

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

FIFTH SECTION

CASE OF NOVOSYOLOV v. UKRAINE

(Applications nos. 54109/22 and 25459/23)

JUDGMENT

STRASBOURG

25 April 2024

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Novosyolov v. Ukraine,

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

Mārtiņš Mits*, President*,
Kateřina Šimáčková,
Mykola Gnatovskyy*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 4 April 2024,

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

PROCEDURE

1. The case originated in two applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on the various dates indicated in the appended table.

2. The Ukrainian Government ("the Government") were given notice of the applications.

THE FACTS

3. The applicant's details and information relevant to the applications 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. JOINDER OF THE APPLICATIONS

5. 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

6. The applicant complained principally that his pre-trial detention had been unreasonably long. He relied on Article 5 § 3 of the Convention.

7. 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).

8. In the leading cases of *Kharchenko v. Ukraine* (no. 40107/02, 10 February 2011) and *Ignatov v. Ukraine* (no. 40583/15, 15 December 2016), the Court already found a violation in respect of issues similar to those in the present case.

9. 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. 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.

10. These complaints are therefore admissible and disclose a breach of Article 5 § 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

11. The applicant submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in the well-established case-law set out in the appended table.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. Regard being had to the documents in its possession and to its case-law (see, in particular, *Ignatov*, cited above), the Court considers it reasonable to award the sums indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;

2. *Declares* the applications admissible;

3. *Holds* that there has been a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;

4. *Holds* that there has been a violation of the Convention as regards the other complaints raised under the well-established case-law of the Court (see appended table);

5. *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 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 25 April 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Mārtiņš Mits
Acting Deputy Registrar	President

APPENDIX

List of applications 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	Representative's name and location	Period of detention	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
54109/22 20/10/2022 AND 25459/23 02/06/2023	**Oleg Gennadiyovych NOVOSYOLOV** 1999	Culbaci Oxana Limoges Kulbach Sergiy Oleksandrovych Limoges	16/05/2020 pending	More than 3 year(s) and 10 month(s) and 3 day(s)	fragility of the reasons employed by the courts; failure to conduct the proceedings with due diligence during the period of detention	Art. 6 (1) - excessive length of criminal proceedings – 16/05/2020 - pending, 1 level of jurisdiction (see *Nechay v. Ukraine*, no. 15360/10, §§ 67-79, 1 July 2021); Art. 13 - lack of any effective remedy in domestic law in respect of excessive length of criminal proceedings (see *Nechay v. Ukraine*, no. 15360/10, §§ 67-79, 1 July 2021) Art. 3 - inadequate conditions of detention - Dnipro Pre-Trial Detention Facility no. 4 30/09/2022 - pending More than 1 year(s) and 5 month(s) and 21 day(s), 3 sq. m. per inmate, overcrowding, no or restricted access to shower, mouldy or dirty cell, lack of	5,200	250 (to be paid to the applicant's representative, Ms Oxana Culbaci)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of detention	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]	Amount awarded for costs and expenses (in euros)[2]
						fresh air, poor quality of potable water, lack of or poor quality of bedding and bed linen, lack of or insufficient quantity of food, poor quality of food, lack of or insufficient physical exercise in fresh air (see *Melnik v. Ukraine*, no. 72286/01, 28 March 2006 and *Sukachov v. Ukraine*, no. 14057/17, 30 January 2020) Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention – (see *Melnik v. Ukraine*, no. 72286/01, 28 March 2006 and *Sukachov v. Ukraine*, no. 14057/17, 30 January 2020).		

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