

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

THIRD SECTION

CASE OF UDIMOV v. RUSSIA

(Application no. 63125/15)

JUDGMENT

STRASBOURG

15 December 2022

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



In the case of Udimov v. Russia,

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

Darian Pavli, *President*,
Ioannis Ktistakis,
Andreas Zünd*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 24 November 2022,

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 11 January 2017.

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

THE FACTS

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

4. The applicant complained of the disproportionate measures taken against him as a participant of public assemblies. He also raised other complaints under the provisions of the Convention.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

5. The applicant complained principally of disproportionate measures taken against him as a participant of a public assembly, namely the dispersal of the assembly and ensuing arrest and conviction for an administrative offence. He relied on Article 11 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
>
> 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

6. The Court refers to the principles established in its case-law regarding freedom of assembly (see *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, ECHR 2015, with further references) and proportionality of interference with it (see *Oya Ataman v. Turkey*, no. 74552/01, ECHR 2006-XIV, and *Hyde Park and Others v. Moldova*, no. 33482/06, 31 March 2009).

7. In the leading cases of *Frumkin v. Russia,* no. 74568/12, ECHR 2016 (extracts), *Navalnyy and Yashin v. Russia,* no. 76204/11, 4 December 2014 and *Kasparov and Others v. Russia,* no. 21613/07, 3 October 2013, the Court already found a violation in respect of issues similar to those in the present case.

8. 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 as to 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 interferences with the applicant's freedom of assembly were not "necessary in a democratic society".

9. These complaints are therefore admissible and disclose a breach of Article 11 of the Convention.

II. REMAINING COMPLAINTS

10. The applicant also raised other complaints under Article 6 of the Convention.

11. 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 matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

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

III. 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, *Kharitonov and Others v. Russia [Committee],* nos. 79256/17 and 6 others, 10 November 2022), the Court finds it reasonable

to award the sum indicated in the appended table and dismisses the remainder of the applicant's claims for just satisfaction.

14. 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. *Declares* the complaint concerning the disproportionate measures taken against the applicant as a participant of a public assembly, as set out in the appended table, admissible and the remainder of the application inadmissible;

2. *Holds* that this complaint discloses a breach of Article 11 of the Convention;

3. *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.

4. *Dismisses* the reminder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 15 December 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 11 § 2 of the Convention
(disproportionate measures against organisers and participants of public assemblies)

Application no. Date of introduction	Applicant's name Year of birth	Name of the public event Location Date	Administrative charges	Penalty	Final domestic decision Court Name Date	Amount awarded for pecuniary and non-pecuniary damage per applicant (in euros)[1]
63125/15 11/01/2017	**Mikhail Leontyevich UDIMOV** 1955	Manifestation to support A. Savchenko Moscow 20/12/2015	Article 20.2 § 5 of CAO, Article 19.3 § 1 of CAO	fine of RUB 20,000, 5-day administrative detention. Final decision in the proceedings under Article 20.2 § 5 of CAO, 02/09/2016. Final decision in the proceedings under Article 19.3 § 1 of CAO, 12/07/2016	Moscow City Court 02/09/2016; Moscow City Court, 12/07/2016	3,300

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