

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

THIRD SECTION

CASE OF SHALINA v. RUSSIA

(Application no. 17908/20)

JUDGMENT

STRASBOURG

6 March 2025

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



In the case of Shalina v. Russia,

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

Diana Kovatcheva*, President*,
Úna Ní Raifeartaigh,
Mateja Đurović*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 13 February 2025,

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 24 March 2020.

2. The applicant was represented by Ms I. Khrunova, a lawyer practising in Kazan.

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

THE FACTS

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

5. The applicant complained of the unlawful detention (deprivation of liberty). She also raised other complaints under the provisions of the Convention.

THE LAW

I. JURISDICTION

6. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the Convention. The Court therefore decides that it has jurisdiction to examine the present application (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023).

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

7. The applicant complained principally of the unlawful detention (deprivation of liberty). She relied on Article 5 § 1 of the Convention.

8. The Court reiterates that the expressions "lawful" and "in accordance with a procedure prescribed by law" in Article 5 § 1 essentially refer back to national law and state the obligation to conform to the substantive and procedural rules thereof. It is in the first place for the national authorities, notably the courts, to interpret and apply domestic law. However, since under Article 5 § 1 failure to comply with domestic law entails a breach of the Convention, it follows that the Court can and should exercise a certain power to review whether this law has been complied with (see, among numerous other authorities, *Benham v. the United Kingdom*, 10 June 1996, §§ 40-41 *in fine*, *Reports of Judgments and Decisions* 1996-III).

9. In the leading case of *Korneyeva v. Russia,* no. 72051/17, §§ 34-35, 8 October 2019, the Court has already found a violation in respect of the issues similar to those in the present case.

10. 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 applicant's detention was contrary to domestic law requirements and the "lawfulness" guarantee of Article 5 of the Convention (see the appended table).

11. These complaints are therefore admissible and disclose a breach of Article 5 § 1 of the Convention.

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

12. The applicant submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see the 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 well-established case-law (see *Karelin v. Russia*, no. 926/08, §§ 58-85, 20 September 2016, concerning the absence of a prosecuting party in the proceedings under the Code of Administrative Offences (the CAO); *Martynyuk v. Russia*, no. 13764/15, §§ 38-42, 8 October 2019, relating to the lack of suspensive effect of an appeal against the sentence of administrative detention; *Taganrog LRO and Others v. Russia* (nos. 32401/10 and 19 others, § 254, 7 June 2022), related to extremely broad wording of extremism legislation, and, *mutatis mutandis*, *Vajnai v. Hungary*, no. 33629/06, §§ 48-58, 8 July 2008, concerning the seriousness of the sanction imposed for display of a totalitarian symbol).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Biryuchenko and Others v. Russia* [Committee], nos. 1253/04 and 2 others, § 96, 11 December 2014), the Court considers it reasonable to award the sum indicated in the appended table.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Holds* that it has jurisdiction to deal with this application as it relates to facts that took place before 16 September 2022;

2. *Declares* the application admissible;

3. *Holds* that this application discloses a breach of Article 5 § 1 of the Convention concerning the unlawful detention (deprivation of liberty);

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 the appended table);

5. *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 6 March 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina Acting Deputy Registrar	Diana Kovatcheva President

APPENDIX

Application raising complaints under Article 5 § 1 of the Convention (unlawful detention (deprivation of liberty))

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Start date of unauthorised detention	End date of unauthorised detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
17908/20 24/03/2020	**Olga Leonidovna SHALINA** 1983	Khrunova Irina Vladimirovna Kazan	11/02/2020, 2.20 p.m. 02/02/2022	12/02/2020, 03/02/2022	Detention as an administrative suspect: the applicant remained in detention after the offence record had been compiled, (the complaint was raised in the administrative proceedings); Applicant taken to the police station as an administrative suspect: no evidence/assessment that it was impracticable, on the spot, to compile the offence record (Art. 27.2 § 1 CAO) and achieve the objectives set out in Art. 27.1 CAO, e.g. to establish the suspect's identity	Art. 6 (1) - lack of impartiality of the tribunal in view of the absence of a prosecuting party in administrative-offence proceedings - (1) The final decision on the matter was taken by the Moscow City Court on 14/02/2020; the applicant was sentenced to 10 days' administrative arrest; (2) The final decision on the matter was taken on 16/02/2022; the applicant was sentenced to 15 days' administrative arrest, Prot. 7 Art. 2 - delayed review of conviction by a higher tribunal - The sentence of administrative detention imposed on the applicant was executed immediately, on account of the lack of suspensive effect of an appeal under the CAO - in respect of both sets of proceedings, Art. 10 (1) - various restrictions on the right to freedom of expression - The applicant was prosecuted (1) for having posted her photos with an armband or a pin with a National Bolshevik logo (hammer and sickle in a white circle against the red background (Article 20.3.1 of the Code of Administrative Offences). The domestic courts found that the said logo belonged to the party which had been declared an extremist organisation in Russia and that the logo was similar to a Nazi symbol –	6,000

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Start date of unauthorised detention	End date of unauthorised detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
						excessively serious sanction; and (2) for having posted photos of a party membership card containing a thunderbolt symbol used by National Bolshevik party (Article 20.3.1 of the Code of Administrative Offences) – conviction based on excessively broad definition of extremism in the absence of indication of violence	

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