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This Factsheet does not bind the Court and is not exhaustive

Right to respect for family life of prisoners in remote penal facilities

Article 8 (right to respect for private and family life) of the European Convention on Human Rights:

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

2. There shall be no interference by a public authority with the exercise of this right except such as 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."

"[T]he [European] Convention [on Human Rights] does not grant prisoners the right to choose their place of detention, and the fact that prisoners are separated from their families, and at some distance from them, is an inevitable consequence of their imprisonment. Nevertheless, detaining an individual in a prison which is so far away from his or her family that visits are made very difficult or even impossible may in some circumstances amount to interference with family life, as the opportunity for family members to visit the prisoner is vital to maintaining family life .... It is therefore an essential part of prisoners' right to respect for family life that the prison authorities assist them in maintaining contact with their close family ..." (*Vintman v. Ukraine*, judgment of 23 October 2014, § 78).

Marincola and Sestito v. Italy

25 November 1999 (decision on admissibility)

The applicants, a prisoner and his wife, complained that their family life had been adversely affected during the first applicant's detention, in particular because he had been transferred several times and placed in prisons far from his place of residence.

The Court declared the applicants' complaints under Article 8 (right to respect for private and family life) of the European Convention on Human Rights **inadmissible** as being manifestly ill-founded. It began by pointing out that the Convention did not grant prisoners the right to choose their place of detention, and that the fact that prisoners were separated from their families, and at some distance from them, was an inevitable consequence of their imprisonment. Nevertheless, it observed that detaining an individual in a prison which was so far away from his or her family that visits were made very difficult or even impossible could, in exceptional circumstances, amount to interference with family life, as the opportunity for family members to visit prisoners was vital to maintaining family life. In the present case, in so far as family visits had been restricted and had taken place in difficult conditions, the Court found that there had been interference with the applicants' right to respect for their family life. However, noting in particular that the special prison regime to which the first applicant had been subject had been designed to cut the ties between the individual concerned and his original criminal environment, the Court held that the measures in question had pursued the legitimate aims of ensuring public safety and preventing disorder and crime.

Pesce v. Italy

29 January 2008 (partial decision on admissibility)

The applicant, who had been sentenced to life imprisonment for, among other offences, membership of a Mafia-type criminal organisation, alleged in particular that the high-supervision (E.I.V.) prison regime to which he was made subject had entailed restrictions on his right to receive family visits, given that the prisons with E.I.V. units were a long way from his family's place of residence.

The Court declared the applicant's complaint **inadmissible** as being manifestly ill-founded. It observed in particular that the high-supervision regime had not entailed additional restrictions for the applicant on the number of family visits. In the present case, while it did not underestimate the difficulties his relatives may have faced in travelling to Naples Secondigliano Prison, to which he had been transferred, the Court considered that the fact that the applicant was detained in that institution was not apt to significantly impair the right to family visits. The applicant's family lived in Italy and there was no evidence that travelling to Secondigliano was liable to cause insuperable, or even particularly difficult, problems.

Khodorkovskiy and Lebedev v. Russia[1]

25 July 2013 (judgment)

The applicants, two former senior executives and major shareholders of a large industrial group, were serving prison sentences in the Karelia Region and the Yamalo-Nenetskiy Region following their conviction in September 2005 of large-scale tax evasion and fraud. They complained in particular that their transfer to penal colonies situated several thousand kilometres from Moscow had made it impossible for them to see their families.

The Court held that there had been a **violation of Article 8** of the Convention on account of the applicants' transfer to penal colonies in Siberia and the Far North, several thousand kilometres from Moscow and their families. It found that, in the absence of a clear and foreseeable method to distribute convicted people in penal colonies, the system had failed to provide a measure of legal protection against arbitrary interference by public authorities and had led to results that were incompatible with respect for the applicants' private and family lives. The Court stressed in particular that the distribution of the prison population must not remain entirely at the discretion of administrative bodies and that the interests of convicted people in maintaining at least some family and social ties had somehow to be taken into account.

Bellomonte v. Italy

1 April 2014 (decision on admissibility)

The applicant, who had been charged with membership of an extreme left-wing terrorist group, was transferred in July 2009 from Rome to Catanzaro Prison and assigned to a high-security wing. He complained of unjustified interference with his right to respect for his private and family life, alleging that it was particularly difficult for his wife to visit him in Catanzaro, which was a long way from where she lived in Sardinia and to which there was no direct flight.

The Court declared the applicant's complaint **inadmissible** as being manifestly ill-founded, holding that the interference with the applicant's right to respect for his private and family life had been proportionate to the legitimate aim pursued, namely to place him in a prison designated for a new generation of extreme left-wing terrorists, and that the Italian State had not overstepped its margin of appreciation in that regard. The Court observed in particular that the Italian prison authorities had established a clear and foreseeable system for assigning prisoners requiring heightened security measures, and that this system of separating and assigning prisoners could not be said to be arbitrary or unreasonable. The Court also observed that it was unrealistic to expect an exemption from such a system to be granted in order to alleviate the difficulties which the applicant's wife was liable to encounter in travelling to Catanzaro.

[1]. On 16 September 2022 the Russian Federation ceased to be a Party to the European Convention on Human Rights ("the Convention").

Furthermore, it considered that the distance between Sardinia and Catanzaro did not appear excessive and that the lack of direct flights between those two places did not constitute an insurmountable obstacle.

Čalovskis v. Latvia

24 July 2014 (judgment)

This case concerned the applicant's arrest and detention pending extradition, as well as authorisation of his extradition to the United States for prosecution on the allegation of his involvement in cybercrime-related offences. The applicant alleged in particular that, if extradited from Latvia, he would risk being subjected to torture and given a disproportionate prison sentence. He added that the sentence would be served far from his home.

The Court held that there had been **no violation of Article 3** (prohibition of torture and inhuman or degrading punishment or treatment) of the Convention as concerned the granting of the applicant's extradition, finding that he would not be exposed to a real risk of ill-treatment if he were extradited to the United States by virtue of his being indicted of cybercrime-related offences. With regard in particular to the applicant's contention that the sentence would be served far from his home, the Court found that he had **not referred to any exceptional circumstances in** his **private or family life** which would militate in favour of his not being extradited. It also noted that, according to diplomatic assurances given by the United States, the authorities there would endeavour to honour his request to serve his sentence in Latvia in the event of his conviction.

Vintman v. Ukraine

23 October 2014 (judgment)

The applicant submitted that he had been forced to serve his prison sentence far from his home, with the result that his elderly mother, who was in poor health, had been unable to visit him for over ten years. At the time of the Court's judgment he was serving his sentence in a prison some 700 kilometres from home with a journey time of between 12 and 16 hours. The applicant alleged in particular that the authorities' failure to consider his arguments about his mother being unfit for long-distance travel, when refusing his requests for a transfer closer to home, had been unlawful and unfair and that he had had no effective remedy for that complaint.

The Court held that there had been a **violation of Article 8** of the Convention on account of the applicant's not being able to obtain a transfer to a prison closer to his home, finding that his personal situation and his interest in maintaining his family ties had never been assessed, and no relevant and sufficient reasons for the interference with his right to respect for his family life were ever adduced. While it was prepared to accept that the interference was in accordance with the law and had pursued the legitimate aims of preventing prison overcrowding and maintaining discipline, it found it was, however, disproportionate. It noted in particular that, although the authorities had relied on the absence of available places, they had failed to give any details and there was no evidence that they had in fact considered placing the applicant in any of the many regions closer to his home. Moreover, the authorities did not dispute that the applicant's elderly and frail mother was physically unable to travel to visit him in the regions where he was imprisoned. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention **in conjunction with Article 8** in respect of the lack of an effective remedy for the applicant's inability to obtain a transfer to a prison closer to home.

See also: **Rodzevillo v. Ukraine**, judgment of 14 January 2016.

Serce v. Romania

30 June 2015 (judgment)

The applicant, a Turkish national serving a prison sentence in Romania, complained in particular about the refusal of the Romanian authorities to transfer him to another Council of Europe member State, Turkey, to serve the remainder of his sentence there,

close to his wife and children, who did not have the means to travel to Romania to visit him.
Despite having found that the unhygienic conditions in which the applicant had been detained in Romania, the lack of activities or work and the prison overcrowding to which he was subject had breached his rights protected under Article 3 (prohibition of inhuman or degrading punishment or treatment) of the Convention, the Court found that **Article 8** of the Convention was **not applicable** to his request for an inter-State prison transfer. It noted in particular that it could not be maintained that the applicant had any substantive right under Romanian law to be transferred to his country of origin.

See also: **Palfreeman v. Bulgaria**, admissibility decision of 16 May 2017, concerning the authorities' refusal to transfer an Australian national serving a prison sentence in Bulgaria to a non-member State of the Council of Europe.

Labaca Larrea v. France and two other applications

7 February 2017 (decision on admissibility)
This case concerned the detention in France of three Spanish nationals and ETA members. After initial periods of detention in prisons in the Paris area, they had later been transferred to Lyon-Corbas prison. They complained in particular of their transfer far from their homes and families, and of the lack of an effective remedy to contest that transfer.
The Court declared the applicants' complaints under Article 8 of the Convention **inadmissible** as being manifestly ill-founded, finding that the transfer of the applicants to Lyon-Corbas prison had not been such as to significantly impede their right to receive visits. In that regard, it noted in particular that the applicants had not been the subject of measures to restrict or limit their right to contact with their families. On the contrary, the case file showed that the applicants had had very frequent visits from and telephone conversations with their families. There was also no evidence that the journeys which their relatives had had to make had caused any insuperable, or even particularly difficult, problems. The Court also declared the applicants' complaints under Article 13 (right to an effective remedy) of the Convention **inadmissible**, as being manifestly ill-founded, considering that the applicants had no arguable claim in respect of which they could assert their right to an effective remedy.

Polyakova and Others v. Russia[2]

7 March 2017 (judgment)
The applicants were either prisoners or the family members of prisoners who had been adversely affected by decisions of the Russian Federal Penal Authority ("the FSIN") to imprison individuals thousands of miles from their families. They complained in particular that the decisions to allocate prisoners to remote penal facilities - and their subsequent inability to obtain transfers – had violated their right to respect for family life.
The Court held that there had been a **violation of Article 8** of the Convention in respect of each applicant, on account of the failure of the applicable domestic law to provide sufficient safeguards against abuse in the field of the geographical distribution of prisoners. It observed in particular that the distance between the penal facilities and the homes of the prisoners' families – ranging from 2,000 to 8,000 kilometres – was so great that it had inflicted hardship on the persons concerned. In particular, one applicant (a prisoner) had been unable to see his mother prior to her death, whilst another applicant (a young child born after her father's incarceration) had never been able to see her father. The Court also noted that quality of law standards required that domestic law affords protection against arbitrariness in the exercise of discretion left to the executive authorities. However, Russian law had not required the FSIN to consider the impact that a penal facility's location might have on the applicants' family life. Moreover, the law had not provided the applicants with a realistic opportunity to obtain a transfer to another

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penal facility on grounds relating to the right to respect for family life – either through an application to the FSIN itself, or through a judicial review of its decisions.

See also: ***Razvozzhayev v. Russia and Ukraine and Udaltsov v. Russia***[3], judgment of 19 November 2019.

Voynov v. Russia[4]

3 July 2018 (judgment)

This case concerned the applicant's complaint that he had been sent to serve his sentence in a prison 4,200 kilometres from his home town. His partner had visited him six times between 2011 and 2013, but she had no longer been able to visit him since the birth of their daughter in 2014. He had never seen his daughter. The applicant alleged in particular that the decision to send him to a remote penal facility and the refusal of his requests for a transfer had made it difficult for his family to visit him.

The Court held that there had been a **violation of Article 8** of the Convention. There was in particular nothing in the Russian Government's submissions to convince it to depart from the findings in the *Polyakova and Others* judgment (see above) on the same issue. Moreover, a recent ruling by the Constitutional Court of Russia showed that the national authorities' approach to the interpretation of domestic law on the matter had not evolved. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention. It was not satisfied that a procedure suggested by the Government would have provided an avenue for the applicant to adequately complain about the breach of his right to respect for family life. Nor was there any other remedy available to him at national level to complain about being sent so far away from his family to serve his sentence.

See also: ***Shmelev and Others v. Russia***[5], decision on the admissibility of 17 March 2020; ***Dadusenko and Others v. Russia***[6], decision on the admissibility of 7 September 2021.

Fraile Iturralde v. Spain

7 May 2019 (decision on admissibility)

The applicant, who was serving a 25-year prison sentence for collaboration with a terrorist organisation, the Basque separatist movement ETA, complained about the refusal of his request for a transfer to a prison closer to his family. He submitted that the 700 kilometre trip from his family's place of residence to the prison was difficult for his wife and five-year-old daughter and that his parents, who were advanced in age, were unable to visit him at all.

The Court declared the applicant's complaint under Article 8 of the Convention **inadmissible** as being manifestly ill-founded. It found that the Spanish authorities' justification for refusing a transfer had been legitimate, as it had aimed to ensure discipline in prisons and to implement their policy in respect of ETA prisoners, and concluded that any interference with the applicant's rights had been limited, in accordance with the law, and proportionate. The Court noted in particular that the authorities had based their decisions both on an individual assessment of the applicant's situation, which showed that he had maintained regular contact with his family, as well as on general prison policy, which dispersed prisoners convicted of terrorist offences over various facilities in order to avoid security concerns and sever links with their criminal organisation.

3. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.
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See also, more recently:

İlerde and Others v. Türkiye
5 December 2023 (judgment)

Further reading

See in particular:

- ECHR Knowledge Sharing platform (ECHR-KS), Transversal Themes, Prisoners' rights

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