

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

THIRD SECTION

CASE OF KARIMOV v. RUSSIA

(Application no. 76451/17)

JUDGMENT

STRASBOURG

13 October 2022

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Karimov v. Russia,

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

Darian Pavli*, President,*
Andreas Zünd*,*
Frédéric Krenc*, judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 15 September 2022,

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

PROCEDURE

1. The case originated in an application against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 17 October 2017.

2. The applicant was represented by Ms T.A. Tretyak, a lawyer practising in Gelendzhik.

3. The Russian 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 his pre-trial detention. He also raised other complaints under the provisions of the Convention.

THE LAW

I. THE GOVERNMENT'S REQUEST TO STRIKE OUT THE APPLICATION UNDER ARTICLE 37 § 1 OF THE CONVENTION

6. The Government submitted a unilateral declaration 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 case (Article 37 § 1 *in fine*). The Court rejects the Government's request to strike the application out and will accordingly pursue the examination of the case (see *Tahsin Acar v. Turkey* (preliminary issue) [GC], no. 26307, § 75, ECHR 2003-VI).

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

7. The applicant complained principally that his pre-trial detention had been unreasonably long. He 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, *Kudła 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. In the leading case of *Dirdizov v. Russia,* no. 41461/10, 27 November 2012, 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 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 pre-trial detention was unreasonably lengthy.

11. This complaint is therefore admissible and discloses a breach of Article 5 § 3 of the Convention.

III. 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 *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts), as regards detention in a metal cage during court hearings; *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 92-156, 9 April 2019, related to inadequate conditions of transport; and *Gorlov and Others v. Russia*, nos. 27057/06 and 2 others, 2 July 2019, concerning video surveillance in prison.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. 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."

14. 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 sum indicated in the appended table.

15. The Court further 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. *Rejects* the Government's request to strike application out of its list of cases under Article 37 § 1 of the Convention on the basis of the unilateral declaration which they submitted;

2. *Declares* the application admissible;

3. *Holds* that this application discloses a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;

4. *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);

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the amount 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 13 October 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 5 § 3 of the Convention (excessive length of pre-trial detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of detention	Court which issued detention order/examined appeal	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
76451/17 17/10/2017	**Denis Albertovich KARIMOV** 1985	Tatyana Aleksandrovna Tretyak Gelendzhik	01/05/2017 - 03/08/2018	Gelendzhik Town Court of the Krasnodar Region	1 year(s) and 3 month(s) and 3 day(s)	fragility of the reasons employed by the courts; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice	Art. 3 - use of metal cages and/or other security arrangements in courtrooms - Gelendzhik Town Court on five separate occasions between 03/05/2017 to 29/09/2017; Art. 3 - inadequate conditions of detention during transport – 5 trips in vans from 03/05/2017 to 29/06/2017 (overcrowding, no or restricted access to toilet, lack of fresh air, inadequate temperature); Art. 8 (1) - permanent video surveillance of detainees in pre-trial or post-conviction detention facilities - IVS Gelendzik, during the applicant's detention in IVS in Gelendzhik on several occasions since 01/05/2017; video-surveillance in a lavatory and/or shower room Art. 13 - lack of any effective remedy in domestic law – to complain about poor conditions of transport, placement in a metal cage in court hearings and about video surveillance	9,750

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