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

FOURTH SECTION

DECISION

Application no. 48073/13
Vladimir Ivanovitch KOVESHNIKOV
against Lithuania

The European Court of Human Rights (Fourth Section), sitting on 8 November 2016 as a Committee composed of:
Vincent A. De Gaetano, *President,*
Egidijus Kūris,
Gabriele Kucsko-Stadlmayer, *judges,*
and Andrea Tamietti, *Deputy Section Registrar,*
Having regard to the above application lodged on 24 July 2013,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Vladimir Ivanovitch Koveshnikov, is a Russian national who was born in 1963 and lives in Kaliningrad (the Russian Federation). He was represented before the Court by Ms I. Shveda and Mr O. Drobitko, lawyers practising in Clermont Ferrand and Klaipėda.

A. The circumstances of the case

2. The facts of the case, as submitted by the applicant, may be summarised as follows.

1. Pre-trial investigation

3. On 28 December 2009 a truck belonging to the applicant's individual company was stopped at the customs post at the Lithuanian village of Medininkai when entering the territory of Lithuania from Belarus. During the ensuing customs inspection, the driver of the truck, V.K., presented documents stating that he was transporting chipboards to Kaliningrad

(Russian Federation) by transit via Lithuania. However, after inspecting the truck, customs officers discovered 280,450 packs of Russian cigarettes hidden between the chipboards. The officers calculated that the value of the cigarettes, including customs tax, amounted to more than 1.7 million Lithuanian litai (LTL; approximately 500,000 euros (EUR)).

4. On that same day V.K. was detained on suspicion of smuggling and unlawful handling of taxable goods under Articles 199 § 1 and 199(2) § 1 of the Criminal Code. He subsequently testified that he had been offered the possibility of smuggling the cigarettes into the Lithuanian territory by his employer (the applicant). V.K. stated that the applicant had instructed him to collect the cigarettes from another person in the Russian city of Cherepovets and to transport them to Lithuania. According to V.K., he had been promised a payment of 300 US dollars, in addition to his salary in respect of the delivery of the legally transported goods (chipboards). On 18 July 2012 V.K. was found guilty of the charges against him.

5. On the basis of V.K.'s testimony, the Prosecutor General's Office (hereinafter "the prosecutor") expanded the scope of the pre-trial investigation to include allegations of organised economic crime under Article 249 § 1 of the Criminal Code.

6. On 12 July 2012 the applicant became a suspect in the case. He was suspected of having gathered together an organised group consisting of V.K. and other as yet unidentified persons, of organising the smuggling of a large amount of cigarettes across the Lithuanian border, and of managing and coordinating the activities of the organised group during that operation.

7. A European arrest warrant (hereinafter "the EAW") was issued in respect of the applicant. On 23 August 2012 he was apprehended in Poland and on 27 September 2012 he was transferred to the custody of the Lithuanian authorities.

2. The applicant's pre-trial detention from 28 September 2012 to 18 April 2014

8. On 28 September 2012 the Vilnius District Court, in a hearing in which the applicant and his lawyer were present, authorised the applicant's pre-trial detention for twenty days. The court considered that the available evidence (testimony of other suspects, expert opinions, objects seized during searches, surveillance data and other data collected by the authorities) was sufficient to hold that the applicant might have committed the crimes of which he was suspected. It held that the applicant might try to abscond because he was suspected of a serious crime which could be punished by imprisonment for up to eight years; he was a citizen and permanent resident of the Russian Federation; he had connections in the Russian Federation and no links to Lithuania. The court also found that the applicant might commit further crimes because he was suspected of having committed a well-organised crime for personal gain over a long period of

time and the applicant had allegedly been the organiser and coordinator of that crime. However, the court rejected the prosecutor's submission that the applicant might also attempt to influence witnesses or interfere with the criminal investigation. In view of the fact that the prosecutor had only presented a part of the case file to the court, the court authorised the applicant's pre-trial detention for only twenty days and not three months, as the prosecutor had requested, and instructed the prosecutor to submit further material during that time.

9. The applicant appealed against that decision. He firstly argued that the evidence against him had been insufficient and that V.K.'s testimony could not have been considered reliable because he had implicated the applicant for selfish reasons. The applicant claimed that he had not been aware of the existence of the cigarettes in the truck and that he could not be held responsible for smuggling them just because he had been the owner of that truck. The applicant further submitted that he had a family, a permanent place of residence and a job, and that he had cooperated with the investigating authorities and had never attempted to abscond. He also stated that he had never been informed about the progress of the ongoing criminal investigation, despite the fact that he had a lawyer in Lithuania and that he had entered the Schengen zone several times after becoming a suspect in the case. Thus, he contended that there had been no grounds for issuing the EAW against him and likewise no grounds for finding that he had been avoiding the investigation.

10. On 16 October 2012 the Vilnius Regional Court dismissed the applicant's appeal. The court firstly noted that it had only to examine the question of the applicant's pre-trial detention and not that of his guilt, so there had been no need to examine in detail his submissions concerning the latter issue. It noted that the case file contained sufficient evidence to conclude that the applicant might have committed the crimes with which he had been charged, and that that had constituted the legal threshold for detaining him on remand. The court also rejected the applicant's arguments concerning the lawfulness of the EAW. The court noted that it had been necessary to issue the EAW because at that time the applicant's place of residence had been unknown to the Lithuanian authorities. The Vilnius Regional Court concluded that the lower court had thoroughly assessed all the relevant circumstances and upheld its findings that the applicant's pre-trial detention had been necessary to prevent him from absconding and committing further crimes.

11. On 17 October 2012 the Vilnius District Court extended the applicant's pre-trial detention for another month on essentially the same grounds as before (see paragraph 8 above).

12. On 16 November 2012 the Vilnius Regional Court dismissed an appeal by the applicant. It reiterated that the evidence collected by the authorities to date gave reasonable suspicion that the applicant committed

the crime of which he was suspected. The court also held that there was a risk that the applicant might abscond because his family lived in Russia and the crime of which he was suspected had been committed in the territories of several countries, increasing the likelihood that he had connections in those countries. The court considered that the circumstances indicated by the applicant, such as the fact that he had a job and a permanent place of residence, did not sufficiently mitigate the risk of flight. The Vilnius Regional Court further held that there was a risk that the applicant might commit further crimes because the crime of which he was suspected had been deliberate, well-organised and well-hidden from the law enforcement authorities for a long time and had been committed for personal gain.

13. On 16 November 2012 the Vilnius District Court extended the applicant's detention for a further two months. The court referred to the testimony of the other suspects in the investigation, and on that basis considered that there remained reasonable suspicion that the applicant committed the crime of which he was suspected. It also considered – citing essentially the same grounds as before (see paragraphs 8 and 12 above) – that the applicant might abscond or commit further crimes.

14. On 19 December 2012 the Vilnius Regional Court dismissed an appeal by the applicant. It considered that the circumstances indicated in previous court decisions persisted and were sufficient for it to find that the applicant might abscond or commit further crimes. The court rejected the applicant's argument that the pre-trial investigation had been protracted given that he had only been questioned three times – it observed that investigative measures were being carried out not only in respect of the applicant but also other persons or objects, and the choice of such measures was the prerogative of the prosecutor.

15. On 15 January 2013 the Vilnius District Court extended the applicant's detention for a further one month and five days, citing essentially the same grounds as before (see paragraphs 8 and 12 above). The court also observed that the applicant had been the owner of a company engaged in transporting cargo through many countries, including Lithuania, and that he had driven some of the trucks himself. However, after the apprehension of V.K.'s truck (see paragraph 3 above), the applicant had not once entered Lithuania himself, and all his international routes had avoided Lithuanian territory, which suggested that he had been avoiding the pre-trial investigation; the applicant had only been apprehended in Poland after an EAW had been issued. Furthermore, the court noted that after the most recent decision to extend the applicant's detention he had been additionally questioned twice, and other investigative measures had been carried out.

16. On 7 February 2013 the Vilnius Regional Court dismissed an appeal by the applicant and upheld the lower court's decision.

17. On 22 February 2013 the Vilnius Regional Court, acting as the court of first instance, extended the applicant's detention for a further three

months. The court reiterated the view that the applicant might abscond (see paragraphs 8, 12 and 15 above). However, given that the applicant did not have any prior convictions and he was only suspected of committing one crime, it rejected the prosecutor's argument that the applicant might commit further crimes. Nonetheless, the court underlined that the pre-trial investigation was especially complex and of a large scale: it concerned a large number of crimes, such as smuggling, bribery, and forgery of documents, and some of those crimes were very serious; the crimes had been committed by an organised criminal group and in the territories of several countries; there were over thirty suspects in the investigation, including customs officers; and the total value of the smuggled goods exceeded LTL 30,000,000 (EUR 8,688,600). The court also observed that after the most recent decision to extend the applicant's detention the authorities had apprehended two new suspects, ordered the forensic examination of several objects, submitted legal assistance requests to the Polish, Belarussian and Russian authorities, and carried out other investigative measures. Accordingly, the court considered that the exceptional circumstances of the investigation warranted the applicant's continued detention.

18. On 15 March 2013 the Court of Appeal dismissed an appeal by the applicant. It upheld the lower court's conclusion that the pre-trial investigation was especially complex and of a large scale (see paragraph 17 above), noting that the case-file material at that time consisted of fifty volumes. The court also observed that after the most recent decision to extend the applicant's detention the authorities had separated part of the investigation into a second set of criminal proceedings, additionally questioned several suspects, ordered the forensic examination of various objects, submitted legal assistance requests to foreign authorities, and carried out other investigative measures. Accordingly, the court considered that the duration of the applicant's detention was warranted by the complexity of the investigation and the measures which the authorities had to take.

19. On 18 April 2013 the applicant was notified that he was suspected of taking part in smuggling committed in an organised group under Articles 25 § 3 and 199 § 1 of the Criminal Code.

20. The applicant lodged an application with the Vilnius District Court for the pre-trial investigation to be discontinued because of its excessive length. On 19 April 2013 the court dismissed that application. It held that the investigation was being carried out with due diligence, and its long duration was justified by its complexity and large scale. The court reiterated that the case-file material consisted of fifty volumes; the investigation concerned multiple criminal acts, some of which had been very serious; there were numerous suspects; investigative measures had had to be carried out in several countries; and the authorities had had to verify the suspects'

testimony, order the forensic examination of various seized objects, send out legal assistance requests, and carry out other investigative measures. The court considered that those measures were time-consuming, and the time needed to complete them was often not under the control of the authorities. Accordingly, the court found no grounds for discontinuing the pre-trial investigation.

21. On 17 May 2013 the Vilnius Regional Court extended the applicant's detention for a further three months. It again cited the circumstances indicating that the applicant might abscond (see paragraphs 8, 12 and 15 above) and underlined the exceptional complexity and large scale of the investigation (see paragraphs 18 and 20 above). The court also noted that after the most recent decision to extend the applicant's detention the authorities had officially notified several additional persons that they had become suspects, submitted additional legal assistance requests to Polish authorities, carried out investigative measures in Poland, and issued search warrants in respect of two more suspects.

22. On 6 June 2013 the Court of Appeal dismissed an appeal by the applicant and upheld the lower court's decision.

23. On 21 August 2013 the Vilnius Regional Court extended the applicant's detention, and on an unspecified date the Court of Appeal upheld that decision.

24. On an unspecified date the prosecutor completed the pre-trial investigation and issued an indictment against the applicant and other suspects.

25. On 19 November 2013 the Vilnius Regional Court extended the applicant's detention for a further three months, and on 16 December 2013 the Court of Appeal upheld that decision. The Court of Appeal noted that the pre-trial investigation had been completed and that after the most recent decision to extend the applicant's detention he and other suspects had been given time to make themselves acquainted with the contents of the case file. The court considered that there were no grounds for finding that the pre-trial investigation had been protracted. It further considered that the length of the applicant's detention (fifteen months) had been justified by the complexity and large scale of the investigation.

26. On 21 February 2014 the Vilnius Regional Court extended the applicant's detention for a further two months, and on an unspecified date the Court of Appeal upheld that decision.

27. On 18 April 2014 the Vilnius Regional Court released the applicant on bail. The court considered that there remained reasonable suspicion that the applicant had committed the crime of which he was accused and that there was still a risk that he might abscond. However, the court noted that the applicant had been detained for more than eighteen months, so only exceptional circumstances could justify further extending his detention; the court stated that no such circumstances existed. The court also noted that the

criminal case was of a large scale and the trial examination in respect of it would likely last a long time: the indictment comprised about one thousand pages, the first court hearing had been scheduled to take place on 9 July 2014, and multiple further hearings had been scheduled until April 2015. Accordingly, the court set bail at LTL 26,000 (EUR 7,530) and released the applicant from detention.

28. On 5 May 2014 the Court of Appeal dismissed an appeal by the prosecutor's and upheld the lower court's decision to release the applicant on bail.

3. The applicant's access to the case file during the pre-trial investigation

29. Meanwhile, on 6 November 2012 the applicant's lawyer had lodged an application to the prosecutor to be allowed to make himself acquainted with the contents of the case file and to make digital photocopies of its contents using a camera.

30. On 13 November 2012 the prosecutor rejected that application. The prosecutor noted that the applicant's lawyer had already accessed the investigation file during a court hearing on 15 October 2012, so the applicant's defence rights had been adequately protected. The prosecutor also stated that he had discretion to decide whether and to what extent to allow others to make themselves acquainted with the contents of the case file and make copies of its contents. Noting that the criminal investigation was still ongoing, the prosecutor considered that allowing the applicant's lawyer to once again access the file would interfere with the investigation. The prosecutor also noted that the applicant and his lawyer would be granted full access to the case file once the investigation was completed.

31. On 27 November 2012 the Vilnius District Court dismissed a complaint by the applicant and upheld the prosecutor's decision.

32. On 23 January 2013 the applicant's lawyer lodged a new application with the prosecutor concerning access to the case file, and on 1 February 2013 the prosecutor dismissed it on essentially the same grounds as before.

33. Subsequently the applicant's lawyer again lodged an application with the prosecutor to be allowed to make himself acquainted with the contents of the case file and the prosecutor again refused. However, on 15 April 2013 the Vilnius District Court quashed the prosecutor's decision. The court found that the prosecutor had not explained how allowing the applicant's lawyer to access the file would obstruct the investigation. Accordingly, the court returned the applicant's request to the prosecutor for re-examination.

34. No further information concerning the applicant's access to the case file has been submitted to the Court. However, it appears from domestic court decisions that the pre-trial investigation was completed around

November 2013 and that the applicant and his lawyer were then given full access to the case file (see paragraphs 24-25 above).

4. The criminal case against the applicant

35. At the date of the latest information available to the Court (9 February 2015), the criminal proceedings against the applicant were still pending before the first-instance court.

B. Relevant domestic law and practice

1. Detention on remand

36. Article 119 of the Code of Criminal Procedure (hereinafter "the CCP") provides that restrictive measures can be applied in order to ensure that a suspect, accused or convicted person participates in the relevant proceedings; prevent interference with the pre-trial investigation or with the examination of the case before the court, or with the execution of the sentence; and prevent the commission of further criminal acts.

37. Article 122 § 1 of the CCP permits pre-trial detention when there is a well-founded belief that the suspect may flee, interfere with an investigation, or commit further criminal acts.

38. Article 122 § 2 of the CCP provides that where there is a reasonable suspicion that a suspect might flee, detention may be ordered after taking into account his or her marital status, permanent place of residence, employment status, state of health, prior convictions, connections abroad, and other relevant circumstances.

39. Article 122 § 7 of the CCP states that pre-trial detention may be ordered only when more lenient remand measures would be insufficient to achieve the objectives listed in Article 119 of the CCP (see paragraph 36 above).

40. Article 127 § 2 of the CCP provides that the maximum length of pre-trial detention during a pre-trial investigation is nine months, or in particularly complex or large-scale cases, or cases concerning organised criminal groups, eighteen months. The CCP does not prescribe a maximum length of detention after a pre-trial investigation is completed and the case in question is transferred to the first-instance court for examination on the merits.

41. In a ruling of 30 December 2004 the Senate of the Supreme Court of Lithuania held as follows:

> "8. When pre-trial detention is imposed or extended, in line with Article 122 § 1 of the CCP, all the circumstances listed in Article 122 § 2 of the CCP must be considered. The seriousness of the crime ... falls under the notion of "other relevant circumstances" referred to in the latter provision. If such circumstances permit the conclusion that the person might flee ... then they warrant the imposition or

extension of pre-trial detention on the grounds provided in [Article 122 § 1 of the CCP].

...

10. ... Grounds to believe that the person could commit further crimes ... may be established on the basis of that person's criminal record, his or her role in the commission of the crimes [of which he or she is suspected], or the fact that he or she is suspected of having committed several crimes or earning a living from criminal activity, as well as on the basis of witness testimonies and other data ...

...

22. ... When detention is extended for more than six months, [the court] must indicate the circumstances which confirm the particular complexity or large scale of the case ...

...

24. The terms "particular complexity of the case" and "large scale", used in Article 127 § 2 of the CCP are relative (*vertinamosios*) and usually interrelated. The particular complexity or large scale of a case can arise from a large number of criminal acts, suspects or victims and witnesses ... or the need to conduct time-consuming and complex examinations, or from a multitude of procedural actions or case documents, and so forth ..."

2. Access to the case file during the pre-trial investigation

42. Article 181 §§ 1 and 2 of the CCP provides that during a pre-trial investigation a suspect and his or her defence counsel have the right to make themselves acquainted with the contents of the case file and make copies of its contents. A written application to be allowed to access the case file must be submitted to the prosecutor. The prosecutor may deny access to the case file or a part thereof if he or she believes that such access would obstruct the pre-trial investigation. If the prosecutor denies access to the case file, he or she must provide reasons for that decision, and the prosecutor's decision can be appealed against before a judge. However, the prosecutor may not deny access to the case file after the pre-trial investigation is completed and an indictment is being drafted.

43. Article 181 § 2 of the CCP provides that during a pre-trial investigation the prosecutor may not deny access to material which has been submitted to court together with a request for a restrictive measure to be ordered or extended, nor deny permission to make copies of that material.

THE LAW

A. Complaint under Article 5 § 3 of the Convention

44. The applicant complained that domestic courts had renewed his pre-trial detention "quasi-automatically", without examining his personal situation and without considering any alternative measures, and that the length of his detention had exceeded a "reasonable time". He relied on Article 5 §§ 1 and 3 of the Convention, which, insofar as relevant, read as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
>
> ...
>
> 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
>
> ..."

45. The Court firstly notes that the applicant did not complain of the unlawfulness or arbitrariness of his detention within the meaning of Article 5 § 1 of the Convention. He complained essentially that his detention had been too long and that it had not been based on "relevant and sufficient" reasons. Accordingly, the Court considers that this complaint falls to be examined solely under Article 5 § 3 of the Convention.

46. The Court reiterates that the question of whether a period of time spent in pre-trial detention is reasonable cannot be assessed in the abstract. Whether it is reasonable for an accused to remain in detention must be assessed on the facts of each case and according to its specific features. Continued detention can be justified in a given case only if there are actual indications of a genuine requirement of public interest which, notwithstanding the presumption of innocence, outweighs the rule of respect for individual liberty laid down in Article 5 of the Convention (see, among many other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI).

47. The existence and persistence of a reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the

lawfulness of continued detention. However, after a certain lapse of time it no longer suffices. In such cases, the Court must establish whether the other grounds given by the judicial authorities continued to justify the deprivation of liberty. Where such grounds are "relevant" and "sufficient", the Court must also ascertain whether the competent national authorities displayed "special diligence" in the conduct of the proceedings (see, among many other authorities, *Labita v. Italy* [GC], no. 26772/95, § 153, ECHR 2000-IV).

48. In the present case, the applicant's pre-trial detention lasted for one year, six months and twenty-two days (from 28 September 2012 to 18 April 2014 – see paragraphs 8 and 27 above).

49. At the outset, the Court sees no reason to doubt the findings of the domestic courts that during the entire period of the applicant's detention there was a reasonable suspicion that he had committed the crime of which he was suspected. Although in the domestic proceedings the applicant argued to the contrary, the Court reiterates that "reasonable suspicion" requires the presence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence (see *Gusinskiy v. Russia*, no. 70276/01, § 53, ECHR 2004-IV, and the cases cited therein) and that the facts which raise a suspicion justifying arrest under Article 5 of the Convention do not need to be of the same level as those necessary to bring charges or secure a conviction (see *Murray v. the United Kingdom*, 28 October 1994, § 55, Series A no. 300-A). The Court considers that that level was reached in the applicant's case.

50. The domestic courts re-examined the grounds for the applicant's detention every one to three months and gave reasons why the detention should be further extended. They relied on the following grounds:

(1) the risk of absconding, based on the severity of punishment that the applicant was facing, his lack of any links to Lithuania, his permanent residence in Russia, his connections abroad, and the suspicion that he had previously attempted to hide from the Lithuanian authorities (see paragraphs 8, 10, 12, 15 and 21 above; see also, *mutatis mutandis*, *Sopin v. Russia*, no. 57319/10, §§ 41-42, 18 December 2012);

(2) the risk of reoffending (until 22 February 2013 – see paragraph 17 above), based on the seriousness and nature of the charges against the applicant, his alleged leading role in the criminal organisation, and the fact that the alleged criminal activity had been well-organised and had lasted for a long time (see paragraphs 8, 10 and 12 above; see also *Merčep v. Croatia*, no. 12301/12, § 96, 26 April 2016; compare with *Šoš v. Croatia*, no. 26211/13, § 95, 1 December 2015);

(3) the complexity and large scale of the case, resulting from the high number of charges and suspects and the need to request legal assistance from foreign authorities and the need to carry out investigative measures

abroad (see paragraphs 17, 18 and 21 above; see also, *a contrario*, *Kalashnikov v. Russia*, no. 47095/99, § 119, ECHR 2002-VI).

51. The Court accepts that the Lithuanian courts thoroughly evaluated all the relevant factors and that they based their decisions on the particular circumstances of the applicant's case, his personal and financial situation, his connections abroad, and his previous actions, among others. The reasons relied upon by the domestic courts cannot be said to have been stated *in abstracto*, nor can it be said that at any point they ordered or extended the applicant's detention on stereotypical grounds, using some pre-existing template or formalistic and abstract language (compare and contrast with *Khudoyorov v. Russia*, no. 6847/02, §§ 185-186, ECHR 2005-X; *Boicenco v. Moldova*, no. 41088/05, § 143, 11 July 2006; and *Qing v. Portugal*, no. 69861/11, § 67, 5 November 2015). Accordingly, the Court considers that the domestic courts did not use "general and abstract" arguments for the applicant's continued detention and that their reasons were relevant and sufficient.

52. As to whether the domestic authorities displayed "special diligence" in the conduct of the criminal proceedings against the applicant, the Court observes that the domestic courts in their decisions to extend the applicant's detention assessed the diligence of the investigative authorities and concluded that they had been continuously carrying out the necessary investigative measures and that the length of the investigation was justified by the complexity and large scale of the case (see paragraphs 17, 18, 21 and 25 above). The Court further notes that there is nothing in the material submitted to indicate that there was any significant period of inactivity on the part of the authorities (see, *mutatis mutandis*, *Arutyunyan v. Russia*, no. 48977/09, § 109, 10 January 2012; compare and contrast with *Dervishi v. Croatia*, no. 67341/10, §§ 140-141, 25 September 2012). In such circumstances, the competent domestic authorities cannot be said to have not displayed special diligence in handling the applicant's case.

53. In view of the above, the Court concludes that the applicant's complaint under Article 5 § 3 of the Convention must be declared inadmissible as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

B. Complaint under Article 5 § 2 of the Convention

54. The applicant complained that he and his lawyer had not been granted full access to the case file, thereby obstructing his ability to challenge his continued pre-trial detention and placing the prosecutor in a privileged position. He relied on Article 5 § 2 of the Convention, which reads as follows:

> "2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him."

55. The Court reiterates that Article 5 § 2 contains the elementary safeguard that any person arrested should know why he is being deprived of his liberty. Where a person has been informed of the reasons for his arrest or detention, he may, if he sees fit, apply to a court to challenge the lawfulness of his detention under Article 5 § 4 (see, among many other authorities, *Čonka v. Belgium*, no. 51564/99, § 50, ECHR 2002-I). Arrested persons must be told, in simple, non-technical language that they can understand, the essential legal and factual grounds for the arrest. However, Article 5 § 2 does not require that the information consist of a complete list of the charges held against the arrested person (see, among many other authorities, *Bordovskiy v. Russia*, no. 49491/99, §§ 55-56, 8 February 2005).

56. Turning to the circumstances of the present case, the Court firstly notes that the applicant did not complain that he had not been informed of the reasons for his detention promptly after being detained on 28 September 2012 (see paragraph 8 above). Nor is there anything in the material submitted to the Court to enable it to find otherwise.

57. The Court observes that the applicant and his lawyer were allowed to read the contents of the case file during a court hearing on 15 October 2012, and they were given full access to the case file on an unspecified date in November or December 2013, after the pre-trial investigation had been completed (see paragraphs 25 and 30 above).

58. The applicant complained that his limited access to the case file during the pre-trial investigation had prevented him from effectively challenging his continued pre-trial detention. In this connection the Court observes that the domestic courts initially extended the applicant's detention on the grounds of the risk of flight and of the applicant committing new crimes; the domestic courts later cited the complexity of the pre-trial investigation as another reason for further extending the applicant's detention (see paragraph 49 above). Therefore, they based their decisions not on the material from the case file but on the applicant's personal situation – his lack of links to Lithuania, his connections abroad, him avoiding the Lithuanian authorities, as well as the nature and gravity of the charges against him. The applicant challenged all those grounds before the domestic courts numerous times and was eventually released on bail. Furthermore, the Vilnius Regional Court explicitly stated that the strength of the evidence against the applicant was not a central consideration when it extended his detention (see paragraph 10 above). In such circumstances, the Court is not persuaded that the applicant's limited access to the case file precluded him from understanding the reasons for his pre-trial detention and from challenging those reasons before a court.

59. In the light of the above, the Court is of the view that the applicant's complaint about his limited access to the case file does not raise an issue under Article 5 § 2 of the Convention and must therefore be declared

inadmissible as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

C. Other complaints

60. The applicant complained under Article 3 of the Convention about the conditions of his pre-trial detention from 28 September 2012 until his release on 18 April 2014.

61. The Court reiterates its findings in *Mironovas and Others v. Lithuania* (nos. 40828/12, 29292/12, 69598/12, 40163/13, 66281/13, 70048/13 and 70065/13, §§ 86-92, 8 December 2015), where it examined complaints of inadequate conditions of detention in Lithuania and held that a claim for damages before the administrative courts could in principle secure a remedy in respect of such complaints, in that it offered a reasonable prospect of success. Accordingly, the Court considers that an effective domestic remedy was available to the applicant by which to complain of the allegedly inadequate conditions of his detention (see also *Ignats v. Latvia* (dec.), no. 38494/05, 24 September 2013). In the present case, the applicant did not raise a complaint concerning the conditions of detention before any domestic authorities. Accordingly, this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

62. The applicant also complained under Article 5 § 5 of the Convention that he had not received compensation for his unlawful pre-trial detention. The right to compensation set forth in that provision presupposes that a violation of one of the other paragraphs of Article 5 has been established, either by a domestic authority or by the Court (see, among many other authorities, *N.C. v. Italy* [GC], no. 24952/94, § 49, ECHR 2002-X). In the present case, neither the domestic courts nor the Court have found any violations of Article 5 in respect of the applicant's pre-trial detention. Accordingly, the complaint under Article 5 § 5 must be declared inadmissible as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

63. Lastly, the applicant complained under Article 6 §§ 1, 2 and 3 (d) that the criminal proceedings against him had not been fair. The Court notes that, according to the latest information submitted by the applicant on 9 February 2015, those criminal proceedings were still pending before the first-instance court. Accordingly, at this stage the applicant's complaints under Article 6 of the Convention must be dismissed as premature.

For these reasons, the Court unanimously

Declares the application inadmissible.

Done in English and notified in writing on 1 December 2016.

Andrea Tamietti
Deputy Registrar

Vincent A. De Gaetano
President