

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

FIFTH SECTION

CASE OF GAVRYLYUK v. UKRAINE

(Applications nos. 19612/23 and 33083/23)

JUDGMENT

STRASBOURG

5 September 2024

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



In the case of Gavrylyuk v. Ukraine,

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

Carlo Ranzoni*, President*,
Mārtiņš Mits,
María Elósegui*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 11 July 2024,

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

PROCEDURE

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

2. The applicant was represented by Mr Y.O. Kanikayev, 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.

5. The applicant complained of the excessive length of criminal proceedings and of the lack of any effective remedy in domestic law. He also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

6. The applicant complained principally that the length of the criminal proceedings in question had been incompatible with the "reasonable time" requirement and that he had no effective remedy in this connection. He relied on Article 6 § 1 and Article 13 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 AND ARTICLE 13 OF THE CONVENTION

7. The applicant complained principally that the length of the criminal proceedings in question had been incompatible with the "reasonable time"

requirement and that he had no effective remedy in this connection. He relied on Article 6 § 1 and Article 13 of the Convention.

8. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

9. In the leading case of *Nechay v. Ukraine* (no. 15360/10, 1 July 2021) the Court already found a violation in respect of issues similar to those in the present case.

10. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings at the national level. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

11. The Court further notes that the applicant did not have at his disposal an effective remedy in respect of these complaints.

12. These complaints are therefore admissible and disclose a breach of Article 6 § 1 and of Article 13 of the Convention.

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

13. The applicant 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 the well-established case-law set out in the appended table.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. Regard being had to the documents in its possession and to its case-law (see, in particular, *Bevz v. Ukraine,* no. 7307/05, § 52, 18 June 2009), the Court finds it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a breach of Article 6 § 1 and Article 13 of the Convention concerning the excessive length of criminal proceedings and lack of an effective domestic remedy in that regard;

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 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 amount 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 5 September 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Carlo Ranzoni President

APPENDIX

List of applications raising complaints under Article 6 § 1 and Article 13 of the Convention (excessive length of criminal proceedings 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	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
19612/23 27/03/2023 AND 33083/23 11/08/2023	**Dmytro Mykhaylovych GAVRYLYUK** 1978	Kanikayev Yuriy Olegovych Odesa	27/09/2016	pending	More than 7 year(s) and 9 month(s) and 1 day(s) 2 level(s) of jurisdiction	Art. 5 (4) - excessive length of judicial review of detention - The applicant's appeal against the detention order of 28/02/2023 lodged on the same day was considered by an appellate court on 23/05/2023; the applicant's appeal against the detention order of 14/09/2022 lodged on 16/09/2022 was considered by an appellate court on 28/11/2022 (see Kharchenko v. Ukraine, no. 40107/02, §§ 86-87, 10 February 2011); Art. 5 (3) - excessive length of pre-trial detention - 23/06/2023-19/03/2024; Shevchenkivskyy Local Court of Lviv;	2,700	250

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses per application (in euros)[2]
						collective detention orders, fragility and repetitiveness of the reasoning employed by the courts as the case progressed (see Kharchenko v. Ukraine, no. 40107/02, §§ 77-81, 10 February 2011 and Ignatov v. Ukraine, 40583/15, §§ 38-42, 15 December 2016)		

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