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

THIRD SECTION

DECISION

Application no. 11449/18
Oskar Temurovich YUSUPOV
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 5 February 2018,

Having regard to the observations submitted by the respondent Government,

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 V. Prokofyeva, a lawyer practising in St Petersburg.

The applicant's complaints under Article 3 of the Convention concerning the inadequate conditions of detention after conviction were communicated to the Russian Government ("the Government"). Complaints based on the same facts were also communicated under Article 13 the Convention.

THE LAW

In the present application, the applicant complained of conditions of his post-conviction detention in violation of the national requirements during the period which had already come to an end (for further details see the appended table). He also argued that he did not have an effective domestic remedy to complain about those conditions at the national level. Articles 3 and 13 read:

Article 3

Prohibition of torture

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

Article 13

Right to an effective remedy

"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."

On 10 January 2020 the Government submitted information about the new Compensation Act and asked to treat it as a new remedy in respect of conditions of detention complaints under Articles 3 and 13 of the Convention.

The Court has earlier held that applicants are required to make use of the newly introduced compensatory remedy in respect of improper conditions of past correctional detention in breach of domestic standards (see *Shmelev and Others v. Russia* (dec.), no. 41743/17, §§ 153-57, 17 March 2020). In the present case, the applicant complained about the conditions of his post-conviction detention which were, as indicated by him, below the national standard of two square metres per person. Therefore, there are no circumstances which could justify the applicant's failure to have recourse to the new compensatory remedy.

It follows that the complaints under Article 3 of the Convention must be rejected for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention.

In so far as the applicant refers to Article 13 of the Convention, the Court, having regard to its conclusion concerning Article 3, finds that no separate issue arises under this provision. It finds that this complaint is manifestly ill-founded within the meaning of Article 35 §§ 3 and 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
Acting Deputy Registrar

Darian Pavli
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	Facility Start and end date Duration	Inmates per brigade Sq. m per inmate Number of toilets per brigade	Specific grievances
11449/18 05/02/2018	**Oskar Temurovich YUSUPOV** 1981	Viktoriya Pavlovna Prokofyeva St Petersburg	IK-7 St Petersburg 03/03/2016 to 15/08/2017 1 year(s) and 5 month(s) and 13 day(s)	55 inmate(s) 1.4 m² 2 toilet(s)	lack of or inadequate hygienic facilities, no or restricted access to shower, lack of or poor quality of bedding and bed linen, poor quality of food, lack of fresh air, inadequate temperature