



Extended detention and severe sentencing of participant in non-violent anti-Government protest in Russia was unjustified

In today's Chamber judgment in the case of [Taranenko v. Russia](#) (application no. 19554/05), which is not final¹, the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 5 § 3 (right to liberty and security - entitlement to trial within a reasonable time or to release pending trial) of the European Convention on Human Rights, and

a violation of Article 10 (freedom of expression) in the light of Article 11 (freedom of assembly and association).

The case concerned the detention and conviction of a participant in a protest against the politics of President Putin in 2004, organised by the National Bolsheviks Party.

The Court underlined that the protest, although involving some disturbance of public order, had been largely non-violent and had not caused any bodily injuries. The Court found in particular that while a sanction for Ms Taranenko's actions might have been warranted by the demands of public order, her detention pending trial of almost one year and the suspended prison sentence of three years imposed on her had not been proportionate and had to have had a deterring effect on protesters.

Principal facts

The applicant, Yevgeniya Taranenko, is a Russian national who was born in 1981 and lives in Moscow.

In December 2004 she was arrested together with a group of about forty people who participated in a protest against the politics of President Putin, which had been organised by members of an opposition association, the National Bolsheviks Party. The protesters occupied the reception area of the President's administration building in Moscow, waved placards and distributed leaflets calling for the President's resignation. According to Ms Taranenko's submissions, she was not a member of the National Bolsheviks Party, but she attended the protest event to collect information for her thesis in sociology.

Ms Taranenko was subsequently placed in detention pending trial, where she remained for almost one year. Her requests to be released, referring in particular to her clean criminal record, her permanent residence and permanent employment as a school teacher, were rejected by the authorities. According to her submissions, the conditions in the remand centre in Moscow where she was held were inappropriate. In particular, the cells were overcrowded and she did not receive appropriate medical treatment for several chronic diseases from which she suffered.

¹ Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

In December 2005 Ms Taranenko was convicted of participation in mass disorder and sentenced to three years' imprisonment, suspended on probation. The trial court found that the protesters had not complied with the admission procedure of the President's administration building; they had bypassed the security checks and had pushed aside a guard who attempted to stop them and had then locked themselves in an office, destroying furniture. When determining the sentence, the court took into account that the defendants had compensated the pecuniary damage caused by the protest action. As regards Ms Taranenko, the court noted that it was irrelevant whether she had joined the action for research or other purposes as she had directly participated in the mass disorder. The judgment was upheld on appeal in March 2006. Following her conviction in December 2005, she was released.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Ms Taranenko complained of the conditions in the remand centre in Moscow where she was detained from December 2004 to December 2005. Relying on Article 5 §§ 1 (c) and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), she complained that there were no grounds for her extended detention, that she was not tried within a reasonable time, and that the detention orders were not based on sufficient reasons. Furthermore, she complained that her arrest, detention pending trial and the sentence imposed on her had violated her rights under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association).

The application was lodged with the European Court of Human Rights on 12 April 2005.

Judgment was given by a Chamber of seven judges, composed as follows:

Isabelle **Berro-Lefèvre** (Monaco), *President*,
Elisabeth **Steiner** (Austria),
Khanlar **Hajiyev** (Azerbaijan),
Mirjana **Lazarova Trajkovska** ("The former Yugoslav Republic of Macedonia"),
Paulo **Pinto de Albuquerque** (Portugal),
Ksenija **Turković** (Croatia),
Dmitry **Dedov** (Russia),

and also *Søren Nielsen*, *Section Registrar*.

Decision of the Court

The Court declared inadmissible as being manifestly ill-founded the complaints under Article 3 and Article 5 § 1. It held in particular that Ms Taranenko had not challenged the description of her detention conditions as submitted by the Russian Government, who had asserted that she had had more than four metres of personal space in the cell and that she had received appropriate medical care for her condition. Concerning Article 5 § 1, the Court noted in particular that there was no indication that the Russian courts' decisions to detain Ms Taranenko and to extend her detention had been invalid or unlawful under national law.

Article 5 § 3

Regarding Ms Taranenko's complaint that the Russian courts had not advanced relevant and sufficient reasons for her detention for almost a year, the Court noted in particular that it had previously examined similar complaints lodged by her co-defendants and had found violations of their rights under Article 5 § 3. As in those cases, the Russian courts had relied on the gravity of the charges against Ms Taranenko to infer that there was a high risk of absconding, reoffending, or interfering with the proceedings. They had not pointed to any aspect of her character or behaviour

that would have justified the conclusion that she presented such risks. Indeed they had not addressed relevant facts supporting her requests to be released and reducing those risks, namely her clean criminal record, her permanent residence and her employment. Nor had the courts considered applying a more lenient preventive measure. Moreover, once the case had been submitted for trial, the Russian courts had issued collective detention orders in respect of all the protesters of December 2004, using the same summary formula to refuse their applications for release.

The Court concluded that the authorities had not relied on sufficient grounds to extend Ms Taranenko's detention. There had accordingly been a violation of Article 5 § 3.

Article 10 in the light of Article 11

The Court found it appropriate to examine Ms Taranenko's case under Article 10 in the light of Article 11, noting that the issues of freedom of expression and freedom of assembly were closely linked in her case. The Court considered that her arrest, detention and conviction had constituted an interference with her right to freedom of expression. It had not been contested that the interference had been "prescribed by law" and had pursued a legitimate aim for the purposes of Article 10 § 2, namely that of preventing disorder and protecting the rights of others.

As regards the question of whether the interference had been "necessary in a democratic society", the Court noted that participants in the protest had wished to draw public attention to their disapproval of the President's policies and their demand for his resignation. Those were questions of public interest, the debates on which could only be restricted within a very limited scope.

At the same time, the Court observed that the protesters, when entering the President's administration building, had not complied with the admission procedure. They had bypassed the security checks and had stormed the building, pushing a guard aside. In those circumstances, having regard to the fact that the protest had possibly frightened employees and visitors and had disrupted the normal functioning of the administration, the arrest of the protesters could have been considered justified by the demands of the protection of public order.

Concerning the question of whether the length of Ms Taranenko's detention pending trial of almost one year and the penalty imposed on her had been proportionate to the legitimate aim pursued, the Court noted that her conviction had at least in part been founded on the Russian courts' condemnation of the political message conveyed by the protesters. The judgment finding her guilty of participation in mass disorder had stated that she had been "throwing anti-[Putin] leaflets" and "issuing an unlawful ultimatum by calling for the President's resignation". At the same time, she had not been convicted for expressing an opinion alone, but for expressing it in combination with a particular conduct.

The Court considered it significant that the protesters had not been armed, had not resorted to any violence beyond pushing aside one guard who attempted to stop them, and had not caused any bodily injuries. As regards property damage in the administration building, the Courts had not established whether Ms Taranenko had personally contributed to it. Furthermore, the defendants had compensated all pecuniary damage caused by the protest before the end of the trial. Those factors distinguished the case from another case in which the Court had found that a prison sentence as a sanction for a political speech – which had triggered interethnic violence – had not been disproportionate.² At the same time, the severity of Ms Taranenko's sanction, a suspended prison sentence of three years, distinguished her case from other cases in which the Court had found that a few days imprisonment imposed against applicants in comparable circumstances had been justified by the demands of public order³.

² *Osmani and Others v. "The former Yugoslav Republic of Macedonia"* (50841/99) Decision of 11 October 2001

³ Among others *Drieman and Others v. Norway* (33678/96) Decision of 4 May 2000 and *Lucas v. the United*

The Court therefore concluded that, although a sanction for Ms Taranenko's actions might have been warranted by the demands of public order, the lengthy period of detention pending trial and the long suspended prison sentence imposed on her had not been proportionate to the legitimate aim pursued. The unusually severe sanction had to have had a deterring effect on her and other persons taking part in protest actions. The Court concluded that the interference had not been "necessary in a democratic society" for the purposes of Article 10. There had accordingly been a violation of Article 10 interpreted in the light of Article 11.

Just satisfaction (Article 41)

The court held that Russia was to pay Ms Taranenko 12,500 euros (EUR) in respect of non-pecuniary damage.

Separate opinion

Judges Pinto de Albuquerque, Turković and Dedov expressed a joint separate opinion, which is annexed to the judgment.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Nina Salomon (tel: + 33 3 90 21 49 79)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Jean Conte (tel: + 33 3 90 21 58 77)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.