



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

THIRD SECTION

CASE OF SAIDOV AND OTHERS v. RUSSIA

*(Applications nos. 55829/15 and 8 others –
see appended list)*

JUDGMENT

STRASBOURG

21 January 2021

This judgment is final but it may be subject to editorial revision.

In the case of Saidov and Others v. Russia,

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

Darian Pavli, *President*,

Dmitry Dedov,

Peeter Roosma, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 17 December 2020,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table

2. The Russian Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the allocation or transfer to a remote penal facility irrespective of family life considerations. Some applicants also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

6. The applicants complained principally of the allocation or transfer to a remote penal facility irrespective of family life considerations. They relied, expressly or in substance, on Article 8 of the Convention, which reads 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.”

7. The Court reiterates that it has already established that it is an essential part of a prisoner’s right to respect for family life that the authorities enable him or her, or if need be assist him or her, to maintain contact with his or her close family (see, with further references, *Khoroshenko v. Russia* [GC], no. 41418/04, § 106, ECHR 2015), and that, on the issue of family visits, Article 8 of the Convention requires States to take into account the interests of the convict and his or her relatives and family members (*ibid.*, § 142). The Court has also found that placing a convict in a particular penal facility may raise an issue under Article 8 of the Convention if its effects on his or her private and family life go beyond the “normal” hardships and restrictions inherent in the very concept of imprisonment (see *Khodorkovskiy and Lebedev v. Russia*, nos. 11082/06 and 13772/05, § 837, 25 July 2013), and that, in that case, given the geographical situation of remote penal facilities and the realities of the Russian transport system, both prisoners sent to serve a sentence far from their home and members of their families suffered from the remoteness of the facilities (*ibid.*, § 838).

8. In the leading cases of *Polyakova and Others v. Russia*, nos. 35090/09 and 3 others, 7 March 2017, and *Voynov v. Russia*, no. 39747/10, 3 July 2018, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that the interference with the applicants’ right to respect for family life was not “in accordance with the law” within the meaning of Article 8 § 2 of the Convention.

10. These complaints are therefore admissible and disclose a breach of Article 8 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

11. Some applicants submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes

that they also disclose violations of the Convention in the light of its findings in *Idalov v. Russia* [GC], no. 5826/03, 22 May 2012, concerning poor conditions of transport and *Voynov*, cited above, regarding lack of remedies for the complaints about allocation or transfer to a remote detention facility.

IV. REMAINING COMPLAINTS

12. In application no. 58037/19 the applicant also complained under Articles 3 and 13 of the Convention about poor conditions of his detention in a correctional colony which had already come to an end and the lack of an effective remedy in this respect.

13. With regard to these complaints, the applicant should avail himself of the new compensatory remedy introduced in the Russian Federation, which the Court declared effective in its recent decision of *Shmelev and Others v. Russia* ((dec.), nos. 41743/17 and 16 others, 17 March 2020).

It follows that this part of the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Polyakova and Others v. Russia*, nos. 35090/09 and 3 others, §§ 134-135, 7 March 2017, and *Voynov v. Russia*, no. 39747/10, § 58, 3 July 2018), the Court considers it reasonable to award the sums indicated in the appended table, and rejects any additional claims for just satisfaction made by some of the applicants.

16. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning the allocation or transfer to a remote penal facility irrespective of family life considerations and the other complaints under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of application no. 58037/19 inadmissible;
3. *Holds* that these complaints disclose a breach of Article 8 of the Convention concerning the allocation or transfer to a remote penal facility irrespective of family life considerations;
4. *Holds* that there has been a violation of the Convention as regards the other complaints raised under the well-established case-law of the Court (see appended table);
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 21 January 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Darian Pavli
President

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APPENDIX

List of applications raising complaints under Article 8 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	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	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant /household (in euros) ¹
1.	55829/15 28/01/2016	Ruslan Saidovich SAIDOV 1986	IK-35 Khakassia Republic, IK-17 Krasnoyarsk Region	wife, child	Dagestan Republic	5,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony	6,000
2.	50396/19 16/09/2019	<u>Household</u> Pavel Vladimirovich GOGOLITSYN 05/07/1987 Zinaida Pavlovna GOGOLITSYNA 31/01/1958	IK-28 Arkhangelsk Region	the first applicant is a detainee; the second applicant is his mother	the second applicant lives in Mga village, Leningrad Region	730		6,000
3.	53879/19 10/09/2019	Ramazan Veli ogly GAKHRAMANOV 1971	IK-8 Komi Republic	child, wife	Babayurt, Dagestan Republic	3,500	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony	6,000
4.	56169/19 29/11/2019	Sergey Aleksandrovich BARANOV 1975	IK-9 Orenburg Region	father, wife	Moscow (father); Teykovo Town in the Ivanovo Region (wife)	1,500	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote facility	6,000
5.	56673/19 14/10/2019	Yevgeniy Viktorovich MIGOV 1983	IK-2 Zabaykalskiy Region	mother, wife	Petropavlovsk- Kamchatskiy, Kamchatskiy Region	3,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote correctional colony	6,000

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6.	58037/19 16/09/2019	Dmitriy Albertovich MAKAROV 1975	IK-29 Kirov Region	mother	Tomsk	2,500	Art. 3 - inadequate conditions of detention during transport - train, transit cell (SIZO-1 Novosibirsk) - 26/04/2019 - 05/05/2019 - overcrowding, restricted access to shower, Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention during transport and in respect of allocation to a remote correctional colony	7,000
7.	59587/19 01/11/2019	Aleksey Sergeyevich SVIRIDOV 1986	IK-29 Kirov Region	sister	Chelyabinsk Region	1,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote colony	6,000
8.	62473/19 19/11/2019	Alim Aniuarovich TKHAGUZHOKOV 1978	IK-31 Komi Republic	father, mother	Nalchik, Kabardino- Balkar Republic	3,000	Art. 13 - lack of any effective remedy in domestic law - in respect of allocation to a remote facility	6,000
9.	1619/20 02/12/2019	Rashid Aliyevich ABDULMYANOV 1973	IK-37 Perm Region	father, mother, children	Moscow	1,800		6,000

¹ Plus any tax that may be chargeable to the applicants.