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

SECOND SECTION

DECISION

Application no. 13394/18
Ronaldas MIKOČIŪNAS against Lithuania
and 2 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 15 December 2020 as a Committee composed of:

Aleš Pejchal, *President*,
Egidijus Kūris,
Carlo Ranzoni, *judges*,
and Hasan Bakırcı, *Deputy Section Registrar*,

Having regard the above applications lodged on respective dates,

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

Having deliberated, decides as follows:

THE FACTS

1. The case originated in three applications (nos. 13394/18, 46114/18 and 46122/18) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Lithuanian nationals – Mr Ronaldas Mikočiūnas ("the first applicant"), Mr Edikas Mikučiauskas ("the second applicant") and Mr Mindaugas Ališauskas ("the third applicant") – on 19 March and 27 and 28 September 2018, respectively.

2. The applicants were represented by Mr L. Belevičius, a lawyer practising in Vilnius. The Lithuanian Government ("the Government") were represented by their Agent, Ms K. Bubnytė-Širmenė.

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A. The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.

1. The applicants' detention during the pre-trial investigation (from 24 April 2015 to 17 October 2016)

4. On 17 April 2015 a pre-trial investigation was started. It was suspected that the applicants had formed an organised group of accomplices to acquire and distribute large amounts of narcotic and psychotropic substances in the Kingdom of Norway, and that they had also been engaged in other criminal activities.

5. Within the context of that investigation, on 24 April 2015 the applicants were arrested and officially notified that they were suspected of the above crimes. The applicants were questioned but they refused to give testimony.

6. On 26 April 2015 the Kaunas City District Court authorised the detention on remand of the first and the third applicants for three months and of the second applicant for two months. The court ruled that the available evidence was sufficient to hold that the applicants may have committed the crimes of which they were suspected. It held that the applicants might try to abscond because they were suspected of having committed very serious crimes, had connections abroad, and had acted as part of an organised group of accomplices. The court also stated that there was a risk of the applicants re-offending in the light of their numerous previous convictions and that there was also a risk of their obstructing the proceedings, given the fact that they had refused to testify or disclose any information.

7. Subsequently the applicants' detention was repeatedly extended and their appeals repeatedly dismissed.

8. The second applicant's detention was extended on 22 June 2015 for three months. The court observed that the applicant was suspected of having committed three very serious and two serious crimes, as punishment in respect of which the relevant law provided for not only deprivation of liberty but also life imprisonment. The court noted that the applicant had connections abroad and had prior convictions; that led to the court's conclusion that detention was necessary in order to ensure the applicant's participation in the proceedings and to ensure that the pre-trial investigation would be unimpeded. The court was of the view that the social ties the applicant had in Lithuania – he was married and had a job and place of residence – were not sufficient to eliminate the risk of his absconding.

9. For the first and the third applicants, the detention was extended on 23 July 2015 for three months. In addition to the grounds set forth in the original decision to impose detention on remand, the court noted that the

first applicant was not married and had no job and no property in Lithuania, which increased the risk of his absconding. As regards the third applicant, the court noted that the social ties that he had in Lithuania – two minor children and a job – were not sufficient to stop him from possibly fleeing. As regards the risk of re-offending, the court observed that both the first and third applicants had previous convictions and possibly received income from criminal activities. The court also referred to the fact that in the course of the pre-trial investigation, which was proceeding during the applicants' detention, certain procedural actions were being carried out.

10. The second applicant's detention was extended on 23 September 2015 for one month and on 22 October 2015 for three months on the same grounds as those indicated in previous decisions. The court also dismissed a request lodged by the second applicant for more lenient measures to be imposed, including the setting of 30,000 euros (EUR) bail, ruling that such measures would be insufficient. Taking into account the fact that criminal acts had been committed in order to receive income from the distribution of large quantities of psychotropic and narcotic substances abroad, that the applicant had prior convictions, and that the data adduced during the pre-trial investigation had led to believe that the applicant was an active member of the criminal association in question and had possibly actually formed and led that association, the court also held that there was a risk that the second applicant would re-offend.

11. The detention of the first and the third applicants was extended on 23 October 2015 for three months. The court additionally observed that the criminal acts allegedly committed by the first applicant had had an international element, and that data adduced during the investigation demonstrated that he had had close relations with accomplices in foreign countries. Having regard to the dangerousness, nature, severity, scale, and number of the crimes allegedly committed by the first applicant, his role in criminal acts ascribed to him, and his eight previous convictions, the court held that there was no reason to release the first applicant or to impose on him a more lenient restrictive measure. Similar reasoning applied to the third applicant, together with the grounds, mentioned in the decisions of his initial detention.

12. On 21 January 2016 the courts extended the detention of all three applicants for three more months on the grounds that there was a risk of their absconding and re-offending.

13. On 28 June 2016 the court extended the second applicant's detention for a further three months. The court was of the view that the risk of his absconding and re-offending remained.

14. On 30 June 2016 court decided to extend the first applicant's detention on remand for a further three months because of a risk that he might abscond and re-offend. The court noted that after the previous extension of the applicant's detention on remand, the reports of

odorological, chemical, documentary examinations were received as well as that the applicant was questioned but refused to provide any explanations. On 30 June 2016 the third applicant's detention was extended on essentially the same grounds.

15. When extending the first and second applicants' detention on remand on 23 September 2016 and the third applicant's detention on remand on 28 September 2016, the court – in addition to citing the risk of their absconding and re-offending – noted that the pre-trial investigation into their activities was being carried out in an intensive manner.

16. On 29 September 2016 the applicants were notified that the pre-trial investigation had been completed, and their defence lawyers were given access to the material adduced during the pre-trial investigation. On 17 October 2016 the case was sent to the Kaunas Regional Court for examination.

2. The applicants' detention during the examination of the case by the first-instance court until their conviction (from 18 October 2016 until 5 July 2018)

17. On 18 October 2016 the case was received by the Kaunas Regional Court. On 26 October 2016 the decision to transfer the case for the trial hearing was adopted and the first trial hearing was scheduled for 14 November 2016.

18. On 21 October 2016 the court decided to extend the applicants' detention on remand by three months, holding that the grounds and conditions for the applicants' detention persisted. The court was of the view that the applicants could abscond in the light of their social ties abroad and insufficient ties in Lithuania and that they could also re-offend, given their involvement with an organised group of accomplices and the income that they possibly received from criminal activities. The nature and severity of the crimes ascribed to the applicants, the scope of the pre-trial investigation, and the public interest in a thorough examination and legal assessment of what had been categorised as serious criminal acts, as well as in the punishment of the person responsible, took priority over the person's right to freedom and allowed the imposition of the severest restrictive measure.

19. The appellate court upheld the findings of the first-instance court. It also dismissed a request lodged by the first applicant for the imposition of more lenient measures, including the setting of bail, deeming such measures to be insufficient. The court emphasised that the first applicant had eight previous convictions and that he was moreover suspected of having committed heavy crimes in respect of which the law provided for a sentence of life imprisonment. This led to the conclusion that the risk of re-offending or absconding remained.

20. As regards the second applicant, the court underscored his active role in organising and leading the group of accomplices and the fact that the

crimes of which he was suspected in present case had been committed before his prior conviction expired. The court also emphasised the fact that the applicant was suspected of having committed crimes for which a sentence of life imprisonment was provided. Accordingly, the court held that more lenient measures, including a bail of EUR 30,000, would be insufficient to avoid the risk of the second applicant absconding or re-offending.

21. As regards the third applicant, the court noted that the social ties he had in Lithuania (two minor children, a place of residence, and a job) had not been sufficient to prevent him from committing crimes in the past and that the crimes of which he was suspected in the case had been committed during his time on probation. Therefore, the risk of re-offending existed and that there was still a purpose to his detention. Likewise, since there was a chance that the third applicant could be sentenced to a long term of imprisonment, there was a risk that he could abscond.

22. On 19 January 2017, 11 April 2017, 5 July 2017, 23 October 2017, 9 January 2018 and 30 March 2018 the courts extended the applicants' detention by three months, deeming that the risk of their absconding had not ceased to exist and that their continued detention was in the public interest. The courts reiterated the arguments regarding the applicants' previous convictions, characters and social ties, as well as the nature and severity of the crimes of which they were suspected. The courts also dismissed as insufficient a request lodged by the third applicant for the imposition of more lenient measures, including bail.

3. Conduct of the criminal proceedings during the applicants' detention

23. In the period between the applicants' arrest on 24 April 2015 and the completion of the pre-trial investigation on 17 October 2016, the authorities conducted interviews with the applicants, although they refused to testify, and other co-accused; ordered forensic odorological, chemical, documentary and biological examinations, sent legal aid requests to the Federal Republic of Germany and the Kingdom of Norway, questioned around twenty witnesses, organised the questioning of three victims and carried out other investigative actions, such as identification of persons from photos.

24. In the period between the transfer of the case to the Kaunas Regional Court for examination on the merits on 18 October 2016 to the applicants' conviction on 5 July 2018, a total of twenty-five hearings were scheduled, and six of those hearings were either adjourned or cancelled:

The first hearing on 14 November 2016 was adjourned because of the absence of the defence lawyers and because the case file had not been returned by the appellate court; the next hearing was scheduled to take place on 27 December 2016 and was in fact held.

According to the Government, the hearing on 12 January 2017 was adjourned owing to the judge's illness.

Between 26 January 2017 and 10 April 2017 six hearings were held.

The hearing schedule for 4 May 2017 was cancelled because the case file had not been returned by the appellate court.

The hearing on 19 May 2017 was held.

The hearing on 25 May 2017 was adjourned because of the absence of a judge owing to illness (according to the Government), and because the defence lawyer was also ill.

The hearings scheduled for 16 June, 18 September and 19 and 26 October 2017 were held. According to the Government, the break in hearings between June and September had been due to the lawyers of the co-accused taking their summer vacations; however, according to the applicants, that break was due to the judges taking their summer vacations.

The hearing on 14 November 2017 was cancelled because case file had not been returned by the appellate court.

The hearing on 5 January 2018 was held.

The hearing on 7 February 2018 was cancelled because the case file had not been returned by the appellate court.

Between 12 February 2018 and 30 May 2018 six hearings were held.

25. During the nineteen hearings that were held, the court heard the testimony of seven co-accused, three victims and nineteen witnesses, read out the case material, played audio and video recordings, and examined applications lodged by the prosecutor and the co-accused. The court also undertook measures (on 23 and 31 March 2017) to discipline witnesses because they had been absent.

4. The applicants' conviction

26. On 5 July 2018 the Kaunas Regional Court found the first applicant guilty of organising or leading a criminal association armed with firearms and sentenced him to (i) eleven and a half years' imprisonment for that offence (under Article 249 § 3 of the Criminal Code – as the Government pointed out, that offence carried a maximum sentence of life imprisonment), (ii) three years' imprisonment for human trafficking (under Article 147 § 2, that crime carried a maximum sentence of eight years of imprisonment), (iii) ten years' imprisonment for unlawful possession of narcotic or psychotropic substances for the purpose of their distribution (under Article 260 § 3, that crime was punishable by up to fifteen years' imprisonment), (iv) three years' imprisonment for robbery involving the use of a firearm or explosive (under Article 180 § 3, that crime was punishable by up to ten years' imprisonment), (v) six months' imprisonment for forging documents (under Article 300 § 1, that crime was punishable by up to four years' imprisonment), (vi) three years' imprisonment for unlawful deprivation of liberty (under Article 146 § 2, that crime was punishable by up to four

years' imprisonment), and (vii) two years' imprisonment for the unauthorised possession of firearms, ammunition, explosives or explosive materials (under Article 253 § 1, that crime was punishable by up to five years' imprisonment).

The court decided to combine the sentences by way of consolidation (*apėmimo būdu*) and sentenced the first applicant to a total of fourteen years' imprisonment. The period spent by the first applicant in detention (from 24 April 2015 until 5 July 2018) was included in the sentence imposed on the applicant.

27. The second applicant was found guilty of organising or leading a criminal association armed with firearms, unlawful possession of narcotic or psychotropic substances for the purpose of distribution, unlawful deprivation of liberty, and the unauthorised possession of firearms, ammunition, explosives or explosive materials.

The court decided to combine the sentences by way of consolidation and sentenced the second applicant to a total of thirteen years' imprisonment. The period spent by the second applicant in detention was included in the sentence imposed to the applicant.

28. The third applicant was likewise found guilty of organising or leading a criminal association armed with firearms, unlawful deprivation of liberty, and the unauthorised possession of firearms, ammunition, explosives or explosive materials. The court decided to combine the sentences by way of consolidation and sentenced the third applicant to a total of seven years' imprisonment.

The period spent by the third applicant in detention was likewise included in the sentence imposed on the applicant.

29. When imposing the sentences, the court emphasised the fact that the applicants had chosen, by way of the defence tactics, to testify only during the court hearing after being acquainted with all the case-file material and that they had admitted only unquestionably established facts. The court was of the view that such testimony was neither honest not truthful.

30. The court also stressed that the proceedings had been lengthy owing to objective factors, such as the complexity of the investigated criminal acts and big number of procedural actions performed, the voluminous size of the case file and the number of persons involved in the criminal proceedings, but acknowledged that the applicants' legitimate expectation that the case would be heard within a reasonable time had not been properly met.

31. Accordingly, the court – explicitly referring to the requirements set out by Article 6 § 1 of the Convention and Articles 2 and 44 § 5 of the Code of Criminal Procedure in respect of compensation for the protracted length of proceedings – decided to impose in respect of the applicants the minimum, or close to the minimum, penalties provided by law.

32. On 23 July 2018, 25 September 2018 and 24 January 2019, respectively, the first applicant, the third applicant and the second applicant chose to begin serving their sentences.

33. Nevertheless, the applicants appealed against their respective convictions.

34. On 11 June 2020 the Court of Appeal acquitted the first applicant of human trafficking and reduced his sentence to thirteen years' imprisonment. The sentences imposed on the second and third applicants remained unchanged.

35. The appellate court underlined that the first-instance court had imposed appropriate sentences on the applicants, also having taken into account the length of the proceedings.

B. Relevant domestic law and practice

36. For the relevant domestic law and practice, see *Lisovskij v. Lithuania*, no. 36249/14, §§ 45-55, 2 May 2017.

37. According to the case-law of the Supreme Court of Lithuania, if a set of criminal proceedings are ruled to have been protracted, the sentences imposed during those proceedings may be reduced (rulings in cases nos. 2K-102/2011, 2K-147-677/2015 and 2K-31-511/2018).

38. The Code of Criminal Procedure provides that the composition of the chamber that hears the criminal case must remain the same throughout the proceedings at that judicial instance. Should one of the judges of the composition not be able to take part in the hearing, he must be replaced by another judge and the proceedings at that judicial instance start from the beginning (Article 223).

THE JOINDER OF THE APPLICATIONS

39. Having regard to the similar subject matter of the applications, the Court finds it appropriate to order their joinder (Rule 42 § 1 of the Rules of Court).

COMPLAINT

40. Under Article 5 § 3 of the Convention the applicants complained about the length of their detention on remand.

THE LAW

41. The applicants complained that the length of their detention on remand had been excessive. They relied on Article 5 § 3 of the Convention, which, in its relevant parts, reads:

> "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."

A. The parties' submissions

1. The Government

42. The Government argued that the applicants could no longer be considered as victims within the meaning of Article 34 of the Convention. The Government noted that the redress afforded to the applicants at the domestic level – namely, the fact that the minimum, or close to minimum, penalties provided under the relevant law had been imposed on them for the alleged violation of their rights under Article 5 § 3 of the Convention – had been adequate and sufficient.

43. The Government also submitted that the grounds cited for the applicants' detention on remand had been relevant and sufficient and that the courts had relied on specific circumstances pertaining to the applicants' situation, rather than on general and abstract considerations. The Government submitted that those grounds had justified their continued detention in the public interest, which had overridden other considerations.

44. In the view of the Government, the length of the applicants' detention on remand had not been excessive and there had been no violation of Article 5 § 3 of the Convention, as the national authorities and the domestic courts had taken the measures necessary to act with requisite celerity and had been sufficiently prompt in conducting the criminal proceedings.

45. The Government also noted that the applicants had given their respective testimony only during the court hearings. In the Government's view, this tactic had required the carrying out of additional investigative actions in order that data could be collected and circumstances carefully verified, which had had increased the work of the investigative authorities and of the domestic courts.

2. The applicants

46. The applicants submitted that, given the severity of the final sentences imposed on the first, the second and the third applicants, it was evident that those sentences had not in fact been reduced and that the applicants were accordingly still victims.

47. The applicants acknowledged that the length of the pre-trial investigation stage, which had lasted from 24 April 2015 until 17 October 2016, had been reasonable. The applicants also agreed that the actions taken by the authorities during the pre-trial investigation had met the criteria of extreme diligence under Article 5 § 3 of the Convention.

48. However, the applicants argued that the proceedings from the time that the case had been transmitted to the first-instance court until their conviction (from 18 October 2016 to 5 July 2018) had been excessively lengthy and that the applicants' detention on remand had been protracted solely because of the inactivity of public authorities. In addition, the applicants argued that after the case had been transmitted to the first-instance court, their detention on remand had been extended on abstract grounds, without any exceptional circumstances being cited to justify their long-term detention.

49. The applicants complained that for certain periods no court hearings had been held. The applicants also were dissatisfied with the fact that four scheduled hearings had been adjourned because the case file had not been returned by the appellate court and that two scheduled hearings had been adjourned because of the illness of a judge.

B. The Court's assessment

50. The applicable general principles have been summarised in *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, §§ 84-91, ECHR 2016 (extracts).

51. Turning to the circumstances of the instant case the Court firstly notes that the applicants were all detained within the context of one criminal process and that they were all co-accused. The applicants' alleged criminal activities were considered by the domestic courts in the course of one set of proceedings.

52. The Court notes that the applicants' detention started on 24 April 2015, when they were arrested (see paragraph 5 above). They were detained for the purposes of Article 5 § 3 of the Convention until their conviction by the Kaunas Regional Court, on 5 July 2018 (see paragraphs 26-28 above).

53. Although their conviction became final only later, on 11 June 2020, when the Court of Appeal delivered its judgment (see paragraph 34 above), the Court reiterates that the period to be taken into consideration for the purposes of Article 5 § 3 ends on the day when the criminal charge is determined, even if only by a court of first instance. From 5 July 2018 the applicants were detained "after conviction by a competent court", within the meaning of Article 5 § 1 (a) and therefore that period of his detention falls outside the scope of Article 5 § 3 (see *Kudła v. Poland* [GC], no. 30210/96, § 104, ECHR 2000-XI; *Piotr Baranowski v. Poland*, no. 39742/05, § 45, 2 October 2007; and *Dragin v. Croatia*, no. 75068/12, § 111, 24 July 2014).

Therefore, the period of detention to be taken into consideration in respect of the present case is from 24 April 2015 until 5 July 2018.

54. In the applicants' case, this period may be divided into two major parts: their detention during the pre-trial investigation – from 24 April 2015 until 17 October 2016; and their detention during the examination of the

case by the first-instance court until the applicants' conviction – from 18 October 2016 until 5 July 2018.

55. The Court observes that the applicants have not disputed that the period of their detention during the pre-trial investigation was reasonable in duration. The applicants agreed that the manner in which the pre-trial investigation had been conducted had met the criteria of extreme diligence under Article 5 § 3 of the Convention (see paragraph 47 above).

56. Bearing in mind the fact that (i) the applicants have lodged no complaints regarding the length of and the grounds cited for their detention on remand during the period of pre-trial investigation, and (ii) the pre-trial investigation, which lasted around seventeen months, concerned multiple criminal offences allegedly committed by a criminal organisation – and was thus of considerable complexity and involved an international element – the Court is of the view that the actions of the domestic authorities during that period could be considered as falling within the standard of requisite diligence under Article 5 § 3 of the Convention (see *Ereren v. Germany*, no. 67522/09, § 61, 6 November 2014). On the basis of the material in its possession, the Court has no grounds to question the reasonableness of the national courts' decisions to impose and later to extend the applicants' detention during that period.

57. After the case was transferred to the first-instance court for examination on the merits, the applicants remained in detention for nearly twenty-two months (from 18 October 2016 until 5 July 2018), during which time twenty-five hearings were scheduled (see paragraph 24 above). The hearings were mainly scheduled on a monthly basis, or even more frequently, and such a level of frequency is not in itself considered to be contrary to Article 5 § 3 of the Convention (see *Gábor Nagy v. Hungary (no. 2)*, no. 73999/14, §§ 48 and 79, 11 April 2017).

58. However, bearing in mind the fact that at the start of the examination of the case in the court the applicants had already been detained for seventeen months, it remains to be ascertained whether the judicial authorities exercised the requisite diligence in the conduct of the criminal proceedings against the applicants and whether the courts properly assessed the grounds for their continued detention.

59. As regards the grounds for the applicants' continuing detention during the period of the examination of the case in court, the Court notes that during that particular period three principal reasons for not suspending the arrest warrant had been advanced: firstly, the possibility that the applicants could reoffend; secondly, the serious nature of the offences they had been charged with; and, thirdly, the fact that the applicants would be likely to abscond if released (see paragraphs 18-22 above).

60. On the facts of the case the Court considers that the Lithuanian courts thoroughly assessed all the relevant factors and based their decisions on the particular circumstances of the applicants' case, their personal

situation, their criminal history, and their connections abroad. The reasons relied upon by the domestic courts cannot be said to have been stated *in abstracto*. They included explanations, such as 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; the applicants' criminal history and the fact that their social ties in Lithuania had not been sufficient to prevent them from committing crimes in the past, and their international contacts. Those concerns, according to the Court's case-law, could justify pre-trial detention (see *Buzadji*, cited above, § 90).

61. It cannot be said that the national courts ordered or extended the applicants' detention on identical or stereotypical grounds, using a pre-existing template or formalistic and abstract language (see *Lisovskij v. Lithuania*, no. 36249/14, § 77, 2 May 2017, and the case-law cited therein; compare and contrast *Trifković v. Croatia*, no. 36653/09, § 125, 6 November 2012, and *Baksza v. Hungary*, no. 59196/08, § 38, 23 April 2013). Thus, the Court is satisfied that the domestic courts did not use "general and abstract" arguments for the applicants' continued detention, and that their reasons were relevant and sufficient. Lastly, the Court notes that the domestic courts repeatedly examined the possibility of applying other, less severe measures of restraint, such as bail, but that during the relevant period they were not satisfied that such a step would be appropriate given the above-mentioned risks (see paragraphs 19, 20 and 22 above; see also *Podeschi v. San Marino*, no. 66357/14, § 152 *in limine*, 13 April 2017).

62. Be that as it may, the assessment of the "relevant and sufficient" reasons cannot be detached from the actual length of pre-trial detention. Accordingly, it remains to be ascertained whether the judicial authorities displayed the requisite diligence in the conduct of the proceedings (see *Gábor Nagy*, cited above, § 77).

63. As for the judicial authorities' diligence during the period of the examination of the case by the trial court, the Court again notes that a total of twenty-five hearings were scheduled during a period of almost twenty-two months, and six of them were adjourned or cancelled (see paragraph 24 above).

64. The Court observes that three of those hearings (on 4 May 2017, 14 November 2017 and 7 February 2018) were cancelled or adjourned because of technical reasons attributable to the judicial authorities – that is to say because the case file had not been returned by the appellate court. Three other hearings were adjourned for different reasons, some of which related to failings on the part of the defence lawyers: the hearing on 14 November 2016 was adjourned because the case file had not been returned by the appellate court and also because the defence lawyers had failed to appear in the court; the hearing on 12 January 2017 was adjourned due to the illness of a judge; and the hearing on 25 May 2017 was adjourned

because of the illnesses of the judge and a defence lawyer (see paragraph 24 above).

65. Furthermore, two of the three adjournments or cancellations that were due to technical reasons (that is to say the case file had not been returned by the appellate court) did not result in long periods in which no hearings were held, as the hearing originally scheduled for 4 May 2017 was held on 19 May 2017 and the hearing originally scheduled for 7 February 2018 was held on 12 February 2018. Accordingly, the domestic courts can be said to have demonstrated the requisite diligence in handling the applicants' case.

66. The third cancellation caused by technical reasons, on 14 November 2017, resulted in a gap during which no hearings were held for more than two months (from 26 October 2017 until 5 January 2018). Apart from that, during the period from 16 June 2017 until 18 September 2017, a period of more than three months, no hearings were scheduled at all owing to the summer vacation (see paragraph 24 above). The Court notes that the above periods of, respectively, two and three months fell within the periods of the winter break and the summer vacation. Moreover, given that the parties disputed whether the second gap was due to the summer vacation of the defence lawyers or the summer vacation of the panel of judges, the Court is not ready to deem this gap as having arisen through the fault of the State. It notes that under domestic law, a panel of judges dealing with a specific case cannot be changed for the period of the entire proceedings in question (see paragraph 38 above). Consequently, it is not unreasonable to hold that, if it were to be a requirement that a very tight schedule be followed all year round in respect of a complex case, as was the one at hand, the judges hearing that case would have no vacation whatsoever. For this reason the Court finds that the fact that the judges taking their annual leave caused a break between the hearings does not in itself constitute sufficient reason to criticise the national authorities for having not been diligent when handling the applicants' case within the shortest time possible.

67. The Court finally notes that during the period from 27 December 2016 until 19 May 2017 hearings were scheduled and held on a monthly basis (see paragraph 24 above), and that it is therefore satisfactory, in the light of the Article 5 § 3 requirements.

68. The Court reiterates that the mitigation of a sentence on the grounds of the excessive length of the proceedings does not in principle deprive the individual concerned of his status of victim within the meaning of Article 34 of the Convention. However, this general rule is subject to an exception when the national authorities have acknowledged either expressly or in substance, and then afforded redress for, the breach of the Convention. Such a mitigation of the sentence is also capable of affording adequate redress for a violation of Article 5 § 3 in cases in which the national authorities failed to hear the case of an applicant held in pre-trial detention

within a reasonable time (see *Dzelili v. Germany*, no. 65745/01, § 83, 10 November 2005, and the case-law cited therein).

69. The mitigation of a sentence is also acknowledged by domestic case-law as constituting redress (see paragraph 37 above).

70. On the facts of the case the Court observes that the total length of detention was taken into consideration when the sentences were fixed, the trial court having explicitly referred in its judgment to the lengthiness of the applicants' detention, acknowledging that their legitimate expectation of a hearing within a reasonable time had not been properly met. As a remedy for this, the court decided that the respective punishments imposed on the applicants should be mitigated; it accordingly explicitly stated that the terms of imprisonment imposed on the applicants should be the minimum (or close to the minimum) possible for such offences (see paragraphs 30 and 31 above). The Court has already had an opportunity to hold that imposition of a more lenient sentence could constitute redress for prolonged detention (see *Ščensnovičius v. Lithuania*, no. 62663/13, §§ 91 and 92, 10 July 2018). That being so, and even though in the present case the applicants asserted that the mitigation of their sentences had *de facto* not occurred, as they were still given harsh sentences, the Court considers that it is not its role to scrutinise if the imposed penalties are considered to be minimal or close to minimal according to the national criminal laws. It sees no plausible reasons to doubt the calculations made by domestic court, especially taking into consideration the maximum terms of imprisonment, up to life imprisonment, provided in Criminal Code in respect of the numerous heavy crimes that the applicants had been found guilty of, which the Government referred to in their observations (see paragraph 26 above).

71. On the basis of the Court's case-law (see paragraph 68 above) and the material in its possession, the Court considers that the applicants were afforded sufficient redress for the length of their detention.

72. Accordingly, the complaint must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 21 January 2021.

Hasan Bakırcı	Aleš Pejchal
Deputy Registrar	President

Appendix

No.	Application no.	Case name	Lodged on	Applicant Date of Birth Place of Residence	Represented by
1.	13394/18	Mikočiūnas and Others v. Lithuania	12/03/2018	**Ronaldas MIKOČIŪNAS** 11/11/1985 Kaunas	Linas BELEVIČIUS
2.	46114/18	Mikučiauskas v. Lithuania	20/09/2018	**Edikas MIKUČIAUSKAS** 19/03/1971 Kaunas	Linas BELEVIČIUS
3.	46122/18	Ališauskas v. Lithuania	20/09/2018	**Mindaugas ALIŠAUSKAS** 05/09/1979 Kaunas	Linas BELEVIČIUS