

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

THIRD SECTION

DECISION

Application no. 63375/19
Roman Nikolayevich LASHKO against Russia
and 9 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 3 May 2022 as a Committee composed of:

Darian Pavli, *President,*
Andreas Zünd,
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 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 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 (*Dadusenko and Others*, cited above, §§ 25-34).

6. 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 by lodging a transfer request with the Federal Service of Execution of Sentences and/or challenging the proportionality of the refusal of transfer in court. 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.

7. 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	Detention facility	Family member	Place of residence of the family member	Other complaints under well-established case-law
1.	63375/19 27/01/2020	**Roman Nikolayevich LASHKO** 1975	IK-13 Novosibirsk Region	wife, child	Vinnikovo, Mikhaylovskiy District of the Amur Region	
2.	18038/20 08/07/2020	**Aleksey Viktorovich KOSTIN** 1988	IK-5 Krasnoyarsk Region	wife, mother, sister, child	Amur Region, Belogorsk	
3.	26932/20 08/06/2020	**Maksim Nikolayevich KONDRATYEV** 1978	IK-37 Perm Region	mother, wife, father, sister, children	Chita (parents, sister) Novosibirsk (wife, children)	
4.	27338/20 25/05/2020	**Roman Aleksandrovich MALTSEV** 1973	IK-6 Orenburg Region	mother, brother	Blagoveshchensk Amur Region	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote detention facility.
5.	30189/20 09/06/2020 and 48048/20 09/06/2020	**Household** **Nikolay Nikolayevich MIKHAYLOV** 1989 **Nikolay Nikolayevich MIKHAYLOV** 1989	IK-2 Perm Region	mother	Moscow	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote detention facility.
6.	33841/20 08/07/2020	**Anzor Khalidovich ISLAMOV** 1985	IK-5 Krasnoyarsk Region	mother, brothers, sister-in-law; nephews	Orenburg Region	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote detention facility.
7.	41386/20 26/08/2020	**Arsen Magomedovich ISMAILOV** 1992	IK-25 Komi Republic	mother, sisters, brother	Republic of Dagestan	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote detention facility.
8.	41845/20 27/09/2020	**Murat Musayevich GAZGIREYEV** 1978	IK-5 Krasnoyarsk Region	children, wife, mother, sister, brothers	Ingushetiya Republic	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote detention facility.
9.	44290/20 17/09/2020	**Andrey Viktorovich LOZHKIN** 1985	IK-6 Khabarovsk Region	wife, child, brother	Toykino, Perm Region	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote detention facility.