

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

THIRD SECTION

CASE OF MAKAROV v. RUSSIA

(*Application no. 4926/18*)

JUDGMENT

STRASBOURG

26 November 2020

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



In the case of Makarov v. Russia,

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

Darian Pavli, *President,*
Dmitry Dedov,
Peeter Roosma, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having deliberated in private on 5 November 2020,

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 18 December 2017.

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 under Article 6 § 1 of the Convention about the excessive length of criminal proceedings. He also raised other complaints under Article 3 of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

5. The applicant complained principally that the length of the criminal proceedings in question had been incompatible with the "reasonable time" requirement. He relied on Article 6 § 1 of the Convention, which reads as follows:

Article 6 § 1

> "In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

6. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

7. In the leading case of *Nakhmanovich v. Russia,* no. 55669/00, 2 March 2006, the Court already found a violation in respect of issues similar to those in the present case.

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 as to the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

9. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

II. REMAINING COMPLAINTS

10. The applicant also complained under Article 3 of the Convention about the poor conditions of his detention in a pre-trial facility.

11. The Court has examined that complaint and finds that the applicant should avail himself of the new remedy introduced in the Russian Federation, which the Court declared effective in its recent decision of *Shmelev and Others v. Russia* ((dec.), nos. 41743/17 and 16 others, 17 March 2020).

12. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

III. 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, *Kulida v. Russia,* no. 44049/09, 17 June 2014; *Dimov v. Russia,* no. 7427/06, 23 September 2014; and *Skrylev and Others v. Russia,* no. 15754/06, 15 April 2014), the Court finds it reasonable to award the sum indicated in the appended table.

15. The Court 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. *Declares* the complaints concerning the excessive length of criminal proceedings admissible, and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a breach of Article 6 § 1 of the Convention concerning the excessive length of criminal proceedings;

3. *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 26 November 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (excessive length of criminal proceedings)

Application no. Date of introduction	Applicant's name Date of birth	Start of proceedings	End of proceedings	Total length Levels of jurisdiction	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
4926/18 18/12/2017	**Andrey Yuryevich MAKAROV** 01/03/1979	31/07/2012	04/09/2017	5 year(s) and 1 month(s) and 5 day(s) 2 level(s) of jurisdiction.	2,600

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