application form

This application form is a formal legal document and may affect your rights and obligations. Please follow the instructions given in the Notes for filling in the application form. Make sure you fill in all the fields applicable to your situation and provide all relevant documents.

**Warning:** If your application is incomplete, it will not be accepted (*see Rule 47 of the Rules of Court*). Please note in particular that Rule 47 § 2 (a) provides that:  
"All of the information referred to in paragraph 1 (d) to (f) [*statement of facts, alleged violations and information about compliance with the admissibility criteria*] that is set out in the relevant part of the application form should be sufficient to enable the Court to determine the nature and scope of the application without recourse to any other document."

#### Barcode label

If you have already received a sheet of barcode labels from the European Court of Human Rights, please place one barcode label in the box below.

#### Reference number

If you already have a reference number from the Court in relation to these complaints, please indicate it in the box below.

#### A. The applicant (Individual)

This section refers to applicants who are individual persons only. If the applicant is an organisation, please go to Section B.

1. Surname

2. First name(s)

3. Date of birth

D	D	M	M	Y	Y	Y	Y

 e.g. 27/09/2012

4. Nationality

5. Address

6. Telephone (including international dialling code)

7. Email (if any)

8. Sex

- male  
 female

#### B. The applicant (Organisation)

This section should only be filled in where the applicant is a company, NGO, association or other legal entity.

9. Name

10. Identification number (if any)

11. Date of registration or incorporation (if any)

D	D	M	M	Y	Y	Y	Y

 e.g. 27/09/2012

12. Activity

13. Registered address

14. Telephone (including international dialling code)

15. Email

**C. Representative(s) of the applicant**

If the applicant is not represented, go to Section D.

**Non-lawyer/Organisation official**Please fill in this part of the form if you are representing an applicant but *are not a lawyer*.

In the box below, explain in what capacity you are representing the applicant or state your relationship or official function where you are representing an organisation.

16. Capacity / relationship / function

17. Surname

18. First name(s)

19. Nationality

20. Address

21. Telephone (including international dialling code)

22. Fax

23. Email

**Lawyer**Please fill in this part of the form if you are representing the applicant *as a lawyer*.

24. Surname

25. First name(s)

26. Nationality

27. Address

620075, Russia, Yekaterinburg, Turgenev Street, 11-1  
(Sverdlovsk regional non-governmental organization  
"Sutyajnik")

28. Telephone (including international dialling code)

29. Fax

30. Email

**Authority****The applicant must authorise any representative to act on his or her behalf by signing the authorisation below (see the Notes for filling in the application form).**

I hereby authorise the person indicated to represent me in the proceedings before the European Court of Human Rights, concerning my application lodged under Article 34 of the Convention.

31. Signature of applicant

32. Date

1	0	0	9	2	0	1	5
D	D	M	M	Y	Y	Y	Y

 e.g. 27/09/2012

**D. State(s) against which the application is directed**

33. Tick the name(s) of the State(s) against which the application is directed

- |   |  |
|---|--|
| <input type="checkbox"/> ALB - Albania                | <input type="checkbox"/> ITA - Italy                                       |
| <input type="checkbox"/> AND - Andorra                | <input type="checkbox"/> LIE - Liechtenstein                               |
| <input type="checkbox"/> ARM - Armenia                | <input type="checkbox"/> LTU - Lithuania                                   |
| <input type="checkbox"/> AUT - Austria                | <input type="checkbox"/> LUX - Luxembourg                                  |
| <input type="checkbox"/> AZE - Azerbaijan             | <input type="checkbox"/> LVA - Latvia                                      |
| <input type="checkbox"/> BEL - Belgium                | <input type="checkbox"/> MCO - Monaco                                      |
| <input type="checkbox"/> BGR - Bulgaria               | <input type="checkbox"/> MDA - Republic of Moldova                         |
| <input type="checkbox"/> BIH - Bosnia and Herzegovina | <input type="checkbox"/> MKD - "The former Yugoslav Republic of Macedonia" |
| <input type="checkbox"/> CHE - Switzerland            | <input type="checkbox"/> MLT - Malta                                       |
| <input type="checkbox"/> CYP - Cyprus                 | <input type="checkbox"/> MNE - Montenegro                                  |
| <input type="checkbox"/> CZE - Czech Republic         | <input type="checkbox"/> NLD - Netherlands                                 |
| <input type="checkbox"/> DEU - Germany                | <input type="checkbox"/> NOR - Norway                                      |
| <input type="checkbox"/> DNK - Denmark                | <input type="checkbox"/> POL - Poland                                      |
| <input type="checkbox"/> ESP - Spain                  | <input type="checkbox"/> PRT - Portugal                                    |
| <input type="checkbox"/> EST - Estonia                | <input type="checkbox"/> ROU - Romania                                     |
| <input type="checkbox"/> FIN - Finland                | <input checked="" type="checkbox"/> RUS - Russian Federation               |
| <input type="checkbox"/> FRA - France                 | <input type="checkbox"/> SMR - San Marino                                  |
| <input type="checkbox"/> GBR - United Kingdom         | <input type="checkbox"/> SRB - Serbia                                      |
| <input type="checkbox"/> GEO - Georgia                | <input type="checkbox"/> SVK - Slovak Republic                             |
| <input type="checkbox"/> GRC - Greece                 | <input type="checkbox"/> SVN - Slovenia                                    |
| <input type="checkbox"/> HRV - Croatia                | <input type="checkbox"/> SWE - Sweden                                      |
| <input type="checkbox"/> HUN - Hungary                | <input type="checkbox"/> TUR - Turkey                                      |
| <input type="checkbox"/> IRL - Ireland                | <input type="checkbox"/> UKR - Ukraine                                     |
| <input type="checkbox"/> ISL - Iceland                |  |

**Subject matter of the application**

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the six-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E., F. and G.) (Rule 47 § 2 (a)). The applicant may supplement this information by appending further details to the application form. Such additional explanations must not exceed 20 pages (Rule 47 § 2 (b)); this page limit does not include copies of accompanying documents and decisions.

**E. Statement of the facts**

34.

1. The First Applicant is Nikolay Korolev ('NK'), date of birth 31 March 1981. The Second Applicant is Veronika Koroleva ('VK'), date of birth 8 August 1981 (VK). NK and VK met in Autumn 2004 in Moscow. Their marriage was registered in the correctional colony on 9 September 2009 at Harp [Document 1]. Both NK and VK are now aged 34. VK lives in Moscow.
2. NK was convicted on 15 May 2008 by the Moscow City Court and sentenced to life imprisonment to be served under a 'special regime' with 'strict conditions'. Although he was first taken into custody in 2006, NK began to serve that special regime sentence in 01 April 2009. He is serving his sentence at correctional colony No. 18 in the village of Harp in the Yamalo-Nenets Autonomous Okrug (YaNAO).
3. The correctional colony is operated by the Russian Federal Penitentiary Service (FSIN), which is the national body responsible for the security and maintenance of prisons and correctional colonies in Russia.
4. NK is subject to the 'life term special regime', with 'strict conditions', under Article 127 of the Criminal Execution Code of the Russian Federation (CEC). Prisoners subject to that regime are allowed two visits per year (Article 125(3) of the CEC), each of no longer than four hours. Prisoners subject to a CEC regime other than one with strict conditions, are allowed longer (conjugal) visits of three days. NK will be permitted two long visits per year after he has served ten years under strict conditions if he is then moved to ordinary conditions of detention (Article 127(3) of the CEC) [Document 2]. NK will therefore first be eligible for conjugal visits in 2019 when both he and VK will both be aged 38.
5. NK and VK would like to conceive a child. Since conjugal visits are not permitted, the couple sought to arrange for VK to conceive using assisted reproductive technology (ART).
6. ART is the technology used to achieve pregnancy in procedures such as artificial insemination, in vitro fertilization and surrogacy. In the case of NK and VK, it is envisaged that sperm would be taken from NK and used to try and fertilise VK's eggs via artificial insemination. VK has been medically screened and no contra-indications for ART were found.
7. NK and VK applied to the FSIN on 05.05.2014 seeking permission for NK to be similarly screened and for biological material to be removed from NK at the colony where he is held, by a qualified employee of a clinic for transfer to the clinic for the ART procedure. [Document 3].
8. Between May and July 2014 VK corresponded with FSIN, the Division of FSIN in YaNAO and the YaNAO Department of Health with regard to the application. [Documents 4, 5, 6]
9. Those bodies replied, rejecting VK's application on various grounds, stating that:
  - (a) medical institutions in Yekaterinburg, St. Petersburg and Tyumen were equipped for ART, but not in YaNAO [Document 4];
  - (b) ART is not within the scope of guaranteed free State medical treatment [Document 5];
  - (c) FSIN would not prevent screening/removal of biological material from NK, but VK would necessarily have to organise and pay for these things herself [Document 5].
  - (d) the medical institutions of the FSIN did not have facilities or a license for ART [Document 6].
10. VK was prepared to arrange and pay for the screening and the collection of sperm from NK.
11. On 26 June 2014 VK requested assistance from the FSIN in YaNAO to transfer NK from Harp to Yekaterinburg for screening and the ART process. [Document 7]
12. The FSIN refused on the grounds that the hospital proposed by VK was not an FSIN institution [Document 8]. The FSIN suggested that the screening/ART be done in the prison in Harp under supervision of personnel of the Yekaterinburg hospital.

**Statement of the facts (continued)**

35.

13. On 11 August 2014 VK therefore, in line with the FSIN's suggested alternative, requested that sperm be collected from NK at the prison and taken to the nearest hospital with screening facilities. If that screening demonstrated no contra-indication, she would then use that sperm for domestic insemination in Harp. [Document 9]

14. On 8 September 2014 FSIN rejected this request on the grounds that the prison had no required license and facilities to assist the collection. [Document 10]

15. Moreover, the specialist clinic in Yekaterinburg - Federal State-funded entity, the Urals Scientific Research Institute for the Protection of Motherhood and Childhood - confirmed on 22 October 2014 that it does not have a license nor suitable equipment and personnel to enable it to attend the prison in YaNAO. [Document 13]

16. In September and October 2014 FSIN refused a request to transfer NK from Harp to Yekaterinburg for screening/ART, on the following grounds:

(a) NK's situation did not fall within the grounds justifying prisoner transfer (being illness, personal security or other extraordinary circumstances); [Document 11]; and

(b) NK would be eligible for long visits in 10 years' time [Document 12].

17. In addition, a response dated 22 October 2014 from a Federal State-funded entity, the Urals Scientific Research Institute for the Protection of Motherhood and Childhood ('the Institute') stated that sperm could in fact be collected at the colony and transported elsewhere for ART to take place. However, it noted that special equipment would be required and the duration of transport must be no longer than one hour for the sperm to remain viable. [Document 13]

18. On 24 December 2014, Minhealth sent a further response stating that the maximum viability period for sperm was three hours. [Document 15]

19. Because of the conditions of NK's imprisonment, it is effectively impossible for him and VK to conceive a child. The authorities say that sperm can be collected at the correctional colony for the purposes of ART. However, neither the colony nor any external medical provider has the necessary equipment or is licensed to perform ART in this way. The only practicable method is for NK to be transferred to a facility nearer to a specialist clinic that is duly licensed and has the necessary equipment. The authorities state that a temporary transfer away from YaNAO cannot happen. Therefore the possibility of using ART has effectively been denied to NK and VK.

20. On 14 November 2014 NK and VK applied to the Babushkin District Court of Moscow, for a declaration that the failure of FSIN, the Division of FSIN in YaNAO and of the correction institution to provide ART, and to transfer NK to enable the ART procedure, were illegal, and that they be ordered to facilitate such ART procedures and to carry out the transfer. [Document 14]

21. On 25 December 2014 NK and VK additionally applied to the Babushkin District Court of Moscow for a declaration that the refusal to allow long visits to NK was also illegal. [Document 16]

22. On 25 December 2014, the Babushkin District Court of Moscow refused the applicants' claims stating that:

(a) a prisoner is not entitled to ART except in exceptional cases and upon medical grounds which were not present with NK and VK;

(b) a prisoner transfer is permitted only on medical grounds and to an FSIN medical institution;

(c) refusal of long visits was justified and proportionate in light of the gravity of the actions for which NK was convicted;

(d) there was no unjustified interference with the private and family life of NK and VK - the authorities were lawfully exercising their functions in protecting the interests of society and state, and in the interests of security, and so there was no breach of Article 8 ECHR;

(e) neither NK, having committed serious crimes, nor VK, having registered her marriage when NK was already serving a life sentence, could have an expectation of parenthood;

(f) when committing a crime NK should have been aware that he would be imprisoned and would forfeit certain of his rights. The judgment stated: "Taking into account the seriousness of the crimes committed by [NK] ... the punishment given to [NK] and the limitations connected to it are proportionate to the crime committed and [the punishment] is just punishment ("") for crimes committed by him...". The word used in Russian ("") means vengeance or retribution rather than "just punishment".

(g) the application should have been made within three months of the refusal by FSIN to agree a prisoner transfer (refusal known by the applicants latest 11 August 2014) and was therefore out of time; and

**Statement of the facts (continued)**

36.

(h) the facts of Dickson v the United Kingdom were different from this case and therefore there were no grounds for this claim. [Document 17]

23. On 20 January 2015, NK and VK appealed to the Moscow City Court to set aside the lower court's decision and to grant the relief sought by them. The grounds of the appeal were that:

(a) the Babushkin District Court should have decided the case by reference to Article 8 ECHR, which has priority over Russian legislation in the event of a conflict between them, but did not do so, instead applying Russian law which restricts access to ART and to a prison transfer if there are no medical grounds for such;

(b) the authorities' refusals were a breach of the Article 8 right to respect for private and family life;

(c) the Babushkin District Court had violated the applicants' right to a fair trial in breach of Article 6 ECHR and of the Russian Constitution by: (i) deciding that the Dickson case was not relevant for this case without giving any reasons for that decision; and (ii) failing to give proper consideration to and a fully reasoned decision in respect of all the issues and arguments submitted by the applicants; and

(d) no limitation period applied in this case since the authorities' illegal acts were continuing so that no limitation period had started to run. [Document 18]

24. On 26 March 2015, the Moscow City Court dismissed the appeal on the basis that the lower court had not incorrectly determined the facts of the case nor incorrectly applied relevant laws or procedures. It held:

(a) the constitution of the Russian Federation, the provisions of the UN General Assembly principles for the protection of persons under detention or imprisonment (9 December 1988) and jurisprudence of the ECtHR in respect of Article 8 ECHR all recognise the legality of (non-arbitrary) restrictions by the state in the public interest on the private and family life of prisoners;

(b) the restrictions of the imprisonment regime which apply to NK were consistent with such norms and were not an arbitrary interference with private life but carrying out the function of the state to protect the public interest;

(c) the serious crime committed by NK warranted his loss of liberty and restrictions on private and family life;

(d) the remedy sought by the appellants exceeded what was reasonable compared to protection of the public interest;

(e) therefore the lower court had not misapplied relevant law;

(f) the Dickson case was distinguishable: in this case, unlike the Dickson case, NK had violated the prison regime, and complying with the appellants' requested remedy would have necessitated his removal to a non-correctional institution in a different region;

(g) the lower court's decision was not insufficiently reasoned, nor in the circumstances of the case was it unfair. [Document 19]

25. On 30 April 2015, NK and VK filed a cassation to the Presidium of Moscow City Court to set aside the lower courts' decisions (first instance and appeal) and to grant the relief sought by them. The grounds of the cassation were the same as in the appeal. [Document 20]

26. On 13 May 2015, a judge of the Moscow City Court dismissed the cassation on the basis that the lower courts had not incorrectly determined the facts of the case nor incorrectly applied relevant laws or procedures. [Document 21]

27. On 22 June 2015, NK and VK filed a cassation to the Supreme Court of Russia to set aside the lower courts' decisions and to grant the relief sought by them. The grounds of the cassation were the same as in the appeal. [Document 22]

28. On 31 July 2015, a judge of the Supreme Court of Russia dismissed the cassation on the basis that the lower courts had not incorrectly determined the facts of the case nor incorrectly applied relevant laws or procedures. The judge also stated that facilitating ART would require the use of financial and human resources to a degree exceeding the "obligations prescribed by norms" (для зачатия потребуется "задействование финансовых и человеческих ресурсов за границами нормативно-должного".) [Document 23]

**F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments**

	Explanation
37. Article invoked Article 8	<p>Russia has violated VK and NK's rights to respect for private and family life by refusing to allow them long or conjugal visits for a period of at least 10 years into NK's sentence. This refusal is a purely punitive measure that goes beyond the limitations that detention inherently places upon Article 8 rights and it is neither justified nor proportionate. No real attempt has been made to justify the measure in the individual case by reference to the aims of criminal justice in Russia or to any international norms and standards relevant to incarceration and rehabilitation, nor has there been any fair balancing of the interests of NK and VK versus those of the wider society. The violation does not further any legitimate aim, and is not necessary in a democratic society (see judgment in Khoroshenko 41418/04).</p>
Article 12	<p>Russia has effectively refused to allow NK and VK to start a family via the use of ART. The reasons given for refusal are inconsistent and contradictory, indicating either that a blanket policy exists which is disproportionate and arbitrary in that it fails to allow adequate consideration of the individual case; or that there has been no, or no adequate, consideration in this case, such that no fair balance has been struck between the competing interests. The refusal is arbitrary, unnecessary, and disproportionate, either to any public policy aims it purports to be pursuing, or, alternatively to any legitimate public policy aim that Russia could pursue in the circumstances, such that no fair balance has been struck between the competing interests and Russia's actions fall outside the margin of appreciation (see judgments of the Court in Khoroshenko 41418/04 and Dickson 46 EHRR 927).</p>
Articles 6 and 13	<p>The Russian national courts failed, whether adequately or at all, to address the applicants' arguments regarding applicability of the Convention in their determinations in the national proceedings. Further, despite the fact that the violations complained of were (and are) continuing, the national courts held that the complaints against the decisions by the FSIN and the Correctional Colony were out of time. These both represented violations of Article 6 in that the failure of the Russian court to address the applicants' main arguments which were based on the Convention's principles, or to treat the complaints as admissible despite continuing violations, rendered those proceedings unfair, contrary to Article 6(1). This deprived VK and NK of an effective remedy, contrary to Article 13.</p>
Article 3	<p>The Babushkin district court stated that when committing a crime NK should have been aware that he would be sent to prison and would forfeit certain of his rights. The way that this statement is expressed in the judgment indicates that the court viewed the interference with NK's Article 8 rights as an integral part of his punishment: "Taking into account the seriousness of the crimes committed by [NK] ... the punishment given to [NK] and the limitations connected to it are proportionate to the crime committed and [the punishment] is just punishment ("кара") for crimes committed by him...". The word used in Russian ("кара") means vengeance or retribution rather than "just punishment". Using a violation of a fundamental right as an aspect of punishment in this way amounts to "inhuman or degrading treatment or punishment" contrary to Article 3.</p>
Article 7	<p>Alternatively, given that this was not stated when NK was initially sentenced, the court's determination that the violation of NK's Article 8 rights constituted part of his punishment represented a retrospective additional punishment contrary to Article 7 (1): "...Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed."</p>



**G. For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the six-month time-limit.**

38. Complaint

Articles 3 and 7, 8 and 12, 6 and 13

Information about remedies used and the date of the final decision

NK and VK brought proceedings complaining of the effective refusal to permit the use of ART before the Babushkin District Court, [Document 14].

The Babushkin District Court rejected the claim on 25 December 2014 [Document 17]. NK and VK also submitted a claim regarding the denial of long/conjugal visits: this was not dealt with by the Court but was allowed to be attached to the Court file [Document 16].

Thereafter an appeal was pursued to the Moscow City Court [Document 18].

Moscow City Court rejected the appeal in its decision of 26 March 2015 [Document 19].

On 30 April 2015, NK and VK filed a cassation to the Presidium of Moscow City Court. [Document 20]

On 13 May 2015, a judge of the Moscow City Court dismissed the cassation [Document 21].

On 22 June 2015, NK and VK filed a cassation to the Supreme Court of Russia [Document 22]

On 31 July 2015, a judge of the Supreme Court of Russia dismissed the cassation [Document 23].





**I. List of accompanying documents**

You should enclose full and legible *copies* of all documents.

No documents will be returned to you. It is thus in your interests to submit copies, not originals.

You **MUST**:

- arrange the documents in order by date and by procedure;
- number the pages consecutively;
- **NOT** staple, bind or tape the documents.

45. In the box below, please list the documents in chronological order with a concise description.

1. VK and NK marriage certificate 09.09.2009.
2. Letter from FSIN YaNAO # 81/TO/1-K-24, re long visits May 2014.
3. Letter from VK requesting screening and collection of biological material 05.05.14.
4. Letter from Department of Ministry of Health of YaNAO, #1801-18/410 re ART 26.05.14.
5. Letter from FSIN, Department of Medical Sanitary Provision, #OG-22-13085, re ART 27.05.14
6. Letter from FSIN, #81/TO/3/3-K-19, re facilities and license for ART 04.06.14.
7. Letter from VK to FSIN re transfer to Yekaterinburg for screening and ART 26.06.14.
8. Letter from FSIN, #81/TO/25-K-29, refusing transfer 09.07.14.
9. Letter from VK requesting sperm collection from correctional colony 11.08.14.
10. Letter from FSIN, #81/TO/25-K-35, dated 08.09.2014 rejecting request for assistance with ART.
11. Letter from FSIN, #og-5-24528, dated 10.09.2014, refusing transfer.
12. Letter from FSIN, # OG-5-28106, dated 09.10.2014 re provision of ART and long visits.
13. Letter from medical institute in Yekaterinburg, # 01-09/01-1859, re collection of biomaterial 22.10.14.
14. Statement of Claim of V. Koroleva and N. Korolev to Babushkin District Court of Moscow 14.11.14
15. Letter from MinHealth, #15-4/4921-07, re sperm viability 24.12.14.
16. Additional Statement of Claim of V. Koroleva and N. Korolev to Babushkin District Court of Moscow 25.12.14
17. Judgment of Babushkin District Court 25.12.14
18. Appeals to Moscow City Court 23.01.15
19. Appeal Judgment of Moscow City Court 26.03.15.
20. Cassation to the Presidium of Moscow City Court 30.04.15.
21. Moscow City Court decision on cassation 13.05.15.
22. Cassation to the Supreme Court of Russia 22.06.15.
23. Supreme Court of Russia decision on cassation 31.07.15.
- 24.
- 25.

**Any other comments**

Do you have any other comments about your application?

46. Comments

Because (a) the complaint includes an Article 3 allegation; (b) the First Applicant's health is suffering during his imprisonment; (c) the fertility of the Second Applicant and her husband will likely diminish over time, such that even if the Russian authorities were in due course to reverse their decision and allow conjugal visit or facilitate access to ART, it might prove too late, the Applicant requests that this case be treated as a priority case.

**Declaration and signature**

I hereby declare that, to the best of my knowledge and belief, the information I have given in the present application form is correct.

47. Date

1	0	0	9	2	0	1	5
D	D	M	M	Y	Y	Y	Y

 e.g. 27/09/2012

The applicant(s) or the applicant's representative(s) must sign in the box below.

48. Signature(s)  Applicant(s)  Representative(s) - tick as appropriate

**Confirmation of correspondent**

If there is more than one applicant or more than one representative, please give the name and address of the one person with whom the Court will correspond.

49. Name and address of  Applicant  Representative - tick as appropriate

620075, Russia, Yekaterinburg, Turgenev Street, 11-1 (Sverdlovsk regional non-governmental organization "Sutyajnik")

**The completed application form should be signed and sent by post to:**

The Registrar  
European Court of Human Rights  
Council of Europe  
67075 STRASBOURG CEDEX  
FRANCE