



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

FIFTH SECTION

DECISION

Applications nos. 31928/19 and 33936/19
Vladimir BERDZENISHVILI and Vadim SOLOVIOV
against the Republic of Moldova
and Sabir AGAEV against the Republic of Moldova

The European Court of Human Rights (Fifth Section), sitting on 17 September 2026 as a Committee composed of:

María Elósegui, *President*,
Diana Sârcu,
Sébastien Biancheri, *judges*,
and Martina Keller, *Deputy Section Registrar*,

Having regard to:

the applications against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the applicants listed in the appended table (“the applicants”), on the various dates indicated therein;

the decision to give notice of the complaint concerning the lawfulness of the applicants’ detention pending trial to the Moldovan Government (“the Government”), represented by their Agent, Mr D. Obadă;

the decision by the Georgian Government not to exercise their right to intervene in the proceedings (Article 36 § 1 of the Convention);

the parties’ observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged unlawfulness of the applicants’ detention pending trial, owing to the failure to observe a legal requirement in the process of extending their detention. The applicants relied on Article 5 § 1 of the Convention.

2. In November 2017 the first two applicants were arrested on suspicion of fraud and money-laundering and an investigating judge ordered their detention pending trial. The third applicant was arrested in November 2018 and was also placed in detention pending trial. Starting from

30 November 2018 the courts extended on the same dates the detention pending trial of all three applicants, who were co-accused of the same offence.

3. The applicants stated that the prosecutor, in submitting to the investigating judge requests for extending the detention pending trial, had, on several occasions, failed to obtain prior confirmation of that request by a superior prosecutor as required by Article 186 § 10 of the Code of Criminal Procedure (see paragraph 6 below).

4. On 6 February 2019, when extending the first two applicants' detention pending trial, the investigating judge noted that the prosecutor had not obtained the approval of the superior prosecutor as required by law. However, he found that the law did not attach any negative consequence to such failure and went on to analyse the prosecutor's submissions concerning the need to detain the applicants pending trial. He found that that need persisted and he extended their detention.

5. The applicants complained that the failure to observe the legal procedure for extending their detention pending trial had rendered their ensuing detention contrary to domestic law and therefore unlawful within the meaning of Article 5 § 1 (c) of the Convention.

RELEVANT DOMESTIC LAW

6. Pursuant to Article 186 § 10 of the Code of Criminal Procedure, the prosecutor's request for extending detention pending trial must be approved in writing by the hierarchically superior prosecutor in the event that it concerns detention exceeding three months and by the Prosecutor General, or one of his or her deputies on the basis of an order of the Prosecutor General, in the event that it concerns detention exceeding six months.

THE COURT'S ASSESSMENT

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

8. The applicants argued that the prosecutor's failure to obtain a higher prosecutor's approval before submitting a request for extending detention pending trial was contrary to domestic law and thus "unlawful".

9. The Government submitted that although Article 186 § 10 of the Code of Criminal Procedure provided for the need to obtain that approval, the law did not attach any consequences for failing to observe that rule.

10. The Court reiterates that it falls to it to examine whether the applicants' detention was "lawful" for the purposes of Article 5 § 1, including whether it complied with "a procedure prescribed by law". A period of detention will in principle be lawful if carried out pursuant to a court order (see, for instance, *Liu v. Russia*, no. 42086/05, § 79, 6 December 2007).

Moreover, the logic of the system of safeguards established by the Convention sets limits on the scope of the review by the Court of internal “lawfulness”. Not each and every disregard of the domestic formalities automatically entails a breach of the Convention under Article 5 § 1 – the core task of the Court is to detect manifest cases of arbitrariness (see *Khodorkovskiy and Lebedev v. Russia*, nos. 11082/06 and 13772/05, § 156, 25 July 2013). Only such breaches of domestic procedural and material law which amount to a “gross or obvious irregularity” in the exceptional sense indicated by the case-law should attract the Court’s attention. The notion of “gross or obvious irregularity” does not lend itself to a precise definition and will depend on the circumstances (see *Mooren v. Germany* [GC], no. 11364/03, § 75, 9 July 2009; *Riccardi v. Romania*, no. 3048/04, § 53, 3 April 2012; and *Čalovskis v. Latvia*, no. 22205/13, § 157, 24 July 2014). Moreover, unless they constitute a gross and obvious irregularity, defects in a detention order may be remedied by the domestic appeal courts in the course of judicial review proceedings (see *Mooren*, cited above, § 75).

11. In the present case, the Court notes that the procedural failure raised by the applicants was expressly dealt with by the investigating judge.

12. In *Ialamov v. the Republic of Moldova* ([Committee], no. 65324/09, § 23, 12 December 2017), the procedural irregularity complained of was the failure to observe the five-day time-limit imposed by law for submitting a request to extend detention pending trial. The Court referred to Article 230 § 2 of the Code of Criminal Procedure, which stated that “[w]hen the exercise of a procedural right is limited by a time-limit, failure to observe the time-limit causes the loss of that procedural right and the nullity of the acts effected in breach of the time-limit”. It found that under that provision there was nothing to support the Government’s contention that the provision contained in Article 186 § 6 (concerning the observance of a time-limit in lodging requests for extending detention pending trial) was optional. The Court observes that domestic law unequivocally sanctioned the failure to observe that time-limit by the nullity of the relevant act and that the Supreme Court of Justice interpreted the relevant provision as obliging the judge to release a person when the time-limit had been missed.

13. Unlike in *Ialamov* (cited above), the Court observes that the national law did not provide for any specific consequences of a failure to observe the requirement of obtaining the approval of the superior prosecutor before submitting a request for extending detention pending trial. In the case at hand, the investigating judge expressly noted the prosecutor’s failure to obtain that approval, but found that he was not prevented from examining the prosecutor’s request. The applicants did not point to any legal provision imposing on the investigating judge the obligation to automatically reject a prosecutor’s request for extending detention pending trial when not accompanied by the relevant approval. Accordingly, the Court has no reason

to consider that the court order extending the applicants' detention was null and void. Nor was it subsequently set aside by a higher court.

14. Nothing in the case file suggests that the domestic judge acted outside his powers or jurisdiction under domestic law. Moreover, it has not been shown that, throughout the proceedings, there was at any moment a lack of substantive conditions for the applicants' detention, notably of a suspicion that they had committed the offences they had been charged with (see *Mooren*, cited above, § 87). The applicants were able to submit their arguments against extending their detention and the courts adopted reasoned decisions in that respect. The bottom line is that the applicants were detained on the basis of a valid and reasoned court order, against which they could and did appeal before an appellate court.

15. Accordingly, it cannot be said that the applicants' detention was the result of a "gross or obvious irregularity" within the meaning of the Court's Article 5 case-law.

16. In view of the considerations above, the Court finds that these applications are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 8 October 2026.

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Martina Keller
Deputy Registrar

María Elósegui
President

BERDZENISHVILI AND SOLOVIOV v. THE REPUBLIC OF MOLDOVA
AND AGAEV v. THE REPUBLIC OF MOLDOVA DECISION

APPENDIX

List of cases:

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence Nationality	Represented by
1.	31928/19	Berdzenishvili and Soloviov v. the Republic of Moldova	03/06/2019	Vladimir BERDZENISHVILI 1974 Podebrady Russian Vadim SOLOVIOV 1986 Korolyov Georgian	Eugeniu GLUȘCENCO
2.	33936/19	Agaev v. the Republic of Moldova	19/06/2019	Sabir AGAEV 1984 Chisinau Russian	Sergiu COTRUȚĂ