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

THIRD SECTION

DECISION

Application no. 38277/18
Rustam Khamidovich KATTAYEV against Russia
and 3 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 25 August 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:

FACTS AND PROCEDURE

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

The applicants' complaints under Article 8 of the Convention concerning allocation or transfer to a remote penal facility irrespective of family life considerations were communicated to the Russian Government ("the Government"). Complaints based on the same facts were also communicated under other provisions of the Convention.

THE LAW

A. Joinder of the applications

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

B. Alleged violations of Articles 8 and 13 of the Convention

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 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 and family 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."

On different dates the parties informed the Court that the applicants or their detained relatives were transferred to other facilities closer to their family residence (for more details see the appended table).

The Court observes that Article 37 § 1 b) enables it to strike a case out of its list if:

"(b) the matter has been resolved; ...".

Thus, it may strike out applications under Article 37 § 1 b) if it considers that the matter has been resolved as a result of the measures taken by the respondent Government in order to redress the situation complained of by the applicant (see, in particular, *Association SOS Attentats and de Boery v. France* (dec.) [GC], no. 76642/01, § 32, ECHR 2006 XIV).

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 Articles 8 and 13 of the Convention, as regards allocation or transfer of prisoners to a remote penal facility irrespective of family life considerations (see *Tamamshev and Others*, cited above, § 22).

Following the adopted measures, the applicants or their detained relatives could apply for transfer and were transferred to the penal facilities closer to their family members, on the dates indicates in the Appendix. The Court is thus satisfied that the combination of general and individual measures adopted in the applicants' case amounts to sufficient redress for a breach of their right to respect of their family life (see *Tamamshev and Others*, cited above, § 23).

In the light of the above, the Court considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the applications in this part under Article 37 § 1 *in fine*.

Accordingly, the applications in the part related to the applicants' complaints under Articles 8 and 13 of the Convention should be struck out of the list.

C. Remaining complaints

In application no. 38277/18 the applicant also raised a complaint under Articles 3 and 13 of the Convention in respect of his conditions of transport on two occasions in August 2018. The Court has examined this complaint 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 either does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

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,

Decides to join the applications;

Decides to strike the applications out of its list of cases as regards the complaints under Articles 8 and 13 of the Convention related to the allocation or transfer to a remote penal facility irrespective of family life considerations;

Declares the remainder of application no. 38277/18 inadmissible.

Done in English and notified in writing on 15 September 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	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	Date of transfer and facility
1.	38277/18 18/12/2018	**Rustam Khamidovich KATTAYEV** 1990	IK-5 Krasnoyarsk Region	The applicant is a detainee, his relative is his wife	Yurlovo, Solnechnogorskiy Districty of the Moscow Region	4,000	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony,	11/08/2019 IK-2 Kaluga Region
2.	12156/20 15/02/2020	**Andrey Vladimirovich YUDIN** 1979	IK-37 Perm Region	The applicant is a detainee, his relatives are: mother, child, wife, father	Moscow	1,500		08/07/2021 IK-3 Ryazan Region
3.	35488/20 27/07/2020	**Mikhail Yuryevich BORISOV** 1974	IK-8 Komi Republic	The applicant is a detainee, his relatives are: child, mother	St Petersburg	1,600	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote detention facility -	13/04/2021 IK-3 Leningrad Region
4.	7530/21 15/01/2021	Household **Olga Viktorovna KOTOVA** 1971 **Elvira Aleksandrovna KOTOVA** 1996	IK-10 Perm Region	The applicants are wife and child of a detainee whose application no. 40813/18 has already been examined by the Court	Irkutsk Region, Angarsk	3,700		20/11/2021 IK-3 Irkutsk Region