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

THIRD SECTION

DECISION

Application no. 35651/17
Aleksey Viktorovich MAGAZEYSHCHIKOV
against Russia
(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 application lodged on 16 May 2017,

Having regard to the interim measure indicated to the respondent Government under Rule 39 of the Rules of Court and the fact that this interim measure has been complied with,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Ms S.I. Sidorkina, a lawyer practising in Moscow.

On 20 June 2017 the Court acceded to the applicant's request to apply Rule 39 of the Rules of Court and indicated to the Government that the applicant should be provided with the adequate medical assistance.

The applicant's complaints under Articles 3 and 13 of the Convention concerning the inadequate medical treatment in detention and the lack of any effective remedy in domestic law were communicated to the Russian Government ("the Government").

THE LAW

The applicant complained that he had not received adequate medical assistance in respect of his medical conditions listed in the appended table and that he did not have any effective remedy in that connection. He relied on Articles 3 and 13 of the Convention, which read as follows:

Article 3

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

Article 13

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority ..."

The Court observes that the general principles regarding the quality of medical care in detention have been stated in several of its previous judgments (see, among many other authorities, *Blokhin v. Russia* [GC], no. 47152/06, §§ 135-40, ECHR 2016, and *Ivko v. Russia*, no. 30575/08, §§ 91-95, 15 December 2015).

The Court further reiterates that it adopts conclusions after evaluating all the evidence, including such inferences as may flow from the facts and the parties' submissions. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, for example, *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 121, 10 January 2012). In cases regarding conditions of detention and medical assistance in detention the burden of proof may, under certain circumstances, be shifted to the authorities (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000 VII, see also *Mathew v. the Netherlands*, no. 24919/03, § 156, ECHR 2005 IX). Nevertheless, an applicant must provide an elaborate and consistent account of the State's alleged failure to provide him with the required medical assistance, mentioning the specific elements which would enable the Court to determine that the complaint is not manifestly ill-founded or inadmissible on any other grounds.

Having examined the materials submitted, including extensive medical evidence submitted by the Government, the Court considers that the applicant received essential medical treatment in respect of his conditions. The defects in the quality of medical care alleged by the applicant are either insignificant or not supported by sufficiently strong evidence. They cannot be accepted by the Court. The Court also does not lose sight of the fact that following the application of the interim measure by it the Russian authorities ensured the applicant's proper medical examinations and testing (on several occasions) by relevant medical specialists in a civilian medical facility. The applicant's complaint under Article 3 of the Convention is thus manifestly ill-founded

and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

It is therefore also appropriate to discontinue the application of Rule 39 of the Rules of Court.

The Court further reiterates that Article 13 requires domestic remedies only with regard to complaints arguable in terms of the Convention (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131). Since the Court has found above that the applicant's complaint about the quality of the medical treatment in detention is manifestly ill-founded, no issue under Article 13 of the Convention arises in his case.

In view of the above, the complaint under Article 13 of the Convention should also be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible;

Decides to lift the interim measure indicated pursuant to Rule 39 of the Rules of Court.

Done in English and notified in writing on 13 October 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Articles 3 and 13 of the Convention (inadequate medical treatment in detention and lack of any effective remedy in domestic law)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Principal medical condition	Alleged shortcomings in medical treatment
35651/17 16/05/2017	**Aleksey Viktorovich MAGAZEYSHCHIKOV** 1962	Sidorkina Svetlana Ivanovna Moscow	Prostatic hypertrophy, cystoma, and chronic kidney disease.	Incomplete urological examination as identified in the expert report of 25/08/2017 and the specialist's opinions.