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

THIRD SECTION

DECISION

Application no. 12705/21
Igor Petrovich FADEYEV
against Russia
(see appended table)

The European Court of Human Rights (Third Section), sitting on 13 February 2025 as a Committee composed of:

Diana Kovatcheva*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 27 August 2019,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant's complaint under Article 8 of the Convention concerning the allocation or transfer to a remote penal facility irrespective of family life considerations was communicated to the Russian Government ("the Government"). A complaint based on the same facts was also communicated under other provisions of the Convention.

THE LAW

A. Complaint under Articles 8 of the Convention (allocation or transfer to a remote penal facility irrespective of family life considerations)

The applicant complained of a violation of his right to respect for family life on account of his allocation to a remote penal facility. He relied on Article 8 of the Convention.

In its recent decision of *Dadusenko and Others v. Russia* ((dec.), no. 36027/19 and 3 others, 7 September 2021), the Court has examined similar applications lodged by Russian applicants and declared them inadmissible for non-exhaustion of domestic remedies. The Court took into account the amendments to the relevant provisions of the Code on the Execution of Criminal Sentences ("CES") entered into force in Russia in 2020. In particular, the convicted persons' family situation was now expressly listed as one of the factors to be considered at the time of their initial allocation to a penitentiary facility (Article 73 §§ 1, 2 and 2.1 of the CES) and it was possible for convicted persons to request a transfer to another penitentiary institution located closer to the place of residence of their family members (Article 81 § 2). The Court considered that the applicants had at their disposal a new remedy allowing the national authorities to restore at the domestic level their rights envisaged by Article 8. The Court was particularly mindful of the fact that the aforementioned reform had been adopted in response to its previous judgments and in order to provide the national authorities with an opportunity to put matters right at domestic level, thus preventing numerous repetitive applications before it. This justified departure from the rule that the assessment of whether domestic remedies had been exhausted was normally carried out with reference to the date on which the application was lodged.

Accordingly, even though the domestic remedy was not available to the applicant at the time when he applied to the Court, the situation justifies a departure from the general rule on exhaustion and requires the applicant to have recourse to that remedy.

Having regard to the above considerations, the Court concludes that the applicant's complaint under Article 8 of the Convention should now be declared inadmissible for non-exhaustion of domestic remedies and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention.

B. Remaining complaints

The applicant also raised another complaint about inadequate conditions of detention under strict imprisonment regime pursuant Article 3 of the Convention.

The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, this complaint does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 6 March 2025.

Viktoriya Maradudina
Acting Deputy Registrar

Diana Kovatcheva
President

APPENDIX

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

Application no. Date of introduction	Applicant's name Year of birth	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)
12705/21 27/08/2019	**Igor Petrovich FADEYEV** 1972	IK-6 Khabarovsk Region	father, sister, brother	Father: Khanty-Mansiysk Region, Yugorsk Town Brother and sisters: Amur Region, Zavitinsk Town	Khanty-Mansiysk Region: 6,886 Amur Region: 1,000