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

THIRD SECTION

DECISION

Application no. 53819/16
Arbi Khamzatovich DANDAYEV against Russia
and 6 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 30 June 2022 as a Committee composed of:

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having deliberated, decides as follows:

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on the various dates indicated in the appended table

2. The Russian Government ("the Government") were given notice of the applications.

FACTS

3. The list of applicants is set out in the appended table.

4. The applicants complained of their or their relative's (a detainee) allocation or transfer to a remote penal facility irrespective of family life considerations. They also complained under Article 13 of the Convention about the lack of an effective domestic remedy to complain about the allocation or transfer to a remote penal facility.

THE LAW

I. JOINDER OF THE APPLICATIONS

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

II. ALLEGED VIOLATION OF ARTICLES 8 AND 13 OF THE CONVENTION

6. The applicants complained of their or their relative's allocation or transfer to a remote penal facility irrespective of family life considerations. They relied on Articles 8 and 13 of the Convention, which read, in so far as relevant, as follows:

Article 8

"1. Everyone has the right to respect for his private ... life ....

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 13

"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."

7. The Court reiterates that in its recent decisions of *Dadusenko and Others v. Russia* ((dec.), no. 36027/19 and 3 others, 7 September 2021) and *Tamamshev and Others v. Russia* ((dec.) [Committee], nos. 57368/19 and 59831/19, §§ 22-23, 7 September 2021), it has accepted that the Russian Code of Execution of Criminal Sentences (the "CES") as amended on 1 April 2020 (effective as of 29 September 2020) provided for an effective remedy for the complaints about the breaches of Article 8 of the Convention, as regards allocation or transfer of prisoners to a remote penal facility irrespective of family life considerations, and, having dismissed those complaints for the applicants' failure to exhaust a new remedy, it has declared that it will apply that approach to all similar applications pending before the Court (see *Dadusenko and Others*, cited above, §§ 25-34).

8. Having examined all the material before it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility of these complaints. It therefore considers that, in so far as the applicants have lodged prima facie well-founded complaints, the amended CES affords them an opportunity to obtain adequate redress by lodging a

transfer request with the Federal Service of Execution of Sentences and/or challenging the proportionality of the refusal of transfer in court. Accordingly, the applicants should exhaust this remedy before their complaints can be examined by the Court. It follows that these complaints under Article 8 of the Convention should be declared inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

9. The Court has found above that the applicants have an effective remedy at their disposal which they have been required to use for the purpose of Article 35 § 1 of the Convention. Accordingly, their complaints under Article 13 of the Convention must be rejected as being manifestly ill-founded within the meaning of Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 21 July 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Article 8 § 1 of the Convention
(allocation or transfer to a remote penal facility irrespective of family life considerations)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Detention facility	Family member	Place of residence of the family member	Approximate distance between the facility and the place of residence of the family members (in km)	Other complaints under well-established case-law
1.	53819/16 03/08/2016	**Arbi Khamzatovich DANDAYEV** 1974	Bokareva Valentina Aleksandrovna Moscow	IK-56 Sverdlovsk Region	father, mother, wife, children	Chechnya	3,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
2.	12298/19 30/01/2019 (3 applicants)	Household **Anton Aleksandrovich SULIMOV** 1983 **Antonina Viktorovna SULIMOVA** 1961 **Irina Aleksandrovna ULYANOVA** 1981		IK-18 Yamalo-Nenetsk Region	the first applicant is an inmate, the second applicant is his mother, the third applicant is his sister	Balakovo, Saratov Region	3,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
3.	59848/19 05/11/2019	**Valentina Grigoryevna BOBYLEVA** 1965		IK-6 Khabarovsk Region	the applicant is the mother of an inmate who is detained in the facility indicated in the table	Staryy Onokhoy, Buryatia Republic	3,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Detention facility	Family member	Place of residence of the family member	Approximate distance between the facility and the place of residence of the family members (in km)	Other complaints under well-established case-law
4.	6853/20 14/01/2020	**Orif Tolibovich ISMAILOV** 1989	Kudryavtsev Aleksey Gennadyevich Kolpino	IK-5 Orenburg Region	child, father, wife	Leningrad Region	2,500	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
5.	14958/20 04/03/2020 (5 applicants)	Household **Marina Nikolayevna SAMOFALOVA** 1963 **Irina Yuryevna KRAYEVA** 1988 **Konstantin Yuryevich SAMOFALOV** 1984 **Maksim Yuryevich SAMOFALOV** 1986 **Yuriy Vasilyevich SAMOFALOV** 1961		IK-18 Yamalo-Nenetsk Region	the applicants are mother, father, brother, and sister of an inmate, also the applicant in the present case	Verkhnyaya Pyshma, Sverdlovsk Region	2,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony.

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Detention facility	Family member	Place of residence of the family member	Approximate distance between the facility and the place of residence of the family members (in km)	Other complaints under well-established case-law
6.	30398/20 25/06/2020 (4 applicants)	Household **Nelya Petrovna VODOVEVICH** 1996 **Petr Vladimirovich PIDGURSKIY** 1963 **Vladimir Petrovich PIDGURSKIY** 1998 **Yelena Alekseyevna PRUTSKOVA** 1973		IK-6 Khabarovsk Region	the applicants are brother, sister, mother and father of a detainee – Mr Pidgurskiy (application no. 53624/18)	Beya, Khakassia Republic	5,000	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony
7.	2166/21 20/11/2020	**Yevgeniy Yuryevich VIKHAREV** 1986		IK-6 Khabarovsk Region	the applicant is the brother of a detainee	Sverdlova village, Vsevolozhskiy District, Leningrad Region	9,000	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony