

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

FIFTH SECTION

CASE OF MESHCHERYAKOV v. UKRAINE

(Application no. 27003/16)

JUDGMENT

STRASBOURG

24 September 2026

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



In the case of Meshcheryakov v. Ukraine,

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

Andreas Zünd*, President*,
Mykola Gnatovskyy,
Vahe Grigoryan*, judges*,

and Martina Keller, *Deputy Section Registrar,*

Having regard to:

the application (no. 27003/16) 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 May 2016 by a Ukrainian national, Mr Mykhaylo Viktorovych Meshcheryakov ("the applicant"), who was born in 1984 and lives in Kyiv, and was represented by Mr M. O. Tarakhkalo and Ms O.R. Chylutyan, lawyers practising in Kyiv;

the decision to give notice of the application to the Ukrainian Government ("the Government"), represented by their Acting Agent, Ms Alisa-Tetiana Pietukhova, of the Ministry of Justice;

the parties' observations;

Having deliberated in private on 3 September 2026,

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

SUBJECT MATTER OF THE CASE

1. The application concerns various aspects of criminal proceedings against the applicant (Articles 6, 8, 13 of the Convention and Article 2 of Protocol No. 4).

I. INTERCEPTION OF THE APPLICANT'S COMMUNICATIONS

2. On 14 December 2007 and on 23 January, 5 March, 4 June, 1 July, 30 July, 12 September and 7 October 2008 the head of the Kyiv Court of Appeal delivered decisions granting permission to the police to intercept the applicant's communications.

3. In June 2018 the applicant's lawyer asked the Kyiv Court of Appeal to allow him to familiarise himself with those decisions.

4. On 19 June 2018 the court replied that the rulings had been destroyed, as the statutory storage time-limit had expired. By an additional letter of 22 November 2018, the court explained that, under the law and by a decree of the president of the court, the rulings had to be stored "until they [were] needed", but for no more than ten years and that they had been destroyed in 2013.

5. The Government provided a letter from the Kyiv Court of Appeal of 18 March 2022 stating that the documents in question had been destroyed

shortly after the full-fledged invasion by the Russian Federation to prevent their possible seizure by enemy forces.

II. CRIMINAL PROCEEDINGS AGAINST THE APPLICANT

6. At the material time, the applicant lived in Luhansk.

7. On 14 November 2008 the Makiivka District Tax Inspectorate of Donetsk initiated a criminal investigation (criminal case no. 70/107-08) against the applicant and nine other persons for organising fictitious businesses and evading taxes[1]. According to the resolution on the initiation of the criminal case, the group had carried out its activities from 2005 to 2007 in several regions of Ukraine.

8. On 7 December 2008 the applicant was detained and subsequently placed in pre-trial detention.

9. On 15 December 2008 the applicant was charged with fictitious entrepreneurship (punishable by imprisonment from three to five years under Article 205 § 2 of the Criminal Code) and tax evasion (punishable by imprisonment from five to ten years under Article 212 § 3 of the Criminal Code).

10. On 3 November 2009 the pre-trail investigation was completed.

11. In August 2010 the Prosecutor General's Office sent the applicant's case to the Shevchenkivskyi District Court of Kyiv for consideration on the merits.

12. On 1 September 2010 the court returned the case to the Prosecutor General's Office, stating that it had failed to comply with several legislative requirements. The Prosecutor General's Office resubmitted the case to the court on 17 September 2010.

13. On 17 July 2012 the Shevchenkivskyi District Court of Kyiv changed the applicant's preventive measure from detention to bail accompanied by an obligation not to leave Kyiv, his then place of residence, and to surrender his passport for travelling abroad and "other documents which allow [the applicant] to leave the territory of Ukraine". According to the applicant, he surrendered both his passport for travelling abroad and his internal passport.

14. The applicant's bail was paid on the same day by his sister, who lived in Luhansk, and he was released from custody. In April 2015 the applicant asked the authorities to return the internal passport to him, which they did on 21 May 2015.

15. Between 20 July and 9 December 2014, the applicant filed three petitions with the Shevchenkivskyi District Court, asking it to change his preventive measure from bail to an undertaking not to abscond, but his requests were denied.

[1] Under Article 191 § 5 of the Criminal Code, misappropriation of property committed as a part of an organised criminal group is punishable by a term of imprisonment ranging from seven to 12 years.

16. On 18 December 2014 the Shevchenkivskyi District Court sent back the criminal case to the Prosecutor General's Office for further investigation. The prosecutors appealed to the Kyiv Court of Appeal.

17. In February, September and July 2015 the applicant asked the Shevchenkivskyi District Court for permission to travel to Smolensk (in the Russian Federation) to visit his grandmother. The request was denied.

18. On 1 March 2016 the applicant asked the Kyiv Court of Appeal to change his preventive measure from bail to an undertaking not to abscond, citing as reasons the difficult financial situation of his sister.

19. On 10 March 2016 the applicant again asked the Kyiv Court of Appeal for permission to travel to Smolensk to attend a memorial dinner after the death of his grandmother. This request was refused on 4 April 2016.

20. On 8 April 2016 the Kyiv Court of Appeal informed the applicant that his request of 1 March 2016 had been refused.

21. On 10 June 2016 the Kyiv Court of Appeal rejected the prosecutors' appeal against the decision of 18 December 2014. On the same day the Kyiv Court of Appeal changed the applicant's preventive measure from bail to an undertaking not to abscond.

22. On 22 November 2016 the Prosecutor General's Office received the applicant's criminal case and registered it under number 42016000000003606. Pursuant to the legislation in force at the material time, the Prosecutor General's Office had to formally bring charges against the applicant in the criminal case under the new Code of Criminal Procedure.

23. On 14 February 2017 the Shevchenkivskyi District Court declared the applicant's preventive measure null and void. It noted that the Prosecutor General's Office had failed to charge the applicant in criminal case no. 42016000000003606 under the new Code of Criminal Procedure, which meant that he was not an accused in that case and there was no legal ground to apply any preventive measures to him.

24. On 21 June 2018 the Kyiv Prosecutor's Office placed the criminal charges against the applicant into a separate criminal case (no. 320181000000000080). The applicant was formally charged in that criminal case.

25. On 12 October 2018 the Shevchenkivskyi District Court closed criminal case no. 320181000000000080 against the applicant for expiry of the statutory limitation period. The court noted that the offence of which the applicant had been accused had occurred in March-May 2008 and the ten-year statutory limitation period had expired in May 2018.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

26. The applicant complained that the length of the criminal proceedings against him had been excessive. He relied on Article 6 § 1 of the Convention.

A. Admissibility

27. The Government submitted that the applicant's complaint was inadmissible and that the length of the proceedings had not been excessive given the high number of co-accused persons involved in the applicant's criminal case, the nature of the investigation which had concerned organised crime and the fact that the criminal case file had consisted of 738 volumes of documents. The applicant maintained his complaints.

28. The Court notes that 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 therefore be declared admissible.

B. Merits

29. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case which calls for an overall assessment and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the conduct of the relevant authorities (see *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II). Where a person is held in pre-trial detention, this is a factor to be considered in assessing whether the charge has been determined within a reasonable time (see *Abdoella v. the Netherlands*, 25 November 1992, § 24, Series A no. 248-A). Even though a case may be of some complexity, the Court cannot regard lengthy periods of unexplained inactivity as "reasonable" (see *Adiletta and Others v. Italy*, 19 February 1991, § 17, Series A no. 197-E).

30. The criminal proceedings against the applicant lasted from 14 November 2008 to October 2018, that is, for about nine years and 11 months before the investigative authorities and courts of two instances. During this period the applicant remained in pre-trial detention for about four years (from 2008 to 2012). He was subsequently under an obligation not to leave his place of residence for an additional four years and six months.

31. The Court observes that the criminal investigation was rather complex, given that the applicant was accused of being a member of an organised criminal group which consisted of ten persons and which carried out its activities in several regions.

32. The Court does not find any evidence that any delays in the proceedings were attributable to the applicant.

33. By contrast, it observes that the courts remitted the case twice to the prosecutors for further investigation (see paragraphs 12 and 16 above). The Court observes that the first instance court received the criminal case against the applicant for the first time in September 2010. It took that court four years to reach the conclusion that the case had to be remitted to the prosecutors for further investigation. Furthermore, from the materials in the case file it is unclear whether any meaningful investigative measures were taken between November 2016, when the prosecutors received the case submitted to them for further investigation (see paragraph 22 above) and October 2018 (see paragraph 25 above), when the investigation was eventually terminated.

34. Having examined all the material submitted to it, the Court has not found any fact or argument capable of justifying the overall length of the proceedings. In the light of its case-law on the subject, the Court considers that, in the present case, the length of the proceedings was excessive and failed to meet the «reasonable time» requirement. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL NO. 4 TO THE CONVENTION

35. The applicant complained that his right to freedom of movement had been restricted on account of the fact that from 17 July 2012 to 14 February 2017 he had been under restrictive measures prohibiting him from leaving his place of residence. He also complained that his passport had been returned to him only on 21 May 2015.

36. The Government submitted that the restrictions imposed on the applicant's freedom of movement had been based on law, had pursued a legitimate aim and had been proportionate to that aim. The length of the period during which those measures had been applied had not been disproportionate.

37. Insofar as the applicant complained of having lived without his internal passport, the Court notes that the passport was returned to him on 21 May 2015, which is more than six months before the application was introduced.

38. In so far as the period from 17 July 2012, when the applicant was released on bail, to 14 February 2017, when his preventive measure was declared null and void, is concerned, the Court reiterates that to comply with Article 2 of Protocol No. 4 a restriction should be "in accordance with the law", pursue one or more of the legitimate aims set out in paragraph 3 of the same Article and be "necessary in a democratic society" (see *Miażdżyk v. Poland*, no. 23592/07, § 30, 24 January 2012).

39. The Court has previously found, in cases raising similar issues in the context of criminal proceedings in Ukraine, that such interference with a right of a criminal suspect or an accused was in accordance with law and, in principle, pursued a legitimate aim (see, among other authorities, *Ivanov v. Ukraine*, no. 15007/02, §§ 87-89, 7 December 2006). It remains to be seen whether the interference in the present case was "necessary in a democratic society".

40. The applicant was under an obligation not to leave Kyiv for about four years and six months (see paragraph 38 above).

41. The Court observes that in *Antonenkov and Others v. Ukraine* (no. 14183/02, §§ 59-67, 22 November 2005), where the length of the impugned restriction within the course of criminal proceedings had been four years and ten months, the Court found no violation of Article 2 of Protocol No. 4.

42. The Court reiterates that the comparative duration of the restriction, in itself, cannot be taken as the sole basis for determining whether a fair balance was struck between the general interest in the proper conduct of the criminal proceedings and the applicant's personal interest in enjoying freedom of movement. This issue must be assessed in the light of all the special features of the case. The restriction may be justified in a given case only if there were clear indications of a genuine public interest which outweighed the individual's right to freedom of movement.

43. The Court observes that the applicant was accused of being a member of an organised criminal group, an offence punishable by up to 12 years' imprisonment. Whilst acknowledging that the restriction on the applicant's freedom to leave his place of residence had implications on his family life, the Court finds no evidence that the applicant's relatives could not visit him in Kyiv. The Court observes that the applicant's requests to visit his relatives had been denied, however, the Court is of the opinion that these refusals were justified by the fact that said relatives lived on the territories outside of the control of the Ukrainian Government (see paragraphs 14 and 17 above).

44. Moreover, the Court does not overlook that the domestic court granted the applicant's request to change his preventive measure from bail to undertaking not to abscond (see paragraph 21 above) and lifted the preventive measure shortly afterwards although the criminal proceedings against him were still pending (see paragraph 23 above).

45. In view of the foregoing, the Court cannot find that the applicant was subjected to measures applied automatically, with no limitation as to their scope or duration. It concludes that the Ukrainian authorities struck a fair balance between the public interest in a proper conduct of the criminal proceedings and the applicant's personal interest in enjoying freedom of movement in the circumstances of his case. Those authorities have thus not failed in their obligation under Article 2 of Protocol No. 4 to the Convention to ensure that any interference with an individual's right to freedom of

movement is, from the outset and throughout its duration, justified and proportionate in the light of the circumstances (see *Nasyrov v. Lithuania*, (dec.), no. 41738/19, §§ 31-33, 12 March 2024).

46. The Court therefore concludes that a fair balance between the demands of the general interest and the applicant's rights was achieved. Accordingly, the present complaint must be rejected as is manifestly ill-founded within the meaning of Article 35 §§ 3 (a) and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION IN RESPECT OF INABILITY TO MEET FAMILY MEMBERS

47. The applicant complained that during his pre-trial detention but also after it, while he had been under the legal obligation not to leave his place of residence, he had been unable to travel to meet his family members and attend a memorial dinner after the death of his grandmother.

48. The Government submitted that the restrictions imposed on the applicant had constituted an interference with Article 8, however, it had been based on law, had pursued a legitimate aim and had been proportionate to that aim.

49. In so far as the applicant's pre-trial detention is concerned, the Court notes that it ended more than six months before the application was lodged with the Court (see paragraph 13 above).

50. In so far as the obligation not to leave Kyiv is concerned, the Court observes that the applicant only requested that the authorities allow him to travel abroad to meet his grandmother in the Russian Federation or to attend a memorial dinner after her death. The Court does not find reasons to doubt that the restriction imposed on the applicant was based on law and pursued a legitimate aim of prevention of disorder or crime. In view of its findings under Article 2 of Protocol No. 4 above, the Court considers that the restriction also was not disproportionate. It also notes that there is no evidence in the case file that the applicant's relatives could not visit him at his place of residence.

51. The Court concludes that, in view of the considerations above, the applicant's complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected under Article 35 § 4 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION IN RESPECT OF THE INTERCEPTION OF COMMUNICATIONS

52. The applicant complained that the wiretapping of his telephone had been contrary to Article 8 of the Convention. As the court decisions authorising the wiretapping had been destroyed before the criminal proceedings against him had been closed, the applicant expressed a doubt that they had been based on law and had been necessary. The Government did not comment on admissibility of this complaint.

53. The Court notes that 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 therefore be declared admissible.

54. The Government submitted that the interference had been based on the Operational-Search Activities Act and had pursued a legitimate aim of prevention of disorder or crime and the protection of the rights and freedoms of others. They asserted that the wiretapping had been ordered by a court and had been necessary in a democratic society. The Government submitted that, according to a letter from the Kyiv Court of Appeal of 18 March 2022, the documents concerning the wiretapping had been destroyed shortly after the full-fledged invasion by the Russian Federation to prevent their possible seizure by enemy forces.

55. The Court reiterates that when dealing with requests by surveillance subjects to disclose the decisions authorising covert measures in respect of them, the authorities are required to strike a proper balance between the interests of those persons in vindicating their Article 8 rights and the public interest in detecting and prosecuting serious offences. The Court also emphasises that, by default, surveillance subjects should be granted access to the documents in question, unless there are compelling grounds for denying it.

56. The Court observes that, according to a letter of the Kyiv Court of Appeal received by the applicant in 2018 (see paragraph 4 above), the rulings authorising the wiretapping had been destroyed in 2013. Even assuming that the rulings were destroyed in 2022 as indicated in the letter of the Kyiv Court of Appeal of 18 March 2022 (see paragraph 5 above), the Court notes that the Government did not indicate any compelling reasons for the refusal by the Kyiv Court of Appeal of the applicant's lawyer's request to familiarise himself with those rulings in 2018 (see paragraphs 3 and 4 above).

57. Furthermore, because of the destruction of the rulings the Court is unable to establish their content. It therefore lacks any basis to conclude that the secret surveillance measures carried out in respect of the applicant were authorised as a result of proper and detailed judicial scrutiny, which reflected, in particular, a balanced approach to the competing interests at stake, as required by the Convention and by the applicable domestic law (see *Denysyuk and Others v. Ukraine*, nos. 22790/19 and 3 others, §§ 97-100, 13 February 2025).

58. There has therefore been a breach of Article 8 of the Convention on that account.

V. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

59. The applicant complained that he did not have an effective remedy against the excessive length of the criminal proceedings and the authorities' refusals to allow him to travel to meet his family and attend a memorial

dinner. The Government disagreed. Having regard to the facts of the case, the submissions of the parties and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

60. The applicant claimed 50,000 euros (EUR) in respect of non-pecuniary damage. He also claimed EUR 3,750 in respect of costs and expenses incurred before the Court to be transferred directly to the account of his representative, Mr M. Tarakhkalo.

61. The Government contested these claims.

62. The Court, ruling on an equitable basis, awards the applicant EUR 3,100 in respect of non-pecuniary damage, plus any tax that may be chargeable.

63. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 1,000 covering costs before the Court, plus any tax that may be chargeable to the applicant, to be transferred directly to the account of the applicant's lawyer, Mr M. Tarakhkalo.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 6 § 1 of the Convention concerning the length of the criminal proceedings and the complaint under Article 8 of the Convention concerning the interception of communications admissible and the complaint under Article 4 of Protocol No. 2 and the complaint under Article 8 concerning the inability to meet the family inadmissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there has been a violation of Article 8 of the Convention;

4. *Holds* that there is no need to examine the admissibility and merits of the complaints under Article 13 of the Convention;

5. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 3,100 (three thousand one 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 applicant, in respect of costs and expenses, to be transferred directly to the account of the applicant's representative, Mr M. Tarakhkalo;

(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;

6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 24 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Martina Keller Deputy Registrar	Andreas Zünd President