

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

THIRD SECTION

CASE OF VORONOV AND OTHERS v. RUSSIA

*(Applications nos. 66754/13 and 10 others -
see appended list)*

JUDGMENT

STRASBOURG

19 December 2019

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

In the case of Voronov and Others v. Russia,

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

Alena Poláčková, *President*,

Dmitry Dedov,

Gilberto Felici, *judges*,

and Liv Tigerstedt, *Acting Deputy Section Registrar*,

Having deliberated in private on 28 November 2019,

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. Notice of the applications was given to the Russian Government ("the Government").

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 excessive length of their pre-trial detention. 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. THE GOVERNMENT'S REQUEST TO STRIKE OUT APPLICATION NO. 43229/17 UNDER ARTICLE 37 § 1 OF THE CONVENTION

6. The Government submitted a unilateral declaration in case no. 43229/17 which did not offer a sufficient basis for finding that respect for human rights as defined in the Convention does not require the Court to continue its examination of the cases (Article 37 § 1 *in fine*). The Court rejects the Government's request to strike the applications out and will accordingly pursue its examination of the merits of the case

(see *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, § 75, ECHR 2003-VI).

III. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

7. The applicants complained principally that their pre-trial detention had been unreasonably long. They relied on Article 5 § 3 of the Convention, which reads as follows:

Article 5 § 3

“3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.”

8. The Court observes that the general principles regarding the right to trial within a reasonable time or to release pending trial, as guaranteed by Article 5 § 3 of the Convention, have been stated in a number of its previous judgments (see, among many other authorities, *Kudla v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI, and *McKay v. the United Kingdom* [GC], no. 543/03, §§ 41-44, ECHR 2006-X, with further references).

9. As concerns application no. 55885/17, the Court would like to stress that this is the second application lodged by Mr Abdrakhmanov concerning one and the same lengthy detention on remand. The Court has already found a violation of Article 5 § 3 of the Convention in respect of the first application (no. 40987/14) lodged by Mr Abdrakhmanov on 30 April 2014 on account of his on-going unreasonably long detention on remand (see *Khamzin and others v Russia* [Committee], nos. 72986/10 and 4 others, 6 October 2016). Following that judgment, Mr Abdrakhmanov remained in detention pending trial proceedings against him until his conviction on 29 May 2017. On 20 July 2017, which is within six months from the final order authorising the extension of his detention on remand, he lodged the present application with the Court.

10. The Government did not make any observations in this respect, having merely noted that the documents available to the Court are sufficient to assess the case properly. The Court reiterates that in principle there is nothing to prevent the Court from examining a subsequent application raising a new issue undecided by the original judgment (see *Mehemi v. France* (no. 2), no. 53470/99, § 43, ECHR 2003-IV; *Pailot v. France*, 22 April 1998, § 57, Reports of Judgments and Decisions 1998-II; *Leterme v. France*, 29 April 1998, Reports 1998-III; and *Rando v. Italy*, no. 38498/97, 15 February 2000).

11. In the specific context of a continuing violation of a Convention right following adoption of a judgment in which the Court found a violation of that right during a certain period, it is not unusual for the Court to

examine a second application concerning a violation of the same right during the subsequent period (see *Wasserman v. Russia* (no. 2), no. 21071/05, § 33, 10 April 2008, with further references).

12. The Court observes that application no. 40987/14 concerned the applicant's excessively long detention on remand. When the Court delivered its judgment on 6 October 2016, having found a violation of Article 5 § 3 of the Convention and having made an award in respect of the period preceding its judgment, the applicant was still in detention on remand.

13. The present application, which the applicant lodged on 20 July 2017, concerns his continuous detention on remand in the period subsequent to the Court's judgment of 6 October 2016.

14. The Court acknowledges that it has no jurisdiction to review the measures adopted in the domestic legal order to put an end to the violations found in its judgment in the first case brought by the applicant. It may, nevertheless, take stock of subsequent factual developments. In this respect, the Court observes that the applicant continued to be detained for another seven months after the Court had delivered its judgment in the case (see, *mutatis mutandis*, *Wasserman* (no. 2), cited above, § 36).

15. It follows that, in so far as the applicant's complaint concerns the further period during which he continued to be detained on remand allegedly in the absence of proper reasons for that, it has not been previously examined by the Court. The Court therefore has competence *ratione materiae* and *ratione personae* to entertain this complaint. Moreover, when assessing the reasonableness of the remaining period between 6 October 2016 and 29 May 2017 for the purposes of Article 5 § 3 of the Convention, the Court "can take into consideration the fact that an applicant has previously spent time in custody pending trial" (see *Idalov v. Russia* [GC], no. 5826/03, § 130, 22 May 2012; for similar approach by the Court see *Kolosyuk and others v. Russia* [Committee], nos. 45162/13 and 4 others, 14 June 2018).

16. As concerns all of the applications in the present case, the Court notes that in the leading case of *Dirdizov v. Russia*, no. 41461/10, 27 November 2012, it already found a violation in respect of issues similar to those in the present case.

17. 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, including that on exhaustion of domestic remedies for complaints about lengthy pre-trial detention (see, for instance, *Pshevecherskiy v. Russia*, no. 28957/02, §§ 50-55, 24 May 2007), the Court rejects the Government's objections made to the present applications and considers that in the instant case the length of the applicants' pre-trial detention was excessive.

18. These complaints are therefore admissible and disclose a breach of Article 5 § 3 of the Convention.

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

19. In applications nos. 66754/13, 43229/17 and 47873/17, the 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 the lack of speedy review of detention on remand; *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts), regarding placement in a metal cage in court hearings; *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, 9 April 2019 in respect of conditions of transport of detainees; and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, 10 January 2012, concerning inadequate conditions of detention in pre-trial facilities and lack of an effective remedy to complain about it.

V. REMAINING COMPLAINTS

20. In applications nos. 66754/13, 39672/17, 41562/17 and 55885/17 the applicants also raised other complaints under various Articles of the Convention.

21. The Court has examined the applications listed in the appended table 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, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do 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 applications must be rejected in accordance with Article 35 § 4 of the Convention.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. 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.”

23. Regard being had to the documents in its possession and to its case-law (see, in particular, *Pastukhov and Yelagin v. Russia*, no. 55299/07, 19 December 2013), the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remaining claims for just satisfaction submitted by some of the applicants as unsubstantiated and/or unrelated to the violations of the Convention found by the Court.

24. 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,

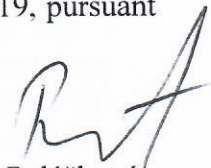
1. *Decides* to join the applications;
2. *Rejects* the Government's request to strike application no. 43229/17 out of its list of cases under Article 37 § 1 of the Convention on the basis of the unilateral declaration which they submitted;
3. *Declares* the complaints concerning the excessive length of pre-trial detention and the other complaints under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of the applications nos. 66754/13, 39672/17, 41562/17 and 55885/17 inadmissible;
4. *Holds* that these complaints disclose a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;
5. *Holds* that there has been a violation of the Convention as regards the other complaints raised under well-established case-law of the Court (see appended table);
6. *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;

7. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 19 December 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.


Liv Tigerstedt
Acting Deputy Registrar


Alena Poláčková
President