

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

THIRD SECTION

CASE OF KUPRIYANOV v. RUSSIA

(Application no. 9956/20)

JUDGMENT

STRASBOURG

28 July 2022

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Kupriyanov v. Russia,

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

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 30 June 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 5 February 2020.

2. The Russian Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to the application are set out in the appended table.

4. 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

5. The applicant complained about lengthy review of pre-trial detention, detention in a metal cage at court hearings and lack of an effective remedy therefor.

6. The Government submitted a unilateral declaration with a view to resolving the issues raised by these complaints. They acknowledged a violation of Articles 3, 5 § 4 and 13 of the Convention due to the lengthy review of pre-trial detention, detention in a metal cage and lack of an effective remedy therefor. They offered to pay the applicant the sum indicated in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to

pay this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case in the part related to lengthy review of pre-trial detention, detention in a metal cage at court hearings and lack of an effective remedy therefor.

7. The applicant informed the Court that he agreed to the terms of the declaration.

8. The Court finds that, following the applicant's express agreement to the terms of the declaration made by the Government, this part of the application should be treated as a friendly settlement between the parties. It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and the Protocols thereto and finds no reasons to justify the continued examination of the application in this part.

9. In view of the above, it is appropriate to strike the application out of the list in the part covered by the friendly settlement.

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

10. The applicant also complained 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."

11. 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).

12. 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.

13. 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 length of the applicant's pre-trial detention was excessive.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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."

16. 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.

17. 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. *Decides* to strike the application out of its list of cases in accordance with Article 39 of the Convention as regards the complaints concerning the lengthy review of pre-trial detention, detention in a metal cage at court hearings and lack of an effective remedy to complain about it, as specified in the Government's unilateral declaration;

2. *Declares* the complaint concerning the excessive length of pre-trial detention admissible;

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

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 July 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	Period of detention	Court which issued detention order/examined appeal	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded under the friendly settlement between the parties (in euros)[1]	Amount awarded by the Court for pecuniary and non-pecuniary damage and costs and expenses to the applicant, given the violation of Article 5 § 3 of the Convention (in euros)[2]
9956/20 05/02/2020	**Dmitriy Vladimirovich KUPRIYANOV** 1988	06/12/2017 to 24/10/2019	Vorkuta Town Court of the Komi Republic, Ukhta Town Court of the Komi Republic, Syktyvkar Town Court of the Komi Republic, Supreme Court of the Komi Republic	1 year(s) and 10 month(s) and 19 day(s)	As the case progressed: failure to examine the possibility of applying other measures of restraint; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice	Art. 5 (4) - excessive length of judicial review of detention - lack of speediness of review by the Supreme Court of the Komi Republic on 19/08/2019 of the order on extension of the applicant's detention issued by the Ukhta Town Court of the Komi Republic on 22/07/2019 (see *Idalov v. Russia* [GC], no. 5826/03, §§ 154-158, 22 May 2012), Art. 3 - use of metal cages and/or other security arrangements in courtrooms - detention in a metal cage in the trial hearings before the Ukhta Town Court of the Komi Republic until the trial judgment of 24/10/2019, Art. 13 - lack of any effective remedy in domestic law - to complain about use of the metal cages in court hearings	7,000	2,750

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