

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

FIFTH SECTION

CASE OF BAGATYY v. UKRAINE

(Application no. 14748/24)

JUDGMENT

STRASBOURG

23 January 2025

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



In the case of Bagatyy v. Ukraine,

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

Diana Sârcu*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 19 December 2024,

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

PROCEDURE

1. The case originated in an application against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 May 2024.

2. The applicant was represented by Mr I.V. Shugalevych, a lawyer practising in Odesa.

3. The Ukrainian Government ("the Government") were given notice of the application.

THE FACTS

4. The applicant's details and information relevant to the application are set out in the appended table.

THE LAW

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

5. The applicant complained of the lack of relevant and sufficient reasons for detention. He relied on Article 5 § 3 of the Convention.

6. The Court reiterates that according to its established case-law under Article 5 § 3 of the Convention, the persistence of a reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the lawfulness of the continued detention, but after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds were "relevant" and "sufficient", the Court must also ascertain whether the competent national authorities displayed "special diligence" in the conduct of the proceedings. The Court has also held that justification for any period of detention, no matter how short, must be convincingly demonstrated by the authorities. When deciding whether a person should be released or detained, the authorities are obliged to consider alternative measures for ensuring this person's appearance at trial. The

requirement for the judicial officer to give "relevant" and "sufficient" reasons for the detention – in addition to the persistence of reasonable suspicion – applies already at the time of the first decision ordering detention on remand, that is to say "promptly" after the arrest (see, among other authorities, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, §§ 87 and 102, 5 July 2016).

7. In the leading case of *Korban v. Ukraine* (no. 26744/16, §§ 158-81, 4 July 2019), the Court already found a violation in respect of issues similar to those in the present case.

8. 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 in the instant case the domestic courts failed to provide relevant and sufficient reasons for the applicant's pre-trial detention.

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

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. Regard being had to the documents in its possession and to its case-law (see, in particular, *Ara Harutyunyan v. Armenia,* no. 629/11, § 66, 20 October 2016), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 5 § 3 of the Convention concerning the lack of relevant and sufficient reasons for detention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, 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.

Done in English, and notified in writing on 23 January 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Diana Sârcu
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 5 § 3 of the Convention (lack of relevant and sufficient reasons for detention)

Application no. Date of introduction	Applicant's name Year of birth	Period of detention	Court which issued detention order/ examined appeal	Specific defects	Amount awarded for non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
14748/24 06/05/2024	**Oleksandr Oleksandrovych BAGATYY** 1982	25/08/2023 - 26/06/2024	Rivne District Court	fragility of the reasons employed by the courts	2,000	250

[1] Plus any tax that may be chargeable to the applicant.

[2] Plus any tax that may be chargeable to the applicant.