THIRD SECTION

**CASE OF ANANCHEV AND OTHERS v. RUSSIA**

*(Applications nos. 7026/10 and 25 others -*

*see appended list*)

JUDGMENT

*This version was rectified on 17 September 2019*

*under Rule 81 of the Rules of Court.*

STRASBOURG

21 February 2019

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

In the case of Ananchev and Others v. Russia,

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

 Alena Poláčková, *President,* Dmitry Dedov, Jolien Schukking, *judges,*
and Liv Tigerstedt, *Acting* *Deputy Section Registrar,*

Having deliberated in private on 31 January 2019,

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.  Notice of the applications was given 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. 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 read as follows:

 “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.  In applications nos. 7026/10, 50230/15, 38251/17 and 70735/17, the 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, §§ 152-158, 22 May 2012, concerning delays in review of detention, and *Yevdokimov and Others v. Russia*, nos. 27236/05 and 10 others, 16 February 2016, regarding absence of detainees from civil proceedings.

IV.  REMAINING COMPLAINTS

12.  In applications nos. 41269/17, 46650/17, 72606/17 and 73045/17 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.

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, *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.

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 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 the applications nos. 41269/17, 46650/17, 72606/17 and 73045/17 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.

6.  *Dismisses* the remainder of the applicants’ claims for just satisfaction.

Done in English, and notified in writing on 21 February 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

 Liv Tigerstedt Alena Poláčková

 Acting Deputy Registrar 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’s nameDate of birth | Representative’s name and location | 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]](#endnote-1) |
|  | 7026/1011/01/2010 | **Dmitriy Nikolayevich Ananchev**05/11/1980 |  | 30/01/2009 to18/02/2010 | Sovetskiy District Court of Krasnoyarsk; Krasnoyarsk Regional Court | 1 year(s) and 20 day(s) | Fragility of the reasons employed by the courts; 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 examine the possibility of applying other measures of restraint. | Art. 6 (1) - absence of detainees from civil proceedings - the applicant was not afforded an opportunity to attend court hearings in his tort proceedings against the State before the first-instance court, Sovetskiy District Court of Krasnoyarsk (judgment of 13/05/2013), and appeal court, Krasnoyarsk Regional Court(judgment of 11/12/2013) | 2,600 |
|  | 63685/1402/09/2014 | **Igor Vladimirovich Shchenikov**07/05/1979 | Shprits Yevgeniy ViktorovichYaroslavl | 26/10/2013 to19/10/2015 | Basmannyy District Court of Moscow;Moscow City Court | 1 year(s) and 11 month(s) and 24 day(s) | 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. |  | 2,600 |
|  | 50230/1506/10/2015 | **Aleksandr Vadimovich Khoroshavin**26/11/1959 | Moskalenko Karinna AkopovnaStrasbourg | 04/03/2015 to09/02/2018 | Basmannyy District Court of Moscow;Moscow City Court | 2 year(s) and 11 month(s) and 6 day(s) | Failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding, 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;collective detention orders. | Art. 5 (4) - excessive length of judicial review of detention - Delayed appeal review of detention renewals:24/05/2016 Moscow City Court – Appeal 05/07/2016 Moscow City Court;04/03/2015 Moscow City Court – Appeal 06/04/2015 Moscow City Court;22/04/2015 Moscow City Court – Appeal 24/06/2015 Moscow City Court;24/08/2015 Moscow City Court – Appeal 05/10/2015 Moscow City Court;25/11/2015 Moscow City Court – Appeal 03/02/2016 Moscow City Court | 5,100 |
|  | 9712/1724/01/2017 | **Konstantin Igorevich Ramzin**16/07/1990 | Sokalskiy Boris BorisovichMoscow | 28/04/2015 to21/03/2017 | Tverskoy District Court of Moscow; Moscow Regional Court | 1 year(s) and 10 month(s) and 22 day(s) | Fragility of the reasons employed by the courts, use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to examine the possibility of applying other measures of restraint; failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding. |  | 2,700 |
|  | 38251/1715/05/2017 | **Viktor Ivanovich Filatov**27/10/1961 | Minina Irina AleksandrovnaMoscowIzhikov Maksim YuryevichMoscow[[2]](#endnote-2) | 29/06/2015Pending. | Basmannyy District Court of Moscow, Moscow City Court, Meshchanskiy District Court,Supreme Court of Russia | More than3 year(s) and 6 month(s) and 10 day(s) | Collective detention orders;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; 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. | Art. 5 (4) - excessive length of judicial review of detention - the detention order of 27/09/2016, appeal review on 15/11/2016 | 6,300 |
|  | 41269/1730/05/2017 | **Arman Slavikovich Ayrapetyan**21/07/1977 | Yermakova Galina AlekseyevnaVladivostok | 01/10/2014 to05/02/2018 | Ussuriysk Town Court of the Primorye Region; Primorye Regional Court | 3 year(s) and 4 month(s) and 5 day(s) | Fragility of the reasons employed by the courts; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice, as the case progressed; failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding, as the case progressed; failure to examine the possibility of applying other measures of restraint; failure to conduct the proceedings with due diligence during the period of detention. |  | 4,600 |
|  | 46292/1714/06/2017 | **Aleksandr Olegovich Ebingard**25/11/1988 |  | 17/09/2015 to12/02/2018 | Syktyvkar Town Court;Supreme Court of the Komi Republic | 2 year(s) and 4 month(s) and 27 day(s) | Collective detention orders;fragility of the reasons employed by the courts as cased progressed;failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding as case progressed; failure to examine the possibility of applying other measures of restraint. |  | 3,300 |
|  | 46650/1702/06/2017 | **Denis Igorevich Armyakov**22/04/1979 |  | 12/12/2012Pending. | Syktyvkar Town Court;Supreme Court of the Komi Republic | More than6 year(s) and 27 day(s) | Collective detention orders;failure to conduct the proceedings with due diligence during the period of detention. |  | 7,900 |
|  | 48129/1729/05/2017 | **Konstantin Ivanovich Mashnin**27/12/1979 |  | 20/01/2016Pending. | Sovetskiy District Court of Kazan; Vakhitovskyy District Court of Kazan;Supreme Court of the Tatarstan Republic | More than2 year(s) and 11 month(s) and 19 day(s) | Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; 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. |  | 3,900 |
|  | 48492/1726/05/2017 | **Farid Ramazanovich Mustafayev**08/07/1987 |  | 04/02/2015 to30/07/2018 | Military Court of the Privolzhye Circuit;Supreme Court of the Bashkortostan Republic | 3 year(s) and 5 month(s) and 27 day(s) | Failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding as 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. |  | 4,700 |
|  | 49572/1711/06/2017 | **Konstantin Viktorovich Voronov**28/12/1983 |  | 20/06/2015 to28/06/2017 | Yugorskiy District Court of theKhantyMansy Autonomous Region;Khanty-Mansy District Court of the Khanty-Mansy Autonomous Region; Khanty-Mansy Autonomous Regional Court of Yugra | 2 year(s) and 9 day(s) | Fragility of the reasons employed by the courts; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to examine the possibility of applying other measures of restraint; failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding. |  | 2,700 |
|  | 60773/1710/08/2017 | **Anatoliy Nikolayevich Livada**21/04/1953 | Nazarov Ivan NikolayevichRostov-on-Don | 27/03/2017Pending. | Sovetskiy District Court of Kazan; Vakhitovskiy District Court of Kazan;Supreme Court of the Tatarstan Republic | More than1 year(s) and 9 month(s) and 12 day(s) | Fragility of the reasons employed by the courts; 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. |  | 2,600 |
|  | 64359/1717/08/2017 | **Ilnar Marselyevich Abdulmanov**27/11/1980 |  | 07/02/2017Pending. | Sovetskiy District Court of Kazan; Vakhitovskiy District Court of Kazan;Supreme Court of the Tatarstan Republic | More than1 year(s) and 11 month(s) and 1 day(s) | Fragility of the reasons employed by the courts; 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 examine the possibility of applying other measures of restraint. |  | 2,600 |
|  | 64589/1721/08/2017 | **Yuriy Ivanovich Kucherenko**15/04/1983 | Kucherenko Roman IvanovichStavropol | 03/03/2017 to19/11/2017 | Promyshlennyy District Court of Stavropol; Stavropol Regional Court | 8 month(s) and 17 day(s) | Fragility of the reasons employed by the courts; 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 examine the possibility of applying other measures of restraint. |  | 1,300 |
|  | 68736/1705/09/2017 | **Mikhail Nikolayevich Belyayev**15/10/1968 | Okushko Tatyana BorisovnaMoscow | 20/02/2017Pending. | Taganskiy District Court of Moscow;Moscow City Court | More than1 year(s) and 10 month(s) and 19 day(s) | Collective detention orders;fragility of the reasons employed by the courts; use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; failure to examine the possibility of applying other measures of restraint. |  | 2,700 |
|  | 70196/1710/09/2017 | **Vladimir Leonidovich Korostelev**08/02/1950 |  | 07/10/2015Pending. | Supreme Court of the Komi Republic | More than3 year(s) and 3 month(s) and 1 day(s) | Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice as the case progressed;fragility of the reasons employed by the courts; collective detention orders; failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding; failure to examine the possibility of applying other measures of restraint; failure to conduct the proceedings with due diligence during the period of detention. |  | 4,400 |
|  | 70735/1701/09/2017 | **Yevgeniy Sergeyevich Aydakin**25/02/1998 | Filonova Oksana GennadyevnaSarov | 21/03/2017 to16/06/2017 | Sarov Town Court;Nizhniy Novgorod Regional Court | 2 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 examine the possibility of applying other measures of restraint. | Art. 5 (4) - excessive length of judicial review of detention - the request for a change of the measure of restraint dismissed by decision of the Sarov Town Court of 06/04/2017 was not examined on appeal.Decision of 21/04/2017 by the Nizhniy Novgorod Regional Court which noted that such a decision was not amenable to an appeal as it was issued while the criminal proceedings were still pending and that it could only be resolved when the trial court was to determine the merits of the charges in the final court judgment. However, it was examined by the cassation instance court on 29/06/2017 - that is more than 2 months later. | 500 |
|  | 72606/1729/09/2017 | **Viktor Ivanovich Abrosichkin**03/02/1952 | Gusakov Aleksandr IvanovichMoscow | 01/02/2017Pending. | Nikulinskiy District Court of Moscow;Moscow City Court | More than1 year(s) and11 month(s) and 7 day(s) | Collective detention orders;fragility of the reasons employed by the courts; 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. |  | 2,600 |
|  | 73045/1703/10/2017 | **Maksim Andreyevich Alekseyenko**10/11/1981 |  | 22/03/2017Pending. | Moscow District Court of Nizhniy Novgorod;Nizhniy Novgorod Regional Court | More than1 year(s) and9 month(s) and 17 day(s) | Fragility of the reasons employed by the courts; 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 ofre-offending, colluding or absconding; failure to examine the possibility of applying other measures of restraint; failure to conduct the proceedings with due diligence during the period of detention. |  | 2,600 |
|  | 75119/1718/10/2017 | **Khadidzha Ruslanovna Khamkhoyeva**25/05/1992 | Druzhkova Olga VladimirovnaMoscow | 29/01/2017 to13/04/2018 | Prigorodnyy District Court of the Northern Osetiya-Alaniya Republic;Supreme Court of the Northern Osetiya-Alaniya Republic | 1 year(s) and 2 month(s) and 16 day(s) | Fragility of the reasons employed by the courts; 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 examine the possibility of applying other measures of restraint. |  | 1,700 |
|  | 76640/1702/10/2017 | **Dmitriy Aleksandrovich Sementsov**19/01/1980 |  | 27/04/2013 to29/12/201520/07/2016Pending. | Leninskiy District Court of Vladivostok; Ussuriysk District Court of the Primorye Region;Primorye Regional Court | 2 year(s) and 8 month(s) and 3 day(s)More than2 year(s) and5 month(s) and19 day(s) | Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; fragility of the reasons employed by the courts; collective detention orders; failure to conduct the proceedings with due diligence during the period of detention. |  | 6,800 |
|  | 77729/1730/10/2017 | **Denis Vladimirovich Irza**01/10/1982 | Abubakarov Magamed SaltanmuratovichNalchik | 16/04/2015Pending. | Mikhaylovskiy District Court of the Kabardino-Balkariya Republic andProkhladnenskiy District Court of the Kabardino-Balkariya Republic;Supreme Court of the Kabardino-Balkariya Republic | More than3 year(s) and8 month(s) and 23 day(s) | Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice as the case progressed;fragility of the reasons employed by the courts as the case progressed; failure to conduct the proceedings with due diligence during the period of detention. |  | 5,100 |
|  | 79395/1707/11/2017 | **Aleksandr Aleksandrovich Semenov**02/04/1984 |  | 02/11/2016 to10/10/2017 | Sovetskiy District Court of Krasnoyarsk; Kirovskiy District Court of Krasnoyarsk; Krasnoyarsk Regional Court | 11 month(s) and 9 day(s) | Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice; fragility of the reasons employed by the courts; failure to assess the applicant’s personal situation reducing the risks of re-offending, colluding or absconding. |  | 1,300 |
|  | 80186/1723/10/2017 | **Roman Vladimirovich Chernoknizhnyy**31/01/1979 |  | 01/03/2012Pending. | Syktyvkar Town Court;Supreme Court of the Komi Republic | More than6 year(s) and10 month(s) and 7 day(s) | Failure to conduct the proceedings with due diligence during the period of detention; collective detention orders. |  | 9,200 |
|  | 80336/1714/11/2017 | **Ruslan Andreyevich Piotrovskiy**12/10/1988 | Rassokhin Artem AleksandrovichSt Petersburg | 02/05/2017 to05/04/2018 | Primorskiy District Court of St Petersburg;St Petersburg City Court | 11 month(s) and 4 day(s) | 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 examine the possibility of applying other measures of restraint. |  | 1,300 |
|  | 80395/1713/11/2017 | **Maksim Anatolyevich Kopytkov**02/06/1985 |  | 06/12/2016Pending. | Sovetskiy District Court of Krasnoyarsk; Krasnoyarsk Regional Court | More than2 year(s) and 1 month(s) and 2 day(s) | Use of assumptions, in the absence of any evidentiary basis, of the risks of absconding or obstructing justice. |  | 2,900 |

1. .  Plus any tax that may be chargeable to the applicants. [↑](#endnote-ref-1)
2. .  Rectified on 17 September 2019, information about the second representative, Mr Izhikov, was added. [↑](#endnote-ref-2)