

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

FIFTH SECTION

CASE OF GORDYEYEV v. UKRAINE

(Application no. 14335/18)

JUDGMENT

STRASBOURG

11 September 2025

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



In the case of Gordyeyev v. Ukraine,

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

Gilberto Felici*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 14335/18) against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 25 April 2018 by a Ukrainian national, Mr Denys Oleksandrovych Gordyeyev ("the applicant"), who was born in 1979 and died in 2022, and was represented by Ms O. Storozhuk, a lawyer practising in Kyiv;

the decision to give notice of the complaints under Article 5 § 3 and Article 6 §§ 1 and 2 of the Convention to the Ukrainian Government ("the Government"), represented by their Agent, Ms M. Sokorenko, from the Ministry of Justice, and to declare the remainder of the application inadmissible;

the parties' observations;

the decision to reject the Government's objection to the examination of the application by a Committee;

Having deliberated in private on 3 July 2025,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's complaints under Article 5 §§ 1 and 3 of the Convention about the length of his pre-trial detention and under Article 6 § 1 of the Convention about the length of the criminal proceedings against him. It also concerns his complaints under Article 6 §§ 1 and 2 of the Convention about an alleged lack of independence and impartiality on the part of the domestic courts dealing with his case and about an alleged breach of the presumption of innocence.

I. APPLICANT'S ARREST AND DETENTION

2. On 27 March 2015 the applicant was arrested on suspicion of the murder of a Security Service officer. On 28 March 2015 the Zhovtnevyi District Court of Mariupol ordered his detention, referring to the gravity of the offence with which he had been charged and noting that, if at liberty, he could obstruct the investigation, influence witnesses, hide weapons and munition or use them in further criminal activity, or abscond.

3. The applicant's detention was extended by the courts a number of times, principally for the reasons indicated in the initial detention order. The courts did not provide more details when substantiating their decisions, merely noting that the reasons for detention identified before persisted.

4. On 7 May 2019 the applicant's detention was replaced with 24-hour house arrest until 4 July 2019. On that last-mentioned date that measure expired and was not extended.

II. CRIMINAL PROCEEDINGS AGAINST THE APPLICANT

5. On 1 March 2016 the list of charges together with the case file were transferred to the trial court for examination. Owing to difficulties in forming a panel of judges to examine the case, namely a number of recusals by judges, the proceedings did not start until 1 August 2017. Between August 2017 and May 2021 the trial court adjourned hearings on more than twenty occasions, mainly on account of a failure by victims or by lawyers of the applicant's co-accused to appear before the court.

6. According to the applicant's representative, the applicant was conscripted into the armed forces in view of Russia's aggression against Ukraine. On 6 June 2022 the applicant was killed in an area of military activities. On 2 August 2022 the trial court suspended the examination of the criminal case in view of the applicant's death and other co-accused being mobilised into armed forces.

III. PUBLIC STATEMENTS REGARDING THE APPLICANT

7. On 27 March 2015 President Poroshenko made the following post on his Facebook page: "This morning ... the [Security Service] ... detained the murderer of the [Security Service] officer ...". The post was accompanied with a photo of the applicant taken during his arrest. According to the applicant, on the same day his name was repeated by the media and became known to the public.

THE COURT'S ASSESSMENT

I. LOCUS STANDI

8. The Court notes that the applicant died after he had lodged the present application and that his mother, Ms Lyudmyla Ivanivna Gordyeyeva, a minor son, Mr Damyr Denysovysh Gordyeyev, and his former wife Ms Maryna Volodymyrivna Marchuk wished to pursue the proceedings in his stead. The Government submitted that those individuals did not have *locus standi* in the case as the rights under examination were non-transferrable.

9. The Court reiterates its constant approach that where an applicant has died after the application was lodged, it has accepted that the next of kin or heir may in principle pursue the application, provided that he or she has sufficient interest in the case (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 97, ECHR 2014, with further references). In such cases, the decisive point is not whether the rights in question are or are not transferable to the heirs wishing to pursue the procedure, but whether the heirs can in principle claim a legitimate interest in asking the Court to deal with the case on the basis of the applicant's wish to exercise his or her individual and personal right to lodge an application with the Court (see *Singh and Others v. Greece*, no. 60041/13, § 26, 19 January 2017).

10. The Court is satisfied that the applicant's mother and son have a legitimate interest in ensuring that the application is pursued on behalf of the deceased applicant. It has no reason to doubt that they were in a sufficiently close relationship. However, the materials in the Court's possession do not enable it to conclude so in respect of the applicant's former wife, given the relatively short marriage (from 2013 to 2017) which had come to an end five years before the applicant's death and the lack of evidence of their close contact after the divorce (see for a similar approach *Savenko and Others v. Russia*, no. 13918/06, §§ 49-53, 14 September 2021). Thus, the Court concludes that Ms Lyudmyla Ivanivna Gordyeyeva and Mr Damyr Denysovysh Gordyeyev have standing to pursue the late applicant's complaints before the Court, and that Ms Maryna Volodymyrivna Marchuk does not have standing.

II. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

11. The applicant complained that his detention had been unjustified and lengthy. The Government submitted that that claim was unsubstantiated as the period of the applicant's detention had been reasonable.

12. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

13. The general principles concerning the justification for and the reasonableness of the length of detention have been summarised in *Korban v. Ukraine* (no. 26744/16, §§ 154-57, 4 July 2019).

14. The Court notes that the applicant was arrested on 27 March 2015 and his detention lasted until 7 May 2019. On that day it was replaced by 24-hour house arrest, which lasted until 4 July 2019. The Government did not dispute the applicability of Article 5 of the Convention to the applicant's house arrest, which amounts to a deprivation of liberty for the purposes of this provision (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 104, 5 July

2016, with further references). The overall period under consideration for the purposes of Article 5 § 3 is four years and three months.

15. The seriousness of the charges against the applicant and the risk of his absconding or interfering with the investigation were mentioned in the initial order for his detention. There is little doubt that those reasons justified his initial deprivation of liberty.

16. The Court notes, however, that the applicant's pre-trial detention was extended by a number of decisions delivered by the courts using a standard template. In particular, they limited themselves to repeating a number of grounds for detention in an abstract and stereotyped way, without giving any factual elements or reasons why they considered those grounds still relevant to the applicant's case.

17. As they were couched in general terms and contained repetitive phrases, the courts' decisions in question did not suggest that an appropriate assessment had been made of the continued justification of the applicant's deprivation of liberty despite the passage of time.

18. The above considerations are sufficient to conclude that, by using a standard formula merely listing the grounds for detention without addressing the specific facts of the applicant's case, the domestic courts failed to give "relevant" and "sufficient" reasons to justify the need for the extension and the overall length of the applicant's pre-trial detention.

19. There has accordingly been a violation of Article 5 § 3 of the Convention.

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

20. The applicant also complained under Article 6 § 1 of the Convention about the length of the criminal proceedings against him. The Court notes that this complaint, which is covered by its well-established case-law is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. Accordingly, it must be declared admissible. The proceedings in the applicant's case lasted from 27 March 2015, the date on which he was arrested, to 6 June 2022, the date of his death. The overall period under consideration for the purposes of Article 6 § 1 is, therefore, seven years and two months before one level of jurisdiction. Having examined all the material before it and, in particular, having regard to the fact, which was not explained by the Government, that no action had been taken in the criminal proceedings against the applicant between 1 March 2016 and 1 August 2017 and that there were numerous adjournments in the case which cannot be attributed to the applicant (see paragraph 5 above), the Court concludes that the above complaint discloses a violation of Article 6 § 1 of the Convention in the light of its findings in *Nechay v. Ukraine* (no. 15360/10, §§ 67-69, 1 July 2021).

IV. REMAINING COMPLAINTS

21. The applicant also raised other complaints under Article 6 §§ 1 and 2 of the Convention about an alleged lack of independence and impartiality on the part of the domestic courts dealing with his case and an alleged breach of the presumption of innocence.

22. The Court notes that in view of the applicant's death, the "criminal charge" within the meaning of Article 6 has not been determined and there is no information as to whether the applicant's heirs wished to pursue the criminal proceeding to exonerate him. Owing to the fact that the criminal proceedings were suspended by the trial court (see paragraph 6 above), this complaint appears to be premature.

23. As regards the complaint under Article 6 § 2, the Court takes note of the Government's argument that the applicant, while alive, failed to use the criminal-law or civil-law remedies available to him, in order to comply with the requirement to exhaust domestic remedies (see *Rytikov v. Ukraine*, no. 52855/19, §§ 42 and 44, 23 May 2024). It also refers to the available material showing that the applicant's heirs did not attempt to raise this issue at the domestic level after the applicant's death.

24. In the light of the foregoing, this part of the application must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. The applicant's heirs claimed 20,000 euros (EUR) in respect of non-pecuniary damage. They furthermore requested that the Court indicate to the respondent State to reopen the criminal proceedings at the domestic level to restore the applicant's reputation.

26. The Government contested those claims.

27. The Court awards the applicant's heirs Ms Lyudmyla Ivanivna Gordyeyeva and Mr Damyr Denysovysh Gordyeyev EUR 3,400 jointly in respect of non-pecuniary damage, plus any tax that may be chargeable.

28. As to the request to reopen the criminal proceedings at the domestic level to restore the applicant's reputation, an issue which is normally considered from the standpoint of Article 46 of the Convention, the Court notes at the outset that it has declared inadmissible the complaint under Article 6 § 1 of the Convention regarding the alleged lack of independence and impartiality on the part of the domestic courts dealing with the applicant's case. It furthermore reiterates that questions of compliance by the High Contracting Parties with its judgments fall outside its jurisdiction if they are not raised in the context of the "infringement procedure" provided for in Article 46 §§ 4 and 5 of the Convention (see, for example, *Bochan v. Ukraine (no. 2)* [GC], no. 22251/08, § 33, ECHR 2015, and *Moreira Ferreira*

v. Portugal (no. 2) [GC], no. 19867/12, § 102, 11 July 2017). There is therefore no basis to take any decision on that issue.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 5 § 3 of the Convention concerning the length of the applicant's detention and the complaint under Article 6 § 1 of the Convention concerning the length of the criminal proceedings against him admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicant's heirs Ms Lyudmyla Ivanivna Gordyeyeva and Mr Damyr Denysovysh Gordyeyev, within three months EUR 3,400 (three thousand four hundred euros) jointly, plus any tax that may be chargeable, in respect of non-pecuniary damage, 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.

5. *Dismisses* the remainder of the claim for just satisfaction.

Done in English, and notified in writing on 11 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Gilberto Felici President