

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

FIFTH SECTION

CASE OF GORDYNA v. UKRAINE

(Application no. 10416/24)

JUDGMENT

STRASBOURG

28 August 2025

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



In the case of Gordyna v. Ukraine,

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

Andreas Zünd*, President*,
Diana Sârcu,
Mykola Gnatovskyy*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 3 July 2025,

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 18 March 2024.

2. The applicant was represented by Mr V. M. Kashpur, a lawyer practising in Kyiv.

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 unlawful detention. He also raised other complaints under the provisions of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

6. The applicant complained principally of the unlawful detention. He relied on Article 5 § 1 of the Convention.

7. The Court reiterates that Article 5 of the Convention is, together with Articles 2, 3 and 4, in the first rank of the fundamental rights that protect the physical security of the individual, and as such its importance is paramount. Its key purpose is to prevent arbitrary or unjustified deprivations of liberty (see *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, § 84, ECHR 2016 (extracts), with further references).

8. Where the "lawfulness" of detention is in issue, including the question whether "a procedure prescribed by law" has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules thereof. Compliance with national law is not, however, sufficient: Article 5 § 1 requires in addition that any deprivation

of liberty should be in keeping with the purpose of protecting the individual from arbitrariness (see *S., V. and A. v. Denmark* [GC], nos. 35553/12, 36678/12 and 36711/12, § 74, 22 October 2018, with further references).

9. The Court found a violation in respect of issues similar to those in the present case in the leading cases set out in the appended table.

10. 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 this complaint. Having regard to its case-law on the subject, the Court considers that in the instant case the applicant's detention was not in accordance with Article 5 § 1 of the Convention.

11. It follows that the applicant's complaint is admissible and that there has been a violation of Article 5 § 1 of the Convention.

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

12. 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 case set out in the appended table.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Malyk v. Ukraine,* no. 37198/10, 29 January 2015), 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 § 1 of the Convention concerning the unlawful detention;

3. *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);

4. *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 28 August 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Andreas Zünd
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 5 § 1 of the Convention (unlawful detention)

Application no. Date of introduction	Applicant's name Year of birth	Period of unlawful detention	Specific defects	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]
10416/24 18/03/2024	**Vitaliy Mykolayovych GORDYNA** 1971	07/03/2022-14/03/2022	Unacknowledged deprivation of liberty or delay in drawing up arrest report (*Belozorov v. Russia and Ukraine*, no. 43611/02, §§ 113-15, 15 October 2015; *Fortalnov and Others v. Russia*, nos. 7077/06 and 12 others, §§ 76-79, 26 June 2018 and *Grubnyk v. Ukraine*, §§ 71-73, 17 September 2020); No legal basis for arrest without a prior court decision (*Strogan v. Ukraine*, no. 30198/11, §§ 88-89, 6 October 2016, and *Grubnyk v. Ukraine*, no. 58444/15, §§ 83-85, 17 September 2020)	Art. 5 (3) - excessive length of pre-trial detention - 07/03/2022 - pending, failure to assess the applicant's personal situation reducing the risks of re-offending, colluding or absconding; failure to examine the possibility of applying other measures of restraint; failure to conduct the proceedings with due diligence during the period of detention (see *Kharchenko v. Ukraine*, no. 40107/02, §§ 77-81, 10 February 2011, *Ignatov v. Ukraine*, 40583/15, §§ 38-42, 15 December 2016); Art. 5 (5) - no effective right to compensation in domestic legal system for the violation of Art 5 § 3 (see *Tymoshenko v. Ukraine*, no. 49872/11, §§ 286-87, 30 April 2013 and *Kotiy v. Ukraine*, no. 28718/09, § 55, 5 March 2015)	2,700	250

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