

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

THIRD SECTION

CASE OF VAVILIN v. RUSSIA

(Applications nos. 35249/19 and 33919/20)

JUDGMENT

STRASBOURG

31 March 2022

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



In the case of Vavilin v. Russia,

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

Peeter Roosma, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 10 March 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 applicant was represented by S. Brovchenko, a lawyer practising in Moscow.

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

THE FACTS

4. The relevant details of the applications are set out in the appended table.

5. The applicant complained of the excessive length of his detention on remand and about the lack of a speedy review of his pre-trial detention.

THE LAW

I. JOINDER OF THE APPLICATIONS

6. 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

7. 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

> "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."

8. 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).

9. 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.

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 length of the applicant's pre-trial detention was excessive.

11. 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

12. The applicant also submitted a complaint under Article 5 § 4 of the Convention, given the relevant well-established case-law of the Court. This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that it also discloses a violation of the Convention in the light of its findings in *Idalov v. Russia* [GC], no. 5826/03, §§ 154-64, 22 May 2012.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. 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."

14. 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, and *Oravec v. Croatia,* no. 51249/11, §§ 78-80, 11 July

2017), the Court considers it reasonable to award the sum indicated in the appended table.

15. 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 on account of the 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 lack of a speedy review of the applicant's pre-trial detention;

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 31 March 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Peeter Roosma
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]
35249/19 13/06/2019 AND 33919/20 20/07/2020	**Vitaliy Vladimirovich VAVILIN** 1963	14/11/2018 pending	Basmannyy District Court of Moscow; Moscow City Court (appeal)	More than 2 year(s) and 6 month(s) and 19 day(s)	fragility of the reasons employed by the courts; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to assess the applicant's personal situation reducing the risks of re-offending, colluding or absconding; failure to examine the possibility of applying other measures of restraint;	Art. 5 (4) - lack of speediness of review of detention (Idalov v. Russia [GC], no. 5826/03, §§ 154-158, 22 May 2012) – the appeal against the order of the Basmannyy District Court of Moscow of 08/11/2019 was examined by the Moscow City Court on 21/01/2020	3,200

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