

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

THIRD SECTION

CASE OF SUNGATOV v. RUSSIA

(Applications nos. 17010/18 and 29655/18)

JUDGMENT

STRASBOURG

21 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 Sungatov 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 applications against Russia 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 Russian Government ("the Government") were given notice of the applications.

THE FACTS

3. The relevant details of 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, 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."

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 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.

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 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.

10. This complaint is therefore admissible and discloses 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 *Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, ECHR 2014 (extracts), as regards detention in a metal cage during court hearings; *Tomov and Others v. Russia*, nos. 18255/10 and 5 others, §§ 92-156, 9 April 2019, as regards inadequate conditions of transport; *Andrey Smirnov v. Russia,* no. 43149/10, §§ 32-57, 13 February 2018 and *Pavlova v. Russia*, no. 8578/12, 18 February 2020, as regards family visits in prison.

IV. REMAINING COMPLAINTS

12. In application no. 29655/18, the applicant also raised a complaint under Article 3 of the Convention.

13. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matter complained of is within its competence, this complaint does not meet the admissibility criteria set out in Articles 34 and 35 of the Convention.

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

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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."

15. 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.

16. 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 join the applications;

2. *Declares* the complaint concerning the excessive length of pre-trial detention and the other complaints under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of application no. 29655/18 inadmissible;

3. *Holds* that the applicant's complaint discloses 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 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 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 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 21 July 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
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	Period of detention	Court which issued detention order/examined appeal	Length of 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]
17010/18 28/03/2018 and 29655/18 30/05/2018	**Ruslan Nikolayevich SUNGATOV** 1977	14/03/2017 to 13/03/2019	Vakhitovskiy District Court of Kazan; Supreme Court of the Tatarstan Republic	2 year(s)	use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to examine the possibility of applying other measures of restraint	Art. 8 (1) - restrictions on family visits in pre-trial facilities - Detention facility: FKU SIZO-1 in Kazan, Republic of Tatarstan; Type of restriction: physical separation and supervision during short-term family visits, refusal of short-term family visits; Other relevant information: 08/11/2017, the applicant was allowed a visit of his family. Unconditional refusal to have family visits – reply from the investigator, 27/12/2017. Proceedings under art. 125 CC: appellate decision, Supreme Court of the Tatarstan Republic, 27/02/2018; Art. 3 - inadequate conditions of detention during transport - numerous occasions of transport from the detention facility to the courthouse; by van, 0.2 sq. m of personal space; overcrowding, lack of fresh air, lack of or insufficient electric light, lack of or insufficient natural light, passive smoking, no or restricted access to toilet, no or restricted access to potable water, lack or insufficient quantity of food, inadequate temperature; Art. 3 - use of metal cages and/or other security arrangements in courtrooms - Confinement in a metal cage on numerous occasions in a courtroom of the Privolzhskiy Circuit Military Court until the conviction on 13/03/2019; Art. 13 - lack of any effective remedy in domestic law in respect of inadequate conditions of detention during transport and confinement in a metal cage in a courthouse and in respect of restrictions on family visits in pre-trial detention facilities.	13,250

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