



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

THIRD SECTION

CASE OF ZHAMBULOV AND OTHERS v. RUSSIA

*(Applications nos. 75115/17 and 11 others –
see appended list)*

JUDGMENT

STRASBOURG

28 July 2022

This judgment is final but it may be subject to editorial revision.

In the case of Zhambulov and Others v. Russia,

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

Darian Pavli, *President*,

Andreas Zünd,

Mikhail Lobov, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 2 June 2022,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The Russian Government (“the Government”) were given notice of the applications.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the excessive length of their pre-trial detention. Some applicants also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

6. The applicants complained principally that their pre-trial detention had been unreasonably long. They relied on Article 5 § 3 of the Convention, which reads as follows:

Article 5 § 3

“3. 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.”

7. The Court observes that the general principles regarding the right to trial within a reasonable time or to release pending trial, as guaranteed by Article 5 § 3 of the Convention, have been stated in a number of its previous judgments (see, among many other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 110, ECHR 2000-XI, and *McKay v. the United Kingdom* [GC], no. 543/03, §§ 41-44, ECHR 2006-X, with further references).

8. In the leading case of *Dirdizov v. Russia*, no. 41461/10, 27 November 2012, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the applicants' pre-trial detention was excessive.

10. These complaints are therefore admissible and disclose a breach of Article 5 § 3 of the Convention.

III. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

11. Some applicants submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see appended table). These complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor are they inadmissible on any other ground. Accordingly, they must be declared admissible. Having examined all the material before it, the Court concludes that they also disclose violations of the Convention in the light of its findings in *Idalov v. Russia* [GC], no. 5826/03, §§ 154-158, 22 May 2012.

IV. REMAINING COMPLAINTS

12. In applications nos. 2957/19 and 62921/19 the applicants also raised other complaints under various Articles of the Convention.

13. The Court has examined the applications listed in the appended table and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

14. It follows that this part of the applications must be rejected in accordance with Article 35 § 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

16. Regard being had to the documents in its possession and to its case-law (see, in particular, *Pastukhov and Yelagin v. Russia*, no. 55299/07, 19 December 2013), the Court considers it reasonable to award the sums indicated in the appended table.

17. The Court further considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning the excessive length of pre-trial detention and the other complaints under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of applications nos. 2957/19 and 62921/19 inadmissible;
3. *Holds* that these complaints disclose a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;
4. *Holds* that there has been a violation of the Convention as regards the other complaints raised under well-established case-law of the Court (see appended table);
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

ZHAMBULOV AND OTHERS v. RUSSIA JUDGMENT

Done in English, and notified in writing on 28 July 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Darian Pavli
President

ZHAMBULOV AND OTHERS v. RUSSIA JUDGMENT

APPENDIX

List of applications raising complaints under Article 5 § 3 of the Convention
(excessive length of pre-trial detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Period of detention	Court which issued detention order/examined appeal	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	75115/17 11/10/2017	Kuanyshtpay Zhambulovich ZHAMBULOV 1977	10/02/2016 to 06/12/2017	Oktyabrskiy District Court of Omsk, Omsk Regional Court	1 year(s) and 9 month(s) and 27 day(s)	use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to conduct the proceedings with due diligence during the period of detention	Art. 5 (4) - excessive length of judicial review of detention - 27/03/2017 the detention was extended while the applicant was hospitalised; 05/05/2017 the applicant received the extension order and lodged the request for a re- instatement of a time-limit; 18/05/2017 the Oktyabrskiy District Court of Omsk refused to re-instate the time-limit. However, on 14/07/2017 the time-limit was re-instated; on 16/08/2017 Omsk Regional Court ceased the appeal proceedings as the pre-trial detention order has already expired.	2,500
2.	2957/19 14/07/2019	Ilyas Elmirovich SHARIFOV 1989	14/05/2017 to 15/02/2020 13/05/2021 to 30/08/2021	Industrialny District Court of Izhevsk; Balezinskiy District Court of the Udmurtiya Republic; Supreme Court of the Udmurtiya Republic	2 year(s) and 9 month(s) and 2 day(s) 3 month(s) and 18 day(s)	failure to conduct the proceedings with due diligence during the period of detention; collective detention orders; failure to assess the applicant's personal situation reducing the risks of re- offending, colluding or absconding		3,100
3.	8868/19 02/02/2019	Azat Razifovich FAZLIYEV 1974	27/07/2016 to 06/06/2019	Supreme Court of the Tatarstan Republic	2 year(s) and 10 month(s) and 11 day(s)	fragility of the reasons employed by the courts, as the case progressed; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice, as the case progressed; failure to examine the possibility of applying other measures of restraint, as the case progressed; failure to conduct the proceedings with due diligence during the period of detention		3,000

ZHAMBULOV AND OTHERS v. RUSSIA JUDGMENT

No.	Application no. Date of introduction	Applicant's name Year of birth	Period of detention	Court which issued detention order/examined appeal	Length of detention	Specific defects	Other complaints under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
4.	10160/19 15/10/2018	Radik Rinatovich KARIMOV 1974	26/07/2016 to 15/04/2019	Supreme Court of the Tatarstan Republic	2 year(s) and 8 month(s) and 21 day(s)	fragility of the reasons employed by the courts, as the case progressed; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice, as the case progressed; failure to examine the possibility of applying other measures of restraint, as the case progressed; failure to conduct the proceedings with due diligence during the period of detention		2,900
5.	62921/19 23/01/2020	Sergey Aleksandrovich KOSAREV 1988	09/08/2018 pending	Preobrazhenskiy District Court of Moscow; Moscow City Court	More than 3 year(s) and 8 month(s) and 6 day(s)	collective detention orders; failure to conduct the proceedings with due diligence during the period of detention; failure to examine the possibility of applying other measures of restraint, as the case progressed		3,800
6.	4444/20 05/12/2019	Ilya Andreyevich VASHUKOV 1986	26/05/2015 pending	Severodvinsk Town Court of the Arkhangelsk Region; Arkhangelsk Regional Court	More than 6 year(s) and 10 month(s) and 20 day(s)	failure to conduct the proceedings with due diligence during the period of detention	Art. 5 (4) - excessive length of judicial review of detention - Detention order of the Arkhangelsk Regional Court of 05/12/2019 was upheld on appeal by the 2nd Appeal Court of General Jurisdiction on 03/02/2020.	5,500
7.	6553/20 14/01/2020	Sergey Grigoryevich DANILICHEV 1976	24/01/2019 to 24/09/2020	Volzhskiy District Court of Volgograd, Volgograd Region Court	1 year(s) and 8 month(s) and 1 day(s)	use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice		1,900
8.	10401/20 06/02/2020	Dmitriy Viktorovich KOSTYGOV 1981	03/06/2019 to 30/09/2020	Cherepovets Town Court of the Vologda Region, Vologda Regional Court	1 year(s) and 3 month(s) and 28 day(s)	use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice	Art. 5 (4) - excessive length of judicial review of detention - lack of speediness of review by the Second Court of Appeal of general jurisdiction, St Petersburg on 13/12/2019 of the order of the Vologda Regional Court dated 31/10/2019 on extension of the applicant's detention.	1,800
9.	22087/20 26/04/2020	Yevgeniy Aleksandrovich MAKSIMOV 1990	27/04/2017 to 26/06/2020	Supreme Court of the Udmurtiya Republic	3 year(s) and 2 month(s)	collective detention orders; failure to conduct the proceedings with due diligence during the period of detention		3,200

ZHAMBULOV AND OTHERS v. RUSSIA JUDGMENT

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10.	22686/20 16/04/2020	Viktor Nikolayevich ZAYTSEV 1983	30/01/2019 pending	Moscow City Court, First General Jurisdiction Court of Appeal	More than 3 year(s) and 2 month(s) and 16 day(s)	collective detention orders; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to assess the applicant's personal situation reducing the risks of re-offending, colluding or absconding; failure to conduct the proceedings with due diligence during the period of detention; failure to examine the possibility of applying other measures of restraint		3,300
11.	35050/20 11/08/2020	Aleksandr Andreyevich LUKYANOV 1993	22/02/2017 pending	The Supreme Court of the Tatarstan Republic	More than 5 year(s) and 1 month(s) and 24 day(s)	fragility of the reasons employed by the courts, as the case progressed; failure to examine the possibility of applying other measures of restraint, as the case progressed; failure to conduct the proceedings with due diligence during the period of detention		5,000
12.	37017/20 03/07/2020	Olimdzhon Ziyevuddinovich SAIDOV 1996	26/04/2019 pending	Gagarinskiy District Court of Moscow	More than 2 year(s) and 11 month(s) and 20 day(s)	fragility of the reasons employed by the courts, as the case progressed; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice, as the case progressed; failure to conduct the proceedings with due diligence during the period of detention		3,000

¹ Plus any tax that may be chargeable to the applicants.