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

THIRD SECTION

DECISION

Application no. 46915/17
Aleksandr Nikolayevich MITYANIN
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 application lodged on 15 May 2017,

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 Mr A. Laptev, a lawyer practising in Moscow.

The applicant's complaints under Article 8 § 1 and Article 13 of the Convention concerning the allocation or transfer to a remote penal facility irrespective of family life considerations were communicated to the Russian Government ("the Government"). Another complaint arising out of the applicant's detention was also communicated under the Convention.

THE LAW

A. Alleged violations of Articles 8 and 13 of the Convention

The applicant complained of his allocation to a remote penal facility irrespective of family life considerations. He relied on Articles 8 and 13 of the Convention, which read, in so far as relevant, as follows:

Article 8

"1. Everyone has the right to respect for his private and family life ...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 13

"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 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 Russian Code of Execution of Criminal Sentences (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 (see *Dadusenko and Others*, cited above, §§ 25-34).

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 applicant has lodged prima facie well-founded complaints, the amended CES affords him 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 applicant should exhaust this remedy before his 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.

The Court has found above that the applicant has an effective remedy at his disposal which he has been required to use for the purpose of Article 35 § 1 of the Convention. Accordingly, his 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.

B. Remaining complaints

The applicant also raised the complaint under Article 3 of Protocol No. 1 to the Convention.

The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, this complaint either does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or does not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

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

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 8 § 1 of the Convention
(allocation or transfer to a remote penal facility irrespective of family life considerations)

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	Approximate distance between the facility and the place of residence of the family members (in km)
46915/17 15/05/2017	**Aleksandr Nikolayevich MITYANIN** 1971	Aleksey Nikolayevich Laptev Moscow	IK-18 Yamalo-Nentsk Region	The applicant is a detainee, his relatives are: mother, children.	Syktyvkar	1,500