

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

FIFTH SECTION

# CASE OF KOVALEVSKYY v. UKRAINE

*(Application no. 712/25)*

JUDGMENT

STRASBOURG

13 May 2026

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



**In the case of Kovalevskyy 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 9 April 2026

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 December 2024.

2. The applicant was represented by Mr I. M. Serafymov, 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.

# THE LAW

## I. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

5. The applicant complained of the deficiencies in proceedings for review of the lawfulness of detention. He relied on Article 5 § 4 of the Convention.

6. The Court reiterates that under Article 5 § 4 of the Convention, arrested or detained persons are entitled to a review bearing upon the procedural and substantive conditions which are essential for the "lawfulness", in the sense of the Convention, of their deprivation of liberty (see *Lietzow v. Germany*, no. 24479/94, § 44, ECHR 2001-I). It is true that the provision in question does not compel the Contracting States to set up a second level of jurisdiction for the examination of the lawfulness of detention and for hearing applications for release. Nevertheless, a State which institutes such a system must in principle accord to the detainees the same guarantees on appeal as at first instance (see *Fodale v. Italy*, no. 70148/01, § 39, ECHR 2006-VII).

7. In the leading case of *Kharchenko v. Ukraine* (no. 40107/02, §§ 84-87, 10 February 2011) the Court already found a violation in respect of issues similar to those in the present case (see the appended table).

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.

9. These complaints are therefore admissible and disclose a breach of Article 5 § 4 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, *Oravec v. Croatia,* no. 51249/11, §§ 78-80, 11 July 2017), 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 § 4 of the Convention concerning the deficiencies in proceedings for review of the lawfulness of 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 13 May 2026, 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 § 4 of the Convention (deficiencies in proceedings for review of the lawfulness of detention)

| Application no.<br>Date of introduction | Applicant's name<br>Year of birth | Representative's name and location | Name of the first-instance court<br>Date of detention order | Other relevant dates | Appellate court or court examining request for release<br>Date of decision | Procedural deficiencies | Amount awarded for non-pecuniary damage per applicant (in euros)[1] | Amount awarded for costs and expenses per application (in euros)[2] |
|---|---|---|---|---|---|---|---|---|
| 712/25<br>06/12/2024 | **Oleksandr Yuriyovych KOVALEVSKYY**<br>2000 | Serafymov Illya Mykolayovych<br>Kyiv | Solomyanskyy Local Court of Kyiv,<br>11/07/2024 | Date of lodging appeal,<br>16/07/2024 | Kyiv Court of Appeal, 09/10/2024 | lack of speediness of review of detention (*Kharchenko v. Ukraine*, no. 0107/02, §§ 86-87, 10 February 2011) | 500 | 250 |

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