

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

THIRD SECTION

DECISION

Applications nos. 56333/18 and 56537/18
Andrey Denisovich LAPTEV against Russia
and Nikolay Viktorovich LUKICHEV against Russia
(see appended table)

The European Court of Human Rights (Third Section), sitting on 15 September 2022 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 deliberated, decides as follows:

FACTS AND PROCEDURE

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

The applicants were represented by Mr A. Uvarov, a lawyer practising in Nizhniy Tagil.

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"). Complaints based on the same facts were also communicated under 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 Article 3 of the Convention (inadequate conditions of detention after conviction) and under Article 13 of the Convention (lack of an effective remedy)

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). They 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:

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."

On 10 January 2020 the Government submitted 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 earlier 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 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
1.	56333/18 06/11/2018	**Andrey Denisovich LAPTEV** 1995	Aleksandr Leonidovich Uvarov Nizhniy Tagil	IK-54 Sverdlovsk Region 20/12/2014 - 04/11/2020 5 year(s) and 10 month(s) and 16 day(s)	1.8 m²	mouldy or dirty cell, no or restricted access to toilet, poor quality of food, lack of or insufficient physical exercise in fresh air, lack of or insufficient electric light, lack of fresh air
2.	56537/18 06/11/2018	**Nikolay Viktorovich LUKICHEV** 1995	Aleksandr Leonidovich Uvarov Nizhniy Tagil	IK-54 Sverdlovsk Region 01/11/2015 - 05/03/2021 5 year(s) and 4 month(s) and 5 day(s)	100 inmate(s) 1.9 m²	lack of fresh air, lack of or insufficient electric light, sharing cells with inmates infected with contagious disease, poor quality of food, overcrowding