

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

THIRD SECTION

DECISION

Application no. 33204/18
Igor Nikolayevich KOZLOV and Others against Russia
and 8 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 8 March 2022 as a Committee composed of:

Darian Pavli, *President,*
Peeter Roosma,
Mikhail Lobov, *judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the applicants listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to give notice of the complaints concerning allocation or transfer to a remote penal facility to the Russian Government ("the Government") initially represented by Mr M. Galperin, former Representative of the Russian Federation to the European Court of Human Rights, and later by his successor in that office Mr M. Vinogradov;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicants are prisoners serving prison sentences of various terms, including life sentences, and their family members. The relevant details pertaining to each application are set out in the table below.

2. The applicants complain of the allocation or transfer to a remote penal facility irrespective of family life considerations. Some of the applicants (see the appended table) also argue that they do not have an effective domestic remedy at the national level to complain about such allocation or transfer.

3. On 28 October 2021 the Government submitted information about the amendments to the Russian Code of Execution of Criminal Sentences (the "CES") and asked to treat the new legislative provisions as introducing a new remedy in respect of the applicants' complaints. They asked the Court to declare the complaints under Article 8 of the Convention inadmissible for the applicants' failure to exhaust an effective domestic remedy in respect of their grievances. Some of the applicants submitted comments, questioning the effectiveness of the newly introduced remedy.

THE COURT'S ASSESSMENT

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

5. The Court reiterates that in its recent decision of *Dadusenko and Others v. Russia* ((dec.), no. 36027/19 and 3 others, 7 September 2021), it has accepted that 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 (ibid., §§ 25-34). The Court has already adopted similar approach in cases in which a contracting State had introduced a special remedy, notably following the adoption of a leading judgment identifying a large-scale problem, and declared inadmissible repetitive applications once a remedy capable of remedying a structural problem was put in place in the domestic legal order (see ibid., § 24 ; *Nagovitsyn and Nalgiyev v. Russia* (dec.), nos. 27451/09 and 60650/09, 23 September 2010, and *Tekin and Baysal v. Turkey* (dec.), nos. 40192/10 and 8051/12, §§ 25-28, 4 December 2018, with the references therein).

6. It also reiterates, relying on the decision taken by the Supreme Court of the Russian Federation in respect of an application for transfer lodged by a person serving a life sentence, that the relevant provisions of the CES concerning the allocation of prisoners to post-conviction detention facilities provide for a possibility for prisoners serving a life sentence to apply for a transfer to another penal facility in order to maintain their family ties (ibid., § 28, and see also *Tamamshev and Others v. Russia* (dec.) [Committee], nos. 57368/19 and 59831/19, §§ 22-23, 7 September 2021).

7. In the present applications, 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 through the judicial procedure. 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.

8. 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 28 July 2022.

Olga Chernishova Deputy Registrar	Darian Pavli 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	Other complaints
1.	33204/18 21/06/2018 (4 applicants)	Household **Igor Nikolayevich KOZLOV** 1967 **Aleksandr Igorevich KOZLOV** 1989 **Marina Aleksandrovna KOZLOVA** 1964 **Tamara Nikolayevna KOZLOVA** 1941		IK-6 Khabarovsk Region	the first applicant is the inmate serving a life sentence, the second applicant is the mother of the inmate, the third applicant is the wife of the inmate, the fourth applicant is the son of the inmate	Chelyabinsk, Chelyabinsk Region	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
2.	42756/18 24/08/2018	**Yuriy Vitalyevich IVCHENKO** 1975		IK-3 Yamalo-Nenetskiy Region	mother	St Petersburg	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
3.	43892/18 01/09/2018	Household **Yevgeniya Aleksandrovna CHERKASSKAYA** 1947 **Oleg Leonidovich CHERKASSKIY** 1969		IK-6 Orenburg Region	the first applicant is the mother of an inmate; the second applicant is an inmate serving a life sentence	Petrozavodsk, Kareliya Republic	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	Other complaints
4.	48387/18 20/09/2018	Household **Aleksandr Vladimirovich FEDYUSHIN** 1964 **Mariya Andreyevna FEDYUSHINA** 1936		IK-18 Yamalo-Nenetskiy Region	the first applicant is an inmate serving a life sentence, the second applicant is his mother	Kurgan Region	
5.	48673/18 26/09/2018	**Vadim Fedorovich POSTONOGOV** 1988	Gaynutdinova Yuliya Sergeyevna Kazan	IK-6 Khabarovsk Region	mother (the applicant's son is serving a life sentence)	Toykino, Perm Region	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
6.	48800/18 30/09/2018	**Kristina Konstantinovna NOVOZHILOVA** 2004		IK-6 Orenburg Region	father, (the applicant's father is serving a life sentence)	Vorogovo, Krasnoyarsk Region	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote facility
7.	52112/18 25/10/2018 (3 applicants)	Household **Valentina Vasilyevna KOTOVA** 1951 **Olga Viktorovna GOLUB** 1973 **Viktor Aleksandrovich KOTOV** 1951	Golub Olga Viktorovna Suzemka	IK-1 Krasnoyarsk Region	the first and the third applicants are the parents of an inmate who serves his sentence in the colony indicated in the present table, the second applicant is his sister	Bryansk Region	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony
8.	3623/19 03/01/2019	**Alena Nikolayevna PLYUSNINA** 1982		IK-6 Orenburg Region	the applicant's brother is an inmate serving a life sentence	Bryansk Region	
9.	5569/19 28/12/2018	**Ivan Aleksandrovich ANDREYEV** 1985	Egle Denis Sergeyevich Krasnoyarsk	IK-17 Krasnoyarsk Region	mother, sister, wife	Belozyersk, Buryatiya Republic	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony