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

THIRD SECTION

DECISION

Application no. 33856/17
Ilgiz Yagafarovich KHALIKOV against Russia
and 4 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 15 September 2022 as a Committee composed of:

Darian Pavli*, President,*
Andreas Zünd*,*
Frédéric Krenc*, 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 regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

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

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention after conviction were communicated to the Russian Government ("the Government"). Some of the applicant further referred to Article 13 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. Complaints under Articles 3 and 13 of the Convention (inadequate conditions of detention after conviction and alleged lack of a domestic remedy in that regard)

In the present applications, the applicants complained of conditions of their post-conviction detention in violation of the national requirements during periods which had already come to an end (for further details see the appended table). Some of them also argued that they did not have an effective domestic remedy to complain about those conditions at the national level. Articles 3 and 13 read as follows:

Article 3
Prohibition of torture

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 13
Right to an effective remedy

> "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."

The Government submitted their observations, having disputed the violations alleged. On 10 January 2020 the Government submitted additional information about the new Compensation Act and asked to treat it as a new remedy in respect of conditions of detention complaints under Articles 3 and 13 of the Convention.

The Court has recently held that applicants are required to make use of the newly introduced compensatory remedy in respect of improper conditions of past correctional detention in breach of the domestic standards (see *Shmelev and Others v. Russia* (dec.), no. 41743/17, §§ 153-57, 17 March 2020). In the present case, the applicants complained about the conditions of their post-conviction detention which were, as indicated by the applicants, below the national standard of two square metres per person. Therefore, there are no circumstances which could justify the applicants' failure to have recourse to the new compensatory remedy.

It follows that the complaints under Article 3 of the Convention must be rejected for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention.

In so far as the applicants refer to Article 13 of the Convention, the Court, having regard to its conclusion concerning Article 3, finds that no separate issue arises under this provision. It finds that this complaint is manifestly ill-founded within the meaning of Article 35 §§ 3 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 13 October 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Article 3 of the Convention (inadequate conditions of detention after conviction)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Inmates per brigade Sq. m per inmate Number of toilets per brigade	Specific grievances	Other complaints
1.	33856/17 09/08/2017	**Ilgiz Yagafarovich KHALIKOV** 1969		IK-1 Sverdlovsk Region 11/07/2015 - 05/07/2019 3 year(s) and 11 month(s) and 25 day(s)	<2 m²	overcrowding, lack of fresh air, no or restricted access to shower, sharing cells with inmates infected with contagious disease, lack of or insufficient physical exercise in fresh air, disruption of sleep by facility officials, poor ecological situation of the facility	
2.	33931/17 18/04/2017	**Yuriy Aleksandrovich RYBAKIN** 1984		IK-5 Krasnoyarsk Region 10/06/2016 - 17/01/2022 5 year(s) and 7 month(s) and 8 day(s)	180 inmate(s) 1.3 m² 7 toilet(s)	lack of privacy for toilet, no or restricted access to running water, inadequate temperature, insufficient number of sleeping places, lack of or inadequate hygienic facilities, lack or inadequate furniture	Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention
3.	14366/18 06/03/2018	**Dilovar Kamarovich GULOMOV** 1985		IK-11 Nizhniy Novgorod Region 01/12/2014 - 27/08/2018 3 year(s) and 8 month(s) and 27 day(s)	20 inmate(s) 1.8 m²	use of educational room for habitation, lack of tables, no ventilation, lack of fresh air, inadequate temperature, no or restricted access to toilet, no or restricted access to running water, infestation of cell with insects/rodents, overcrowding during the walk, lack of requisite medical assistance, poor quality of food, lack or inadequate furniture, mouldy or dirty cell	Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention
4.	18338/18 03/08/2017	**Leonid Aleksandrovich KARMANNIKOV** 1985		OIK-36 IK-5 Krasnoyarsk Region 26/09/2016 - 29/05/2017 8 month(s) and 4 day(s)	155 inmate(s) 1-1.2 m² 7 toilet(s)	no or restricted access to toilet, lack of or inadequate hygienic facilities	Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention
5.	27882/18 15/05/2018	**Andrey Yuryevich CHUYKOV** 1979	Sergey Vasilyevich Belous Nizhekamsk	IK-6 Chuvashia Republic 22/10/2000 - 20/04/2018 17 year(s) and 5 month(s) and 30 day(s)	1-1.5 m²	overcrowding, lack of requisite medical assistance, inadequate temperature, no or restricted access to running water, lack of privacy for toilet, no or restricted access to warm water, mouldy or dirty cell, lack of or inadequate hygienic facilities, lack of ventilation, poor quality of food, no access to sport's facilities	