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

THIRD SECTION

DECISION

Application no. 49652/22
Pavel GAMMER
against Estonia

The European Court of Human Rights (Third Section), sitting on 3 March 2026 as a Committee composed of:

Diana Kovatcheva*, President*,

Peeter Roosma,

Canòlic Mingorance Cairat*, judges*,

and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 49652/22) against the Republic of Estonia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 12 October 2022 by a stateless person, Mr Pavel Gammer ("the applicant"), who was born in 1963, lives in Viimsi and was represented by Mr D. Savitski, a lawyer practising in Tallinn;

the decision to give notice of the complaint under Article 5 § 3 of the Convention concerning the length of the applicant's pre-trial detention to the Estonian Government ("the Government"), represented by their Agent, Mr T. Kolk, Representative of Estonia to the European Court of Human Rights, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant's allegation that his pre-trial detention had been excessively lengthy, in breach of Article 5 § 3 of the Convention.

2. An initial investigation was opened in respect of the applicant on the suspicion that he had committed the offences of extortion, giving bribes, and forming or leading a criminal organisation. In July 2018 the scope of the

investigation was expanded to include the additional offences of unauthorised surveillance, tax evasion, and the unlawful handling of firearms and weapons.

3. The applicant was arrested on 13 February 2018. On the next day, following a hearing held in the presence of the applicant and the prosecutor, the Harju County Court remanded him in custody. The court, relying principally on information obtained by secret surveillance, found that there was a reasonable suspicion that the applicant had committed the offences he was suspected of. As to the grounds for remanding him in custody, the court considered that if at liberty, he could either abscond or obstruct the proceedings by influencing witnesses or otherwise tampering with evidence. That conclusion was made by the court on the basis of a witness statement and information obtained by secret surveillance, and it was supported by case-specific elements (such as a specific attempt by the applicant to influence a potential witness, his alleged preparations to leave Estonia, and his ties to Russia).

4. On 11 April, 12 June, 13 August, 12 October and 11 December 2018 various judges of the Harju County Court examined the justifications for the applicant's remand in custody, in response to requests by the prosecutor to extend it. In each of its decisions the court confirmed the existence of both a reasonable suspicion of the applicant having committed the offences in question and, with reference to specific arguments and information, the risk of his absconding or obstructing the proceedings. With regard to the risk of his influencing witnesses or tampering with evidence, the court paid attention to the progress of the collection of evidence in the criminal proceedings. In the decision of 12 June 2018 (and in subsequent decisions), the Harju County Court additionally referred to the risk of the applicant's reoffending, given the nature and number of the offences he was suspected of. Taking into account the magnitude of the case and its progress, the court also verified on each occasion whether the proceedings had been conducted diligently and with sufficient speed. While no appellate court decisions have been submitted to the Court, it can be seen from other material in the case file that the Tallinn Court of Appeal upheld all the decisions of the Harju County Court against which the applicant appealed.

5. The Harju County Court committed the applicant for trial on 12 February 2019 on the same charges he had been suspected of (see paragraph 2 above). The court upheld the decision to remand him in pre-trial detention.

6. Altogether, various related charges were brought against 26 persons and the proceedings involved more than 100 witnesses.

7. On eight subsequent occasions, at regular intervals, the Harju County Court (and at times also the Tallinn Court of Appeal) examined whether there were sufficient reasons for the applicant's continued detention pending trial, either of their own motion or in response to requests by the applicant to be released or have his detention replaced with electronic surveillance.

Decisions in that regard were given on the following dates: 9 April 2019 (upheld on appeal on 22 May 2019), 10 October 2019 (upheld on appeal on 19 November 2019), 14 April 2020 (upheld on appeal on 28 May 2020), 12 October 2020, 13 April 2021, 13 October 2021, 15 February 2022 (upheld on appeal on 4 April 2022), and 15 September 2022 (upheld on appeal on 18 October 2022). The Supreme Court refused to examine further appeals lodged by the applicant.

8. On each occasion the trial court confirmed that it was still reasonable to suspect that the applicant had committed the offences he was accused of. The applicant, in the majority of his requests (save for the one which he had had to submit by 1 April 2020), did not contest the existence of a reasonable suspicion.

9. The trial court continued to justify the applicant's detention on the basis of the risks of his reoffending, obstructing the proceedings and absconding. As to the risk of reoffending, the court noted the nature and scale of the offences that the applicant was suspected of. It also noted that companies implicated in tax offences were still operating and that the applicant might be concealing his connections to some of them. The trial court considered that the risk of his influencing witnesses, victims and his co-accused would persist until those individuals had been personally heard at trial. It pointed to specific examples which gave reason to fear that witnesses could be influenced. Towards the conclusion of the trial proceedings, the court observed that although the risks of the applicant's reoffending (through the commission of new economic crimes) and obstructing the proceedings (by influencing witnesses) persisted, those risks had diminished over time. However, the risk of his absconding had not diminished during the proceedings and continued to justify his detention.

10. When examining the risk of the applicant's absconding, the trial court took into account the fact that: (i) he had the means to relocate to another country; (ii) he had close business and family connections in Russia, including with its political and security authorities; (iii) he was of "undetermined citizenship" (*määratlemata kodakondsus*) and could thus enter Russia under a simplified procedure; (iv) he had stated that he only received the quality medical care he needed in Russia; (v) following Russia's full-scale war of aggression in Ukraine, co-operating with Russia in respect of criminal matters was hindered to the extent that even if the applicant were detained there, it was unlikely that he would be immediately transferred to Estonia; and (vi) he was likely to face a long prison sentence and had expressed doubts about the underlying motives and fairness of the criminal proceedings (alleging that they amounted to a conspiracy against him).

11. The Harju County Court dismissed the applicant's repeated requests for his pre-trial detention to be replaced by electronic surveillance. It stated that that measure could not prevent the applicant from reoffending (as the offences he was accused of could be committed without leaving home) or

obstructing the administration of justice. Given the technical limits of electronic surveillance, nor could it sufficiently reduce the risk of his absconding.

12. In spring 2020 the Harju County Court noted that while there had been some delays in the proceedings due to the COVID-19 pandemic (including due to parties to the proceedings falling ill), these had not been unreasonable, and the court stated that it was doing everything it could to ensure the continuation of the trial. In one instance, when the hearing of one witness had to be postponed owing to issues relating to international legal cooperation, the order in which evidence was examined was modified so as to allow the proceedings to continue. In autumn 2021 the Harju County Court noted that the proceedings had been stalled on account of the court's having to address vague and unsubstantiated or late requests lodged by the defence lawyers for the applicant and another co-accused.

13. Between 29 March 2019 (when the first preliminary hearing took place) and 25 May 2022 a total of 170 hearings took place, with several hearings held nearly every month (save for breaks during summer, mostly in the month of July). It appears from the submitted material that 146 hearings were postponed. The Government explained that, as a result of the state of emergency declared in Estonia in relation to the COVID-19 pandemic, no hearings had taken place between 11 March 2020 and 28 April 2020. According to the Government, unplanned pauses in the hearings had also occurred as a result of one of the accused changing lawyers in September 2019 and of plea bargains being reached with some of the defendants, resulting in new cases having to be severed from the main case.

14. The applicant remained in custody until 6 January 2023, when he was convicted by the first-instance court of large-scale extortion (committed in a group), giving bribes in the private sector, unauthorised surveillance and large-scale tax evasion. The first-instance court acquitted him of charges related to forming or leading a criminal organisation and to the unlawful handling of firearms and military weapons. The parties have not informed the Court of any subsequent appeal proceedings.

15. The applicant's detention lasted a total of four years, ten months and 24 days. He complained under Article 5 § 3 of the Convention that his detention on remand had been excessively long.

THE COURT'S ASSESSMENT

16. The general principles regarding the application of Article 5 § 3 of the Convention have been set out in *Buzadji v. the Republic of Moldova* ([GC], no. 23755/07, §§ 84-91 and 102, ECHR 2016) and *Merabishvili v. Georgia* ([GC], no. 72508/13, §§ 222 and 225, 28 November 2017); for a more recent application of those principles in a case similar to the present one, see *Štvrtecký v. Slovakia* (no. 55844/12, §§ 56, 65 and 71, 5 June 2018).

17. The length of the applicant's detention on remand – over four years and ten months, as calculated from the date on which he was remanded in custody until the date on which he was convicted by the first-instance court (see *Buzadji*, cited above, § 85, and the cases cited therein) – is a matter of great concern requiring very strong justification (see *Štvrtecký*, cited above, § 57, and *Trifković v. Croatia*, no. 36653/09, § 121, 6 November 2012).

18. The Court accepts that the reasonable suspicion that the applicant had committed the offences with which he had been charged persisted throughout the criminal proceedings leading to his conviction, despite the applicant's arguments to the contrary. The existence of a reasonable suspicion was verified by the domestic courts each time they reviewed whether the applicant's detention continued to be justified. The Court agrees with the Government that the fact that the first-instance court later partly acquitted the applicant – including of the charge related to forming or leading a criminal organisation (see paragraph 14 above) – cannot be taken to mean that there had been no reasonable suspicion in the first place.

19. As to the grounds for the applicant's continued detention – namely the risk of his reoffending, obstructing the proceedings or absconding – the Court observes that the domestic courts were consistent in referring to them. While the applicant did not agree with the domestic courts' substantive assessment of those risks, and has also disputed it in the proceedings before the Court, it cannot be said that the domestic courts relied on those grounds in an abstract manner without showing how they applied to the specific circumstances of the applicant's case. While it is inevitable that making future-oriented risk assessments entails an inherent element of uncertainty, the Court notes that the domestic courts supported their findings with case-specific and applicant-centred examples and reasons which cannot be considered arbitrary or unreasonable. They also took into account the progress of the proceedings when determining whether certain risks, such as the risk of the applicant's influencing witnesses, were still pertinent (see paragraphs 3-4 and 9-10 above).

20. The domestic courts also examined the possibility of replacing pre-trial detention with electronic surveillance, but explained sufficiently why such an alternative could not be put in place in the circumstances of the case.

21. Having examined the case file, the Court finds that the domestic courts gave relevant and sufficient reasons for the applicant's detention during the investigation and trial.

22. The pre-trial proceedings lasted for a year, whereas the trial proceedings lasted over three years and ten months.

23. As to the conduct of the proceedings, the Court notes that they were of considerable scope and complexity, having regard to the number of defendants involved, the charges brought against them, and the witnesses heard. The complexity of the proceedings was not diminished by the fact that

the applicant was eventually acquitted by the first-instance court of the charge related to forming or leading a criminal organisation.

24. The Court does not discern any grounds for finding that there were any considerable delays or periods of inactivity in the proceedings that could be attributed to the State. While the applicant has insinuated that the hearings were too infrequent, the Court, in the light of the information before it, cannot agree with that contention. Moreover, although the applicant noted that 146 hearings had been postponed, he has not provided any information about the reasons for those postponements, let alone information that would allow the delays to be attributed to the State. While the Harju County Court and the Government pointed out some isolated and relatively short pauses in the scheduling of hearings (see paragraphs 12-13 above), these were either related to exceptional circumstances concerning a global pandemic or due to reasonable procedural steps taken in relation to the other defendants or the applicant himself (contrast *Abuladze v. Estonia* [Committee], no. 12928/20, §§ 27-29, 24 January 2023).

25. Thus, although the applicant's pre-trial detention lasted for a considerably long period of time, the authorities and courts handled his case with "special diligence".

26. Having regard to the above, the Court considers that the applicant's complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 26 March 2026.

Olga Chernishova Deputy Registrar	Diana Kovatcheva President