

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

THIRD SECTION

DECISION

Application no. 20230/18
Yuriy Viktorovich ROMANENKO and Others against Russia
and 7 other applications
(see appended table)

The European Court of Human Rights (Third Section), sitting on 25 August 2022 as a Committee composed of:

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *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 complained of their or their relative's (a detainee) allocation or transfer to a remote penal facility irrespective of family life considerations. In some of the applications complaints based on the same facts were also communicated under other provisions 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. Alleged violations of Articles 8 and 13 of the Convention

The applicants complained of their or their relative's (a detainee) allocation or transfer to a remote penal facility irrespective of family life considerations. They 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 the 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 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.

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.

C. Remaining complaints

In application no. 56918/18 the applicant also raised a complaint under Article 3 of the Convention. The Court has examined this complaint 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,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 15 September 2022.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	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	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)	Other complaints under well-established case-law
1.	20230/18 07/04/2018 (7 applicants)	Household **Yuriy Viktorovich ROMANENKO** 1966 **Yelena Aleksandrovna AGUREYEVA** 1977 **Valentina Dmitriyevna KORYABINA** 1930 **Aleksandra Yuryevna ROMANENKO** 2006 **Alena Yuryevna ROMANENKO** 1989 **Daniil Vadimovich ROMANENKO** 2006 **Olga Alekseyevna ROMANENKO** 1966	Romanenko Lyudmila Viktorovna Tulun	IK-6 Khabarovsk Region	The first applicant is a detainee, the remaining applicants are: wife, children, grandson and aunt	Tulun, Irkutsk Region	3,400	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote facility

No.	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)	Other complaints under well-established case-law
2.	56918/18 09/11/2018	**Anatoliy Leonidovich POROSHIN** 1989	Zakharova Larisa Viktorovna Yekaterinburg	IK-5 OIK-36 Krasnoyarsk Region	The applicant is a detainee, his relative is his father	Novaya Lyalya, Sverdlovsk Region	2,600	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony
3.	50117/19 16/09/2019	**Viktor Gennadyevich BARDAKOV** 1979		IK-8 Komi Republic	The applicant is a detainee, his relatives are: wife, child, sister	Volgograd Region	3,000	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony
4.	64106/19 22/11/2019	**Roman Leonidovich CHERNYSHEV** 1988		IK-6 Khabarovsk Region	The applicant is a detainee, his relatives are: mother, wife, child, father, brother, sister	Zaigrayevskiy district, Republic of Buryatia	3,000	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony
5.	18123/20 18/03/2020	**Viktor Aleksandrovich MYSIN** 1978		IK-18 Yamalo-Nenetskiy Region	The applicant is a detainee, his relatives are: mother, father, wife, children, brother	Amursk, Khabarovsk Region	>8,000	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote facility
6.	19481/20 12/05/2020	**Nurlan Vyacheslavovich USHAKOV** 1988		IK-5 Vologda Region	The applicant is a detainee, his relatives are: mother, brother, sister	Orsk, Orenburg Region	2,200	Art. 13 - lack of any effective remedy in domestic law in respect of allocation to a remote colony
7.	49619/20 18/11/2020	**Murat Kachakovich AKAVOV** 1968		IK-5 Krasnoyarsk Region	The applicant is a detainee, his relatives are: wife, child, brother, sister	Moscow Region	4,000	
8.	8336/21 15/01/2021	**Mikhail Sergeyevich ZAKHARIN** 1979		IK-18 Yamalo-Nenetskiy Region	The applicant is a detainee, his relatives are: brother, mother, sister, wife, child	Bratsk, Irkutsk Region	4,500	