

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

THIRD SECTION

CASE OF TYAZHKOV v. RUSSIA

(*Applications nos. 4672/19 and 14373/19*)

JUDGMENT

STRASBOURG

26 November 2020

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



In the case of Tyazhkov 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 two 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 by the applicant, Mr Yevgeniy Igorevich Tyazhkov (see the appended table).

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

THE FACTS

3. The list of the applications with the relevant details is set out in the appended table.

4. The applicant complained of the excessive length of his pre-trial detention and of the excessive length of judicial review of his detention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications and the fact that they were brought by one and the same applicant, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

6. In application no. 4672/19, the applicant complained 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 that 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. The 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. In application no. 14373/19, the applicant also complained about the excessively lengthy examination of his appeals against the detention orders in violation of the requirements of Article 5 § 4 of 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 disclose violations of Article 5 § 4 of the Convention in the light of its findings in *Idalov v. Russia* [GC] (no. 5826/03, §§ 154-164, 22 May 2012), *Khodorkovskiy v. Russia* (no. 5829/04, §§ 219-248, 31 May 2011), and *Lebedev v. Russia* (no. 4493/04, §§ 75-115, 25 October 2007).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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."

13. 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.

14. 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. *Decides* to join the applications;

2. *Declares* the applications admissible;

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

4. *Holds* that there has been a violation of Article 5 § 4 of the Convention as regards the other complaints under the well-established case-law (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 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

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 Date 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]
4672/19 19/12/2018 **14373/19** 03/03/2019	**Yevgeniy Igorevich TYAZHKOV** 13/09/1985	22/05/2018 to 28/06/2019	Leninskiy District Court of Voronezh; Voronezh Regional Court	1 year(s) and 1 month(s) and 7 day(s)	Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; fragility of the reasons employed by the courts.	Art. 5 (4) - excessive length of judicial review of detention: detention orders of the Leninskiy District Court of Voronezh of 19/07/2018, 01/11/2018, 06/02/2019 were upheld on appeal by the Voronezh Regional Court on 03/09/2018, 28/12/2018, 04/04/2019, respectively.	2,100

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