



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

THIRD SECTION

CASE OF NOSENKO AND OTHERS v. RUSSIA

(Application no. 6116/10 and 5 others - see appended list)

JUDGMENT

STRASBOURG

6 April 2017

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

In the case of Nosenko and Others v. Russia,

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

Luis López Guerra, *President*,

Dmitry Dedov,

Branko Lubarda, *judges*,

and Karen Reid, *Section Registrar*,

Having deliberated in private on 16 March 2017,

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 applications were communicated to the Russian Government (“the Government”).

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.

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 that their pre-trial detention had been unreasonably long. They relied on Article 5 § 3 of the Convention, which read 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. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. 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.”

12. 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.

13. 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 applications admissible;

3. *Holds* that these applications disclose a breach of Article 5 § 3 of the Convention concerning the excessive length of pre-trial detention;
4. *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 16 March 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Karen Reid
Registrar

Luis López Guerra
President

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 name Date of birth	Representative name and location	Period of detention	Length of detention	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	6116/10 24/12/2009	Aleksandr Vladimirovich Nosenko 07/05/1979	Shineleva Tatyana Nikolayevna Moscow	10/06/2008 to 22/10/2010	2 year(s) and 4 month(s) and 13 day(s)	2,500
2.	53833/10 06/09/2010	Aleksandr Valeryevich Ivanov 03/05/1977	Konin Vladimir Kaliningrad	19/02/2010 to 19/05/2011	1 year(s) and 3 month(s) and 1 day(s)	1,400
3.	1164/15 25/11/2014	Ilya Eduardovich Romanov 03/07/1967		29/10/2013 pending	More than 3 year(s) and 3 month(s) and 26 day(s)	3,400
4.	1405/15 30/04/2015	Aleksandr Valeryevich Cherepanov 17/06/1975		24/01/2013 pending	More than 4 year(s) and 1 month(s)	4,100
5.	10164/15 11/02/2015	Gennadiy Valeryanovich Shubin 12/12/1964	Panfilov Aleksandr Viktorovich Murmansk	13/02/2013 to 05/08/2015	2 year(s) and 5 month(s) and 24 day(s)	2,600
6.	42708/15 21/08/2015	Sergey Vyacheslavovich Kashenkov 23/11/1970	Bagryanskiy Filipp Valeryevich Vladimir	23/01/2015 to 11/12/2015	10 month(s) and 19 day(s)	1,000

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