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

FIFTH SECTION

DECISION

Application no. 3649/16
Anastasiya Oleksandrivna LEONOVA
against Ukraine

The European Court of Human Rights (Fifth Section), sitting on 9 December 2021 as a Committee composed of:

Lətif Hüseynov, *President,*
Lado Chanturia,
Arnfinn Bårdsen, *judges,*
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 6 January 2016,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr D.I. Mazurok, a lawyer practising in Kyiv.

The applicant's complaints under Article 5 § 3 of the Convention concerning the lack of relevant and sufficient reasons for detention were communicated to the Ukrainian Government ("the Government").

On 10 December 2015 the applicant was arrested on suspicion of terrorist activities and conspiring to plan and prepare a terrorist act. On the following day the court ordered her detention on remand. The court referred to the fact that the applicant was charged with a particularly serious crime posing a threat to the public order and that there was a risk of her absconding because she was a foreign national, as well as there was a risk of witness tampering through attempts to communicate with unestablished co-conspirators. She was also liable to re-offend. The court extended the detention on 5 February 2016, considering that the risks cited in the previous decision were not yet eliminated. On 4 March 2016 the court refused to further extend the

applicant's detention reasoning that the prosecutor had failed to properly substantiate the request for continuous detention; the applicant was released.

Two weeks later the court, however, allowed the prosecutor's request to re-detain the applicant, given that the produced evidence showed that she was liable to abscond and obstruct justice. On 8 April 2016 the detention was extended since the risks persisted. On 16 May 2016 the court finally considered that there were doubts as to the continued existence of the risks justifying further detention and ordered the applicant's release.

THE LAW

Complaints under Article 5 § 3 of the Convention (lack of relevant and sufficient reasons for detention)

In the present application, having examined all the material before it, the Court considers that the applicant's complaint under Article 5 § 3 of the Convention is inadmissible.

In particular, the Court has previously held that the persistence of a reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the lawfulness of the continued detention, but after a certain lapse of time it no longer suffices: the Court must then establish whether the other grounds cited by the judicial authorities continue to justify the deprivation of liberty (see *Galuashvili v. Georgia*, no. 40008/04, § 47, 17 July 2008).

The Court observes that there were clearly sufficient grounds for the applicant's initial detention in view of the existence of a reasonable suspicion that she had committed a serious offence, for which she had been charged and which could warrant her detention, as well as due to her personal situation.

As to the following extensions of the applicant's detention, the Court reiterates that in some instances concerning particularly serious crimes, the nature and gravity of the charges against a defendant is a factor weighing heavily against his or her release and in favour of remanding him or her in custody (see *Merčep v. Croatia*, no. 12301/12, § 96, 26 April 2016, with further references). The Court therefore notes that the risks justifying detention were assessed by the domestic courts with sufficient scrutiny, and once they considered that such risks ceased to exist the applicant was released.

Whilst it would certainly have been desirable for the domestic courts to have given a more detailed reasoning as to the grounds for the applicant's renewed detention, in the circumstances of the present case, the Court finds that the reasons given were sufficient to comply with the requirements of Article 5 § 3 of the Convention (see, *mutatis mutandis*, *Grubnyk v. Ukraine*, no. 58444/15, §§ 119-129, 17 September 2020). No delays on the part of the authorities while dealing with the case could also be identified.

In view of the above, the Court finds that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 13 January 2022.

Viktoriya Maradudina Acting Deputy Registrar	Lətif Hüseynov President

APPENDIX

Application raising complaints under Article 5 § 3 of the Convention (lack of relevant and sufficient reasons for detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Period of detention	Court which issued detention order/ examined appeal
3649/16 06/01/2016	**Anastasiya Oleksandrivna LEONOVA** 1982	Mazurok Dmytro Igorovych Kyiv	10/12/2015 - 05/03/2016; 15/03/2016 - 17/05/2016	Shevchenkivskyy District Court of Kyiv; Kyiv Court of Appeal