

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

FIRST SECTION

CASE OF KRÁTKY v. SLOVAKIA

(Applications nos. 55788/20 and 3 others –
see appended list)

JUDGMENT

STRASBOURG

25 April 2024

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



In the case of Krátky v. Slovakia,

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

Péter Paczolay*, President*,
Alena Poláčková,
Gilberto Felici*, judges*,

and Liv Tigerstedt, *Deputy Section Registrar,*

Having regard to:

the applications against the Slovak Republic 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 by two Slovak nationals, Mr Dávid Krátky ("the first applicant") and Mr Dominik Krátky ("the second applicant"), who are twin brothers born in 1991 and are currently detained;

the decision to give notice of the complaints under Article 5 §§ 3 and 4 of the Convention concerning the length and alleged arbitrariness of their detention on remand and the alleged lack of speediness and other procedural guarantees in proceedings for the review of the lawfulness of their detention to the Government of the Slovak Republic ("the Government"), represented by their Agent, Ms M. Bálintová, and to declare inadmissible the remainder of the applications;

the parties' observations;

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

Having deliberated in private on 2 April 2024,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the length and justification of the applicants' detention on remand and the speediness of, and other procedural guarantees in, the proceedings on the review of its lawfulness.

2. On 6 March 2017 the applicants were arrested and later remanded in custody pending trial on drug-related charges with an organised-crime background.

3. Having been committed for trial on 29 October 2018, they were found guilty and sentenced to life imprisonment on 25 September 2020. Upon the dismissal of their appeal, the convictions became final, but they were quashed on 28 February 2024 in response to the applicants' appeal on points of law. They were then again remanded pending a new trial.

4. In the present case, relying on Article 5 § 3 of the Convention, the applicants complained about the length of their detention in the context of their original trial and contested its justification, as those matters had been addressed in the Constitutional Court's decisions of 13 May 2020,

case no. IV. US 171/20 (application no. 55788/20), 7 July 2020, case no. II. US 337/20 (application no. 8058/21), 10 September 2020, case no. II. US 381/20, and 18 March 2021, case no. II. US 129/21 (applications nos. 22074/21 and 21850/21).

5. Furthermore, under Article 5 § 4 of the Convention, they contended that the Constitutional Court's review of the lawfulness of their detention, resulting in its decisions of 10 September 2020 (applications nos. 22074/21 and 21850/21) and 18 March 2021 (applications nos. 22074/21 and 21850/21), had fallen short of the requirement of speediness.

6. Lastly, relying on Article 5 § 4 of the Convention, the first applicant complained (application no. 55788/20) that, in the proceedings ultimately resulting in the Constitutional Court's decision of 13 May 2020, no account had been taken of the reasons submitted on 28 January 2020 for an interlocutory appeal which he had lodged against a decision of 15 January 2020 dismissing his request for release.

THE COURT'S ASSESSMENT

I. JOINDER OF THE APPLICATIONS

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

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

8. The Court does not find it necessary to consider the Government's non-exhaustion objection, since the complaint under Article 5 § 3 is in any event inadmissible on the following grounds.

9. The applicants' detention under Article 5 § 3 of the Convention commenced on 6 March 2017 and ended on 25 September 2020. It accordingly lasted three years, six months and twenty-one days. It was based on their suspected involvement in extensive and particularly serious drug-related offences with an organised-crime background. Between 3 July 2017 and 26 February 2018 their initial charges were amended, and new charges were added on a number of occasions, including the charge of murder.

10. Throughout its duration, the applicants' detention was considered necessary to prevent them from (i) fleeing, (ii) interfering with the course of justice, and (iii) reoffending.

11. In the decisions contested before the Court, the domestic courts noted, as regards ground (i), the severity of the possible sentence (life imprisonment), the fact that the first applicant had previously fled to and had been in hiding in the Czech Republic, where he had a support base, as well as the fact that there was evidence that the applicants had sought to obtain fake

identification documents. Moreover, in the final round of review, it was noted that they had no registered address in Slovakia.

12. As to ground (ii), the courts referred to the organised character of the criminal activities that had given rise to the prosecution, their hierarchical structure, the applicants' leading position within that structure, and the fact that they had been asserting their authority by violence. On that last point, the murder of which the applicants stood accused had been motivated by revenge for the victim's collaboration with the police, and two other witnesses incriminating the applicants testified that the applicants had attempted to pressure them not to give evidence.

13. Lastly, concerning ground (iii), the courts pointed to the seriousness of the suspected criminal activity, the applicants' drug consumption and past criminal record, their criminal lifestyle and their absence of regular work or other sources of income. Furthermore, the second applicant was suspected of having committed further offences after having been released from pre-trial detention in connection with another prosecution.

14. In the circumstances, the domestic courts considered that it was not possible to replace the applicants' detention by alternative measures.

15. The Court notes that a large part of the applicants' arguments in their requests for release and subsequent appeals and complaints at the domestic level concerned matters going beyond the scope of the present case and focused on the assessment of evidence concerning the merits of the charges against them. As noted by the domestic courts, the applicants' arguments concerning the grounds of their detention were limited and repetitive, challenging the courts' reasoning as abstract and stereotypical.

16. All in all, the Court has no difficulty in accepting that there was a reasonable suspicion against the applicants and that the reasons given by the domestic courts for the applicants' continued detention were "relevant" and "sufficient" within the meaning of its case-law (see also *Štvrtecký v. Slovakia*, no. 55844/12, §§ 57-66, 5 June 2018). In so far as those reasons persisted and the lawfulness of the applicants' detention was reviewed multiple times, the domestic courts cannot be reproached for a certain repetitiveness in the wording of their decisions (see *Knebl v. the Czech Republic*, no. 20157/05, § 68, 28 October 2010).

17. The applicants did not raise any arguments as to whether the domestic authorities displayed "special diligence" in the conduct of the proceedings (see, for example, *S., V. and A. v. Denmark* [GC], nos. 35553/12 and 2 others, § 77, 22 October 2018) at the domestic level or before the Court and it accepts the Government's submissions that the proceedings were particularly complex, that their duration was influenced by the applicants' conduct, and that no inactivity attributable to the authorities could be identified (see also *Štvrtecký*, cited above, §§ 67-71). In particular, the proceedings involved an organised group, eleven victims, seventy-four witnesses and a large volume of expert and other evidence, including from the Czech Republic. As the

applicants had claimed before the Slovakian authorities that they had insufficient command of the Czech language, even though they had previously stated before the Czech authorities that they understood it well, some 500 pages of documentation had to be translated from Czech into Slovak. Moreover, between 28 January 2019 and 15 April 2020 the applicants requested adjournments of hearings on some ten occasions. On two further occasions a lawyer had to be appointed by the court to represent them, since their chosen lawyer had repeatedly failed to appear or was unavailable and the applicants had not agreed to his replacement by a colleague.

18. In conclusion, the Court finds that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION (SPEEDINESS)

19. The Court reiterates that the applicants complained only about the speediness of the Constitutional Court's proceedings resulting in its decisions of 10 September 2020 and 18 March 2021 (see paragraph 5 above). The right to proceedings by which the lawfulness of detention was to be decided speedily is applicable to those proceedings (see *Žúbor v. Slovakia*, no. 7711/06, § 77, 6 December 2011).

20. The Government argued that the guarantee of "speediness" had ceased to apply with the applicants' conviction at first instance on 25 September 2020 and that, accordingly, their complaints lodged with the Court on 21 April, 2 September and 3 September 2021 were out of time.

21. However, the facts of the case do not support the proposition that the judgment of 25 September 2020 convicting the applicants entailed any examination of the lawfulness of their detention in connection with their applications for release that had been dismissed on 30 September 2019 and 24 July 2020 or the applicants' respective interlocutory appeals against those decisions (see *Salmanov v. Slovakia*, no. 40132/16, § 65, 20 January 2022, with a further reference). As the applicants remained in detention (contrast *Kormoš v. Slovakia*, no. 46092/06, § 95, 8 November 2011) and as, under the domestic law, such detention was classified as being on remand until the conviction became final, including during appeal proceedings (see *Salmanov*, cited above, § 46), the Article 5 § 4 guarantees continued to apply (see *Stollenwerk v. Germany*, no. 8844/12, § 36, 7 September 2017). The Government's objection is therefore dismissed and, since 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 be declared admissible.

22. The constitutional proceedings under review started with the lodging of the applicants' respective constitutional complaints and ended with the

service of the respective decisions on them (see *Radonjić and Romić v. Serbia*, no. 43674/16, § 97, 4 April 2023).

23. The first set of constitutional proceedings under review lasted nine months and twenty-two days (having started on 30 December 2019 and ended on 21 October 2020, when the decision of 10 September 2020 was served on the applicants' lawyer), while the second set lasted seven months and one day (from 5 October 2020 until the service of the decision of 18 March 2021 on the applicants' lawyer on 7 May 2021).

24. It is true that while the first set of constitutional proceedings was ongoing, the lawfulness of the applicants' detention was tested in two further and separates sets examination, which were concluded by the Constitutional Court's decisions of 13 May (the first applicant) and 7 July 2020 (the second applicant). It is likewise true that prior to the decision of 10 September 2020 the Constitutional Court had joined the complaints of the two applicants which had originally been introduced separately. Nevertheless, this cannot be accepted as having significantly protracted the proceedings under review.

25. In the absence of any further arguments on the part of the Government as to the complexity of the proceedings and the applicants' procedural behaviour, in the light of its case-law (see *Žúbor*, cited above, § 90, and, for contrast, *Ilnseher v. Germany* [GC], nos. 10211/12 and 27505/14, §§ 257-76, 4 December 2018, and *Stevan Petrović v. Serbia*, nos. 6097/16 and 28999/19, § 178, 20 April 2021), the Court concludes that the constitutional proceedings leading to the decisions of 10 September 2020 and 18 March 2021 fell short of the requirement of speediness.

26. There has accordingly been a violation of Article 5 § 4 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION (OTHER GUARANTEES)

27. The first applicant's complaint under this head arises out of a situation following the dismissal at a public hearing on 15 January 2020 of his request for release. On 17 January 2020 he lodged a "blank" interlocutory appeal, advancing no reasons but stating that he would do so within seven working days.

28. The appeal was dismissed by the Supreme Court on 30 January 2020 without it having received the reasons for that appeal, which the first applicant had sent to the first-instance court on 28 January 2020 and which had been received by that court on 30 January 2020. The first applicant argued that, in the circumstances, his appeal had been determined too soon.

29. The Court notes that the written version of the contested decision was served on the first applicant on 23 January 2020, in good time for him to be able to contest it with full knowledge of the reasoning behind it (contrast *Černák v. Slovakia*, no. 36997/08, § 82, 17 December 2013).

30. Moreover, as argued by the Government, it was in the first applicant's interest to submit the reasons for his appeal as early as possible and to do so in a way ensuring that the appellate court would obtain them in time. In particular, on several previous occasions he had filed a copy of the reasons or further reasons for his earlier appeals directly with the Supreme Court. In the present case he had addressed those reasons to the first-instance court and they arrived there on the day of the Supreme Court's decision, inherently creating the risk that they would not reach the Supreme Court in time, for which the authorities cannot be held accountable (contrast *Komanický v. Slovakia*, no. 32106/96, §§ 51 and 52, 4 June 2002).

31. In addition, unlike in *Černák* and *Yegorov* (both cited above), the present case concerned a situation of continuing detention with all the grounds for it having been challenged, examined and established on numerous previous and subsequent occasions, with no new evidence being adduced (see *Komanický*, cited above, § 54), and with the first applicant advancing no new relevant arguments in the reasons for his interlocutory appeal.

32. In the light of the above, and having regard to the "speediness" requirement in Article 5 § 4, the Court concurs with the Constitutional Court's assessment that the first applicant's complaint is somewhat self-serving. At any rate, there is no doubt that in the present set of proceedings, ultimately resulting in the Constitutional Court's decision of 13 May 2020, the lawfulness of his detention was decided as required under Article 5 § 4 of the Convention. The complaint is thus manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

33. The applicants claimed 50,000 euros (EUR) each in respect of non-pecuniary damage and EUR 9,395.10 (the first applicant) and EUR 9,389 (the second applicant) in respect of legal expenses and other costs.

34. The Government contended that the claim in respect of non-pecuniary damage was overstated and argued that a part of the remaining claims was unsupported by evidence or pertained to legal services going beyond what was at stake in the present proceedings.

35. The Court awards the applicants EUR 1,600 each in respect of non-pecuniary damage, plus any tax that may be chargeable.

36. Having regard to its case-law and the documents in its possession, the Court also considers it reasonable to award the applicants EUR 1,000 each covering costs under all heads.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the complaint under Article 5 § 4 of the Convention concerning the alleged lack of a speedy review of the lawfulness of the applicants' detention in the proceedings before the Constitutional Court leading to its decisions of 10 September 2020 and 18 March 2021 admissible and the remainder of the applications inadmissible;

3. *Holds* that there has been a violation of Article 5 § 4 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay each applicant, within three months, the following amounts:
      (i) EUR 1,600 (one thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
   (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;

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

Done in English, and notified in writing on 25 April 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Deputy Registrar	Péter Paczolay President

APPENDIX

No.	Application no.	Case name	Lodged on	Applicant	Represented by
1.	55788/20	Krátky v. Slovakia	15/12/2020	**Dávid KRÁTKY**	M. MANDZÁK
2.	8058/21	Krátky v. Slovakia	28/01/2020	**Dominik KRÁTKY**	A. KOKAVCOVÁ
3.	21850/21	Krátky v. Slovakia	21/04/2021 (additional complaints lodged on 02/09/2021)	**Dominik KRÁTKY**	A. KOKAVCOVÁ
4.	22074/21	Krátky v. Slovakia	21/04/2021 (additional complaints lodged on 03/09/2021)	**Dávid KRÁTKY**	M. MANDZÁK