



THIRD SECTION

CASE OF VOKHIDOV AND OTHERS v. RUSSIA

*(Applications nos. 69522/17 and 4 others –
see appended list)*

JUDGMENT

STRASBOURG

30 September 2021

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

In the case of Vokhidov and Others v. Russia,

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

Darian Pavli, *President*,

Dmitry Dedov,

Peeter Roosma, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 9 September 2021,

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 deficiencies in proceedings for review of the lawfulness of 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 § 4 OF THE CONVENTION

6. The applicants complained principally of the deficiencies in proceedings for review of the lawfulness of detention. In particular, they alleged that the appeals against the detention orders had not been decided “speedily”. They relied, expressly or in substance, on Article 5 § 4 of the Convention, which reads as follows:

Article 5 § 4

“Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.”

7. The Court reiterates that Article 5 § 4 of the Convention proclaims the right to a speedy judicial decision concerning the lawfulness of detention and ordering of its termination if it proves unlawful (see *Baranowski v. Poland*, no. 28358/95, § 68, ECHR 2000-III). Where an individual’s personal liberty is at stake, the Court has very strict standards concerning the State’s compliance with the requirement of speedy review of the lawfulness of detention (see, for example, *Kadem v. Malta*, no. 55263/00, §§ 44-45, 9 January 2003, where the Court considered a time-period of seventeen days in deciding on the lawfulness of the applicant’s detention to be excessive, and *Mamedova v. Russia*, no. 7064/05, § 96, 1 June 2006, where the length of appeal proceedings lasting, *inter alia*, twenty-six days, was found to be in breach of the “speediness” requirement of Article 5 § 4).

8. In the leading cases of *Idalov v. Russia* ([GC], no. 5826/03, §§ 154-58, 161-65, 22 May 2012), *Khodorkovskiy v. Russia* (no. 5829/04, §§ 219-48, 31 May 2011) and *Lebedev v. Russia* (no. 4493/04, §§ 75-115, 25 October 2007), the Court has 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 appeal proceedings for the review of the lawfulness of the applicants’ pre-trial detention cannot be considered compatible with the requirements set out in Article 5 § 4 of the Convention.

10. These complaints are therefore admissible and disclose a breach of Article 5 § 4 of the Convention.

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

11. In application no. 9943/18 the applicant submitted other complaints which also raised issues under the Convention, given the relevant well-established case-law of the Court (see the 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 (see *Idalov*, §§103-08, cited above, concerning conditions of detention during transport and lack of an effective remedy in this regard).

IV. REMAINING COMPLAINTS

12. In applications nos. 9943/18 and 36844/20, the applicants also raised other complaints under various Articles of the Convention.

13. The Court has examined the applications 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.

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

14. 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.”

15. Regard being had to the documents in its possession and to its case law (see, in particular, *Pukhachev and Zaretskiy v. Russia*, nos. 17494/16 and 29203/16, §§ 14-16, 7 November 2017, *Doherty v. the United Kingdom*, no. 76874/11, §§ 113-15, 18 February 2016, and *Karaosmanoglu and Özden v. Turkey*, no. 4807/08, §§ 89-91, 17 June 2014), the Court considers it reasonable to award the sums indicated in the appended table and dismisses the remainder of the applicant’s claims for just satisfaction.

16. The Court 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 deficiencies in proceedings for review of the lawfulness of 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. 9943/18 and 36844/20 inadmissible;
3. *Holds* that these complaints disclose a breach of Article 5 § 4 of the Convention concerning the deficiencies in proceedings for review of the lawfulness of 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 the 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.

Done in English, and notified in writing on 30 September 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

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Viktoriya Maradudina
Acting Deputy Registrar

Darian Pavli
President

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APPENDIX

List of applications raising complaints under Article 5 § 4 of the Convention
(deficiencies in proceedings for review of the lawfulness of detention)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	First-instance court and date of detention order	Appeal instance court and date of decision	Procedural deficiencies	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.	69522/17 08/11/2017	Isroil Ismoilovich VOKHIDOV 1965		Kirovskiy District Court of Ufa 30/05/2017 08/09/2017	Supreme Court of the Bashkortostan Republic, appeal decisions of 04/09/2017 and 10/10/2017, respectively	Lack of speediness of review of detention (Idalov v. Russia [GC], no. 5826/03, §§ 154-58, 22 May 2012)		500
2.	9943/18 12/02/2018	Vyacheslav Anatolyevich PARUSHENKOV 1974	Belinskaya Marina Aleksandrovna St Petersburg	St Petersburg City Court 19/07/2017	St Petersburg City Court 14/09/2017	Lack of speediness of review of detention (Idalov v. Russia [GC], no. 5826/03, §§ 154-58, 22 May 2012)	Art. 13 - lack of any effective remedy in domestic law - to complain about inadequate conditions of transport, Art. 3 - inadequate conditions of detention during transport - numerous occasions of transport from the detention facility to the courthouse from 02/06/2017 to 08/11/2017, 0.2 sq m of personal space, no light, lack of fresh air, no access to toilet	1,300
3.	52387/19 26/09/2019	Zhanna Nikolayevna IDILOVA 1979	Sukhareva Tatyana Viktorovna Moscow	Babushkinskiy District Court 24/12/2018	Moscow City Court 28/03/2019	Lack of speediness of review of detention (Idalov v. Russia [GC], no. 5826/03, §§ 154-58, 22 May 2012)		500

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4.	60979/19 19/11/2019	Dmitriy Anatolyevich PASHINOV 1974	Preobrazhenskaya Oksana Vladimirovna Strasbourg	Justice of the Peace of the 1 st Judicial Circuit of the Lipetskiy District of the Lipetsk Region 24/04/2019	Lipetskiy District Court of the Lipetsk Region 28/05/2019	Lack of speediness of review of detention (Idalov v. Russia [GC], no. 5826/03, §§ 154-58, 22 May 2012)		500
5.	36844/20 28/07/2020	Aleksandr Dmitriyevich FAYZULLIN 1992		Justice of the Peace of the Kuratovskiy Judicial Circuit of Syktyvkar of the Komi Republic 01/06/2020	Syktyvkar Town Court of the Komi Republic 22/07/2020	Lack of speediness of review of detention (Idalov v. Russia [GC], no. 5826/03, §§ 154-58, 22 May 2012)		500

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