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

FIFTH SECTION

DECISION

Application no. 31211/20
Marat Argamovych PETROSYAN against Ukraine
and 2 other applications
(see appended table)

The European Court of Human Rights (Fifth Section), sitting on 9 December 2021 as a Committee composed of:

Lətif Hüseynov, *President,*
Lado Chanturia,
Arnfinn Bårdsen, *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 regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

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

The applicants' complaints under Articles 3 and 13 of the Convention concerning the inadequate conditions of detention and the lack of any effective remedy in domestic law were communicated to the Ukrainian Government ("the Government").

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 Articles 3 and 13 of the Convention (inadequate conditions of detention and lack of any effective remedy in domestic law)

The Government submitted that when lodging their application with the Court to complain about their stay in poor conditions of detention, the applicants had failed to inform it that they had already been released or had been transferred to a different detention facility of which they did not complain. The release or transfer had occurred within a period of five days to more than a month preceding the lodging of the application with the Court. The Government therefore suggested that the Court reject the applications as an abuse of the right of individual application in accordance with Article 35 §§ 3 (a) and Article 4 of the Convention.

The applicants' representatives acknowledged the dates of the release or transfer as presented by the Government but provided no further explanation.

The Court reiterates that an application may be rejected as an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention if, among other reasons, it was knowingly based on false information or if significant information and documents were deliberately omitted, either where they were known from the outset or where new significant developments occurred during the proceedings. Incomplete and therefore misleading information may amount to an abuse of the right of application, especially if the information in question concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014; *S.A.S. v. France* [GC], no. 43835/11, § 67, ECHR 2014; and *Čaluk and Others v. Bosnia and Herzegovina* (dec.) [Committee], nos. 3927/15 and 63 others, §§ 18-19, 25 September 2018).

Turning to the present case, the Court observes that the applicants had been released or transferred to a different detention facility within a period of five days to more than a month before the application forms, as well as the authority forms, were signed and dispatched. However, in their application forms the applicants stated that they were still kept in the detention facilities mentioned in the table attached. This information remained unchanged until they received the Government's observations. Even in their comments on the Government's submissions, the applicants' representatives acknowledged the dates of the detention as presented by the Government but provided no explanation for the incorrect initial information.

Having regard to the fact that the misleading information concerned the very core of the applications, the Court finds that such conduct was contrary to the purpose of the right of individual application. Lawyers must understand that, having due regard to the Court's duty to examine allegations of human rights violations, they must show a high level of professional

prudence and meaningful cooperation with the Court by sparing it the introduction of unmeritorious complaints and, both before proceedings have been instituted and thereafter, they must inquire diligently into all the details of the case, meticulously abide by all the relevant rules of procedure and must urge their clients to do the same. Otherwise, the wilful or negligent misuse of the Court's resources may undermine the credibility of lawyers' work in the eyes of the Court and even, if it occurs systematically, may result in particular individual lawyers being banned from representing applicants under Rule 36 § 4 (b) of the Rules of Court (see *Stevančević v. Bosnia and Herzegovina* (dec.), no. 67618/09, § 29, 10 January 2017).

In the light of the foregoing, the Court considers that the present applications constitute an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention. They must therefore be rejected pursuant to Article 35 § 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 January 2022.

Viktoriya Maradudina	Lətif Hüseynov
Acting Deputy Registrar	President

APPENDIX

List of applications raising complaints under Articles 3 and 13 of the Convention (inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration
1.	31211/20 24/06/2020	**Marat Argamovych PETROSYAN** 1991	Rybiy Sergiy Mykolayovych Dnipro	Dnipro Detention Facility no.4 26/06/2017 to 19/06/2020 2 years and 11 months and 25 days
2.	6785/21 20/01/2021	**Oleg Oleksandrovych MEDYNSKYY** 1980	Vavrenyuk Oleksandr Volodymyrovych Pyatykhatky	Mykolayiv Pre-Trial Detention Facility 25/05/2017 to 11/01/2021 3 years and 7 months and 18 days
3.	8992/21 28/01/2021	**Ivan Vasylyovych MYTRUSHENKO** 1994	Vavrenyuk Oleksandr Volodymyrovych Pyatykhatky	Vinnytsya Detention Facility no. 1 29/12/2016 to 23/12/2020 3 years and 11 months and 25 days