



[ECtHR - Gashkov and Satirov v. Russia, applications nos. 31147/20 and 772/21](#)

The applicants were detained in Russia in view of their expulsion respectively to Ukraine and Georgia. They claimed to be stateless but the Russian authorities did not properly assess whether the removal remained a 'realistic prospect' throughout detention, thus the Court found a breach of Article 5 ECHR.

Case status: Decided

Case number: Applications nos. 31147/20 and 772/21

Citation: European Court of Human Rights, Gashkov and Satirov v. Russia, applications nos. 31147/20 and 772/21, 15 December 2022

Date of decision: 15/12/2022

State: Russian Federation

Court / UN Treaty Body: European Court of Human Rights

Applicant's country of residence: Russian Federation

Key aspects: Detention

Relevant Legislative Provisions:

- Article 5 § 4 of the Convention
- Article 5 § 1 (f) of the Convention

Facts

The first applicant was in detention from March 2019 pending his administrative removal to Ukraine. The applicant had no valid identification documents and he claimed to be stateless. His possession of Ukrainian nationality had not been confirmed by the Ukrainian authorities; thus his removal was no longer possible. In October 2019 the applicant applied to the Russian court for review of his detention. In October 2019 and January 2020 the courts dismissed the applicant's claim.

The second applicant was in detention from May 2019 pending his administrative removal to Georgia. The applicant had no valid identification documents and he

claimed to be stateless. His possession of Georgian nationality was denied by the Georgian authorities, thus his removal was no longer possible. The applicant applied to the Russian court for review of his detention and release. In August 2020 and October 2020 the courts dismissed the applicant's claim.

Legal arguments by the applicant

The applicants argued that the pending decision on their removal was not a lawful base of their detention and it breached Article 5 § 1 (f) of the Convention. Moreover, they argued that the procedure by which the applicants sought to challenge the lawfulness of their detention was not in conformity with Article 5 § 4 of the Convention, namely that it was unreasonably long.

Decision & Reasoning

The Court reiterated that Article 5 § 4 of the Convention, in guaranteeing to detained persons a right to institute proceedings to challenge the lawfulness of their detention, also proclaims their right, following the institution of such proceedings, to a speedy judicial decision concerning the lawfulness of detention and the ordering of its termination if it proves unlawful, as per *Baranowski v. Poland*.

The Court stated that, 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. It stated that in the leading cases of *Idalov v. Russia*, *Khodorkovskiy v. Russia*, and *Lebedev v. Russia*, the Court had already found a violation in respect of similar issues to the present case. The Court found that having examined all the material, there was no reason to reach a different conclusion and that there had been a breach of Article 5 § 4 of the Convention.

Decision documents

[Judgment](#)

Outcome

The ECtHR established that the applications disclose a breach of Article 5 § 4 of the Convention concerning the deficiencies in the proceedings for review of the lawfulness of detention. Moreover, the ECtHR also established the violation of Article 5 § 1 (f). In the meantime, the ECtHR awarded EUR 6,500 nonpecuniary damage to the applicant in case *Gashkov v. Russia* and EUR 5,500 in case *Satirov v. Russia*.

Caselaw cited

Baranowski v. Poland, no. 28358/95, § 68, ECHR 2000-III; Mamedova v. Russia, no. 7064/05, § 96, 1 June 2006; Idalov v. Russia [GC], no. 5826/03, §§ 154-58, 22 May 2012; Khodorkovskiy v. Russia, no. 5829/04, §§ 246-48, 31 May 2011; and Lebedev v. Russia, no. 4493/04, §§ 95-108, 25 October 2007; [L.M. and Others v. Russia, nos. 40081/14 and 2 others](#), §§ 149-52, 15 October 2015, and M.D. and Others v. Russia, nos. 71321/17 and 8 others, §§ 124-27, 14 September 2021; Mumanzhinova and Others v. Russia, nos. 724/18 and 8 others, 8 October 2019 (Committee)