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La Corte EDU sulla detenzione ingiustificata per indagini sommarie
(CEDU, sez. V, sent. 21 gennaio 2021, ric. n. 58925/14 e altri)

Nella causa Vorontsov e altri contro Ucraina, la Corte EDU è stata chiamata a scrutinare i ricorsi presentati da cinque cittadini ucraini, i quali hanno lamentato la violazione dell'art. 5 par. 1 e 3 della Convenzione, per ingiusta e arbitraria detenzione.
Stando ai fatti riferiti, i ricorrenti - durante una manifestazione svoltasi a Kharkiv nel 2014 - avrebbero dolosamente disobbedito all'ordine della polizia di interrompere la loro condotta ritenuta di grave turbamento all'ordine pubblico. Ai medesimi veniva altresì addebitato l'uso di un linguaggio volgare e osceno nei confronti dell'autorità che, intervenuta per disperdere i manifestanti e sedare il clima di disordine, procedeva al loro arresto per illecito amministrativo (*ex* art. 185 cod. reati amministrativi).
Sulla base di siffatti elementi, i giudici del Tribunale di Kharkiv condannavano successivamente a quindici giorni di detenzione amministrativa i ricorrenti, e ciò sulla base delle risultanze dei rapporti e dei verbali redatti dalla stessa polizia. All'esito di tale procedimento la Commissione speciale temporanea (TSC) e l'Alto Consiglio di giustizia (HCJ) avviavano un procedimento disciplinare nei confronti dei suddetti giudici, ritenendo fossero state commesse gravi irregolarità procedurali.
Alla luce dell'accennato contesto fattuale e normativo la Corte EDU ha ritenuto di dover decidere con un'unica sentenza e, dopo aver dichiarato ricevibili i ricorsi, ha indagato sulla dedotta violazione dell'art. 5 CEDU. In via preliminare, i giudici di Strasburgo hanno osservato come dal quadro dei procedimenti amministrativi intercorsi non risultasse alcuna imputazione - a carico dei ricorrenti - per fatti penalmente rilevanti. Riguardo invece alla detenzione per illecito amministrativo, decisa dai giudici nazionali, la Corte ha avuto modo di rilevare come vi fossero indizi di importanti e significativi vizi procedurali ben diversi da semplici irregolarità o mancanza di garanzie procedurali (come l'assistenza legale dei ricorrenti).
Più specificamente, l'anzidetta decisione giudiziaria nazionale aveva fatto leva, secondo la Corte, su argomenti fragili e vaghi non adeguatamente supportati da prove dirimenti. Difatti, i giudici del Tribunale di Kharkiv si erano basati esclusivamente sui rapporti e sulle registrazioni della polizia, senza procedere all'escussione di testi o ad un'approfondita disamina delle singole posizioni dei ricorrenti. Per tale ragione, la Corte ha concluso rilevando la violazione dell'art. 5 par. 1 della Convezione, in quanto la detenzione dei ricorrenti in relazione alla loro partecipazione effettiva o sospetta alla manifestazione è apparsa del tutto ingiustificata, ed anzi dettata da una deliberata strategia propria delle autorità di ostacolare e porre fine alle suddette proteste. In questa luce ha finanche stabilito il risarcimento del danno morale a favore dei ricorrenti.

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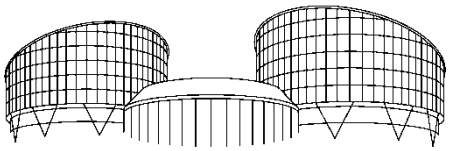

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF VORONTSOV AND OTHERS v. UKRAINE

(Applications nos. 58925/14 and 4 others)

JUDGMENT

STRASBOURG

21 January 2021

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Vorontsov and Others v. Ukraine,

The European Court of Human Rights (Former Fifth Section), sitting as a Chamber composed of:
Síofra O'Leary, *President,*
Yonko Grozev,
Ganna Yudkivska,
Mārtiņš Mits,
Gabriele Kucsko-Stadlmayer,
Lado Chanturia,
Angelika Nußberger, *judges,*
and Victor Soloveytchik, *Section Registrar,*
Having regard to:
the applications against Ukraine lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by five Ukrainian nationals ("the applicants"), whose personal information and other details are set out in the appended table;
the decision to give notice to the Ukrainian Government ("the Government") of the applications;
the decision to give priority to the applications (Rule 41 of the Rules of Court);
the parties' observations;
Having deliberated in private on 7 May 2019 and 9 December 2020,
Delivers the following judgment, which was adopted on the latter date:

INTRODUCTION

1. These applications concern the allegedly unlawful and arbitrary detention of the five applicants in connection with a demonstration in Kharkiv on 19 February 2014, one of the mass protests which took place in Ukraine between 21 November 2013 and 23 February 2014; protests commonly referred to as "Euromaidan" and/or "Maidan". The applicants rely on Article 5 §§ 1 and 3 of the

Convention. These applications are part of thirty-three applications against Ukraine lodged with the Court under Article 34 of the Convention in relation to the Maidan protests. For the reasons stated in *Shmorgunov and Others v. Ukraine* (nos. 15367/14 and 13 others, § 5, 21 January 2021, not final), those thirty-three applications could not all be joined and examined in a single judgment. The judgments in response to those applications should, however, be read as one whole.

THE FACTS

2. The names of the applicants' representatives are indicated in the appended table.
3. The Government were represented by their Agent, most recently Mr I. Lishchyna, of the Ministry of Justice.
4. The facts of the case, as submitted by the parties, may be summarised as follows.
I. THE APPLICANTS' ARREST
5. On 19 February 2014 a demonstration in Kharkiv in support of the Euromaidan/Maidan protests in central Kyiv was held near a building which housed the MoI Academy for internal troops ("the Academy"). The demonstrators expressed their disagreement with the authorities' decision to deploy servicemen from the Academy against the ongoing protests in Kyiv. According to the parties, the demonstration was peaceful.
6. Except for Mr A. Romankov (application no. 58981/14), all the applicants took part in that demonstration; Mr D. Sinelnikov's participation had been limited to filming the demonstration. Mr A. Romankov stated that he had not participated in the demonstration, and had merely been present nearby.
7. At around 5 p.m. the police used force to disperse the protesters, and arrested a number of them, including the applicants. The applicants stated that a video-recording of some of the events at issue was publicly available.[1]
8. According to the relevant police reports and records, the applicants were arrested on 19 February 2014 for the reason that they were suspected of having committed an administrative offence under Article 185 of the Code of Administrative Offences – maliciously disobeying a lawful order of the police (see *Shmorgunov and Others*, cited above, § 200). The applicants were initially taken to the Chervonozavodskyy District police station in Kharkiv, where they remained for about eight hours. Thereafter, they were taken to the Chervonozavodskyy District Court to be tried on the related administrative-offence charges (see paragraphs 12 and 13 below).
9. While at the police station, they were also questioned as witnesses in the then ongoing criminal proceedings concerning a "serious disturbance of public order" during the demonstration (a criminal offence prohibited by Article 293 of the Criminal Code, see *Shmorgunov and Others*, cited above, § 201). No criminal charge was brought against the applicants in that regard. Eventually, on 21 February 2014 the police terminated those criminal proceedings for the reason that there was no evidence that public order or the activities of the Academy or any other organisation or body had been "disturbed" during the demonstration at issue. In that regard, the police relied mainly on video-recordings of the events at issue and the statements of a number of witnesses, including some of the applicants.

10. According to the applicants, while at the police station the police did not allow lawyers who were requested by their friends to contact them, even though they had the right to legal assistance, *inter alia*, under Article 268 of the Code of Administrative Offences (see *Shmorgunov and Others*, cited above, § 200, and paragraph 28 below).

11. According to the relevant questioning records established in the context of the criminal proceedings, Mr M. Vorontsov and Mr A. Romankov stated that they had not taken part in the demonstration on 19 February 2014, and had merely been present nearby.

II. ADMINISTRATIVE-OFFENCE PROCEEDINGS AGAINST THE APPLICANTS

12. After their arrest, at around 3 a.m. on 20 February 2014 the applicants and a number of other individuals who had been arrested during the dispersal on 19 February 2014 were brought before Judges Ch., M., O. and V. of the Chervonozavodskyy District Court of Kharkiv, who held hearings on the basis of police reports and records on administrative offences. Those reports and records stated that on 19 February 2014 the applicants had disobeyed the lawful orders of the police to stop blocking the exit gates of the Academy, and that some of the applicants "had used obscene language demonstrating their disrespect towards the police".

13. The applicants submitted that during those hearings they had found out that they had been accused of having committed an administrative offence (see paragraph 8 above). Most of the applicants denied having committed any offence during the events at issue.

14. According to the Government, Mr M. Vorontsov handed Judge V. a written statement, a copy of which reads as follows:

"For my part, [I] acknowledge the fact that there was disobedience towards police officers, as [I] could not run away from them. [I] acknowledge being guilty of having committed an administrative offence. [I] repent of having committed an administrative offence."

15. In his submissions before the Court, Mr M. Vorontsov, while not contesting presenting the above statement, indicated that, when questioned by Judge V., he had denied committing the administrative offence which he had been charged with.

16. The Government stated that on 20 February 2014 lawyers were appointed to represent Mr M. Vorontsov, Mr A. Savchenko, Mr V. Strukov and Mr D. Sinelnikov pro bono under the legal aid scheme, which was available in administrative-offence cases pursuant to, mainly, Section 14 of the Free Legal Assistance Act of 2 June 2011 (see paragraph 28 below). No further details were provided in that regard.

17. In their submissions before the Court, the applicants stated that they had not been able to contact a lawyer of their choice either before or during the hearings and that therefore they had not been assisted by a lawyer during those hearings. Mr M. Vorontsov also stated that he had handed Judge V. a written statement indicating that he had not required legal assistance because he had not been given an opportunity to contact a lawyer of his choice.

18. Judges Ch., M., O. and V., by separate decisions dated 20 February 2014, found the applicants and several other individuals guilty of having committed the administrative offence under Article 185 of the Code of Administrative Offences (see paragraph 8 above) and sentenced them to fifteen days of administrative detention.

19. In particular, the judges found that during the demonstration on 19 February 2014 the applicants had been near the Academy and had disobeyed the lawful orders of the police to stop

blocking its exit gates. When they had been approached by police officers, some of the applicants "had used obscene language". The judges stated that the applicants' guilt was evidenced by the records and reports drawn up by the police (see paragraph 12 above).

20. With regard to Mr M. Vorontsov, it was also noted that he "had used obscene language", "had tried to run away [from the police]" and "had acknowledged his guilt".

21. In the decisions concerning Mr A. Savchenko and Mr V. Strukov, it was stated that lawyers had intervened on their behalf at the hearings.

22. On 22 February 2014 the Chervonozavodskyy District Court of Kharkiv, relying on the Amnesty Law of 21 February 2014 (see *Shmorgunov and Others*, cited above, § 213), ruled to release the applicants from serving their sentence, and on 6 March 2014 it issued decisions, also on the basis of that law, nullifying the legal consequences of the applicants' conviction of the administrative offence at issue and terminating the administrative-offence proceedings against them.

23. Because they were released from administrative detention, one of the applicants decided not to lodge an appeal against the decision of 20 February 2014 convicting him of the administrative offence at issue and two of the applicants withdrew the appeals they had initially lodged against the decisions of the same date in their cases. The remaining two applicants lodged, in December 2014, appeals against the decisions of 20 February and 6 March 2014. In January 2015 the Kharkiv Regional Court of Appeal rejected those appeals as lodged out of time, finding that the applicants concerned had submitted no reasons for missing the applicable ten-day time-limit (Article 289 of the Code of Administrative Offences, see *Shmorgunov and Others*, cited above, § 200).

III. CRIMINAL PROCEEDINGS AGAINST POLICE OFFICERS

24. Between 19 February and 6 March 2014 the Kharkiv regional prosecutor's office initiated several sets of criminal proceedings against police officers in relation to allegations of various abuses against those who had taken part or had been suspected of having taken part in the demonstration on 19 February 2014, including in relation to the alleged obstruction of lawyers' access to Mr A. Savchenko, Mr V. Strukov and Mr O. Romankov (applications nos. 58969/14, 58976/14 and 58981/14).

25. The parties provided no further information regarding those proceedings.

IV. DISCIPLINARY PROCEEDINGS AGAINST JUDGES

26. Between 2014 and 2018 the Temporary Special Commission ("the TSC") established under the Restoration of Trust in the Judiciary Act of 8 April 2014 (see *Shmorgunov and Others*, cited above, §§ 220-29) and the High Council of Justice ("the HCJ") conducted disciplinary proceedings concerning Judges Ch., M., O. and V. of the Chervonozavodskyy District Court of Kharkiv in connection with the administrative-offence cases against the applicants and other individuals who had been arrested in the course of the dispersal of the protesters in Kharkiv on 19 February 2014.

27. By various decisions made between November 2015 and February 2018, the HCJ held that Judges Ch., M., O. and V. had committed serious procedural violations and had failed to thoroughly and objectively examine the cases. They were thus guilty of breach of judicial oath and were to be dismissed from office. On the whole, it was considered that those judges' decisions had been wholly unreasoned and that the files had contained no evidence whatsoever that the

applicants or the other defendants concerned had committed the offences with which they had been charged.

28. The relevant disciplinary decisions also contain the following findings:

(i) In violation of the applicable regulations, hearings had been conducted outside of official working hours and during the night, and no transcripts of the hearings had been drawn up.

(ii) The judges had failed to ensure that the applicants and other defendants in the administrative-offence cases had been provided with legal assistance, to which they had been entitled pursuant to Article 268 of the Code of Administrative Offences and Section 14 of the Free Legal Assistance Act of 2 June 2011.

(iii) The judges had failed to establish the circumstances of the cases – it was wholly unclear why they had concluded that the applicants and the other defendants concerned had committed an offence under Article 185 of the Code of Administrative Offences. The following matters had not been sufficiently specified: what the police orders had been, and what aspects of the applicants' behaviour could be considered "malicious disobedience" within the meaning of that provision.

(iv) The judges had merely relied on vague and unspecified statements contained in the police reports, and had not assessed the reliability of those statements.

(v) Although one of the applicants, Mr M. Vorontsov (application no. 58925/14), had stated that he acknowledged his guilt and that he had tried to run away from the police, Judge V. had failed to examine why he had done so, what the police had ordered him to do, and why his behaviour had been considered "malicious disobedience" under Article 185 of the Code of Administrative Offences.

29. In so far as the disciplinary proceedings concerned Judge Ch., the HCJ also found that he had failed to address the fact that, prior to being taken to the Chervonozavodskyy District Court, Mr O. Romankov (application no. 58981/14) had been detained by the police for more than three hours in violation of Article 263 of the Code of Administrative Offences.

30. In so far as the disciplinary proceedings concerned Judge M., the HCJ noted that no record of detention had been drawn up by the police in respect of either Mr A. Savchenko or Mr V. Strukov (applications nos. 58969/14 and 58976/14), and that Judge M. had actually "tried to make their unlawful detention appear [in compliance with the law]". The HCJ found that, having regard to the circumstances of how Judge M. had dealt with the cases concerning those individuals, their detention had been arbitrary and contrary to Article 5 § 1 of the Convention.

31. By various decisions taken between November 2016 and March 2019, the Supreme Court dismissed appeals by the judges concerned against the disciplinary decisions, having upheld the HCJ's findings in their relevant parts. The disciplinary proceedings against some of the judges in this context are the subject of several applications currently pending before the Court (application no. 40221/18 and several others).

RELEVANT LEGAL FRAMEWORK AND OTHER MATERIAL

32. Summaries of and extracts from the domestic legal framework and international reports of relevance for the examination of all applications lodged in relation to the Maidan protests and their aftermath, including the present two applications, are to be found in *Shmorgunov and Others* (cited above, §§ 194-269).

THE LAW

I. JOINDER OF THE APPLICATIONS

33. Having regard to the common factual and legal background of the five applications under examination, the Court finds it appropriate to examine them jointly in a single judgment (Rule 42 § 1 of the Rules of Court).

II. ALLEGED VIOLATION OF ARTICLE 5 OF THE CONVENTION

34. Relying on Article 5 § 1 of the Convention, the applicants complained that their detention for four days between 19 and 22 February 2014 had been arbitrary and unlawful. They also complained, relying on Article 5 § 3 of the Convention, that they had had no opportunity to prepare and challenge arguments against their detention at the hearing of 20 February 2014.

35. The Court considers that these complaints fall to be examined solely under Article 5§ 1 of the Convention, which reads, insofar as relevant, as follows:

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non- compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

..."

A. Admissibility

36. The Government argued that the applicants had failed to exhaust domestic remedies. In particular, they had not challenged their convictions on appeal in accordance with the relevant procedural requirements. The Government further argued that, given that the proceedings against the applicants had eventually been terminated, they should have lodged compensation claims with civil courts under Article 1176 of the Civil Code of 2003 and the Compensation Act of 1994, which would have resulted in awards in respect of the alleged violations of their Convention rights.

37. The applicants stated, *inter alia*, that they had done everything possible in their situation to exhaust the remedies available. In their view, neither Article 1176 of the Civil Code nor the Compensation Act of 1994 provided a legal basis for a compensation claim as regards administrative detention, since no domestic court or authority had considered their deprivation of liberty as being in breach of domestic law. Moreover, the Government had failed to provide any examples of domestic case-law in that regard.

38. As to the Government's argument that the applicants had not challenged their conviction on appeal, the Court considers that although it was open to them to appeal, this would not have provided sufficient redress for the alleged violation of their Article 5 rights. In particular, under Ukrainian law, a decision sentencing a person to administrative detention is enforceable

immediately; an appeal against it has no suspensive effect and courts of appeal have twenty days to examine appeals (see paragraph 18 above and *Shmorgunov and Others*, cited above, § 200; and, also, *Shvydka v. Ukraine*, no. 17888/12, § 53, 30 October 2014). As evidenced by the situation in *Shvydka*, cited above, it could have been the case that an appeal against the applicants' conviction would not have been examined before they had actually served their fifteen-day administrative sentence of detention. The Government did not demonstrate that appeals under the procedure at issue could have led, with a reasonable probability, to their release before the end of their sentences. Nor did the Government argue that the procedure in dispute could have provided the applicants concerned with a retrospective compensatory remedy. The relevant provisions of the Code of Administrative Offences of 1984 indicate that all that a successful appellant could have achieved by pursuing that procedure was an *ex post facto* annulment of the decisions sentencing him or her to administrative detention and termination of the proceedings against them (see *Shmorgunov and Others*, cited above, § 200). However, in the present case the applicants concerned were released on the third day after their conviction, while the ten-day time-limit for an appeal had not yet expired, and eventually, twelve days later, the administrative-offence proceedings against them were terminated (see paragraph 22 above). Since this had the effect of nullifying the legal consequences of the applicants' conviction of the administrative offence and any further pursuit of administrative-offence proceedings in that connection was blocked by the Amnesty Law of 21 February 2014, it does not seem probable that an ordinary appeal against the relevant decisions of 20 February 2014 would have been examined after the termination of the proceedings at issue.

39. As to the Government's argument that the applicants concerned could have obtained compensation in respect of the alleged violation of their rights under Article 5 of the Convention, the Court notes that the domestic court decisions, to which the Government referred, concerned compensation awarded in connection with the termination of criminal proceedings. They did not provide relevant examples from domestic practice where compensation had been awarded in connection with detention pursuant to the Code of Administrative Offences. Furthermore, the Court reiterates its findings in *Dubovtsev and Others v. Ukraine*, nos. 21429/14 and 9 others, § 71, 21 January 2021, not final, that the applicants in that case, detained in the framework of criminal proceedings related to the Maidan events, cannot be reproached, in those exceptional circumstances, for not lodging similar compensation claims with civil courts under Article 1176 of the Civil Code of 2003 and/or the Compensation Act of 1994 for the purpose of exhausting domestic remedies as required by Article 35 § 1 of the Convention. The Court considers that those findings are pertinent for the applicants' complaints under Article 5 of the Convention in the present case.

40. Therefore, the Court finds that, in the particular circumstances of the present case, the applicants cannot be reproached for not challenging their conviction on appeal (paragraph 38 above) or for not lodging compensation claims under the procedure referred to by the Government (paragraph 39 above).

41. The Court finds that the applicants' complaints under Article 5 § 1 of the Convention, are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. Nor are they inadmissible on any other grounds. Therefore, the Court declares them admissible.

B. Merits

42. The Court refers to the general principles in relation to Article 5 § 1 of the Convention outlined in *Shmorgunov and Others* (cited above, §§ 459-61). Turning to the present case, the Court notes that between 19 and 22 February 2014 the applicants were detained in the framework of the administrative-offence proceedings against them, which were initiated in connection with their actual or suspected participation in the demonstration in Kharkiv on 19 February 2014 (see paragraphs 7 and 8 above). While it is true that shortly after their arrest on that date the police questioned the applicants as witnesses in connection with the criminal case which was also opened regarding the demonstration at issue (see paragraph 11 above), eventually no criminal charges were brought against them and there is an insufficient basis in the facts to suggest that the applicants were treated as criminal suspects during that period (compare and contrast with, for instance, *Oleksiy Mykhaylovych Zakharkin v. Ukraine*, no. 1727/04, §§ 86-88, 24 June 2010).

43. The applicants' detention during the major part of the period in question (between 20 and 22 February 2014) was based on the decisions of the Chervonozavodskyy District Court which convicted them of the administrative offence under Article 185 of the Code of Administrative Offences and imposed on them fifteen days administrative detention. This kind of detention would normally fall within the scope of the restriction permitted by Article 5 § 1 (a) of the Convention (see, among many other authorities, *Gurepka v. Ukraine*, no. 61406/00, § 39, 6 September 2005). However, the Court observes that there are strong indications that the applicants' detention during the period they served their administrative-offence sentences was marred by significant procedural flaws, which went beyond mere irregularities or a lack of safeguards in the relevant procedures, and might have involved an element of arbitrariness (see, *mutatis mutandis*, *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, § 461, ECHR 2004-VII; *Stoichkov v. Bulgaria*, no. 9808/02, § 51, 24 March 2005; *Othman (Abu Qatada) v. the United Kingdom*, no. 8139/09, § 259, ECHR 2012; and *Gumeniuc v. the Republic of Moldova*, no. 48829/06, §§ 24-25, 16 May 2017).

44. In particular, the administrative-offence decisions appear to have been based almost exclusively on the police reports and records, which were couched in vague terms and lacked detailed information regarding the events. The Chervonozavodskyy District Court simply reproduced those reports and records, accepting them at face value, without making any effort to verify the underlying facts, for instance, by questioning witnesses, reviewing the available video-recordings or employing other appropriate procedural means, having regard to the fact that most of the applicants denied having committed any offence (see paragraphs 13 and 19 above).

45. It is true that in the case of Mr M. Vorontsov the court also relied on his written statement essentially acknowledging that he had disobeyed the police. However, it transpires that the statement was made in relation to his alleged attempt to leave the area and contained no information that he had been blocking the exit of the Academy and/or had refused to obey police orders not to do so. Furthermore, according to the relevant records, when questioned by the police before the court hearing Mr M. Vorontsov denied having taken an active part in the demonstration. Also, according to him, during the court hearing he denied having committed the administrative offence with which he was charged (see paragraphs 11, 14 and 15 above). However, the Court is not in a position to verify how the hearing was conducted, because no transcripts of the hearing were provided to it and the relevant disciplinary decisions point to the fact that no

such transcripts had been drawn up by the Chervonozavodskyy District Court (see paragraph 28 above).

46. In sum, the material available does not provide a basis to conclude that the Chervonozavodskyy District Court scrutinised sufficiently the police statements in relation to the applicants, which was indispensable in their cases, given the dispute over the key element underlying the charges (namely, the applicants' alleged disobedience) and the fact that essentially the only evidence against the applicants originated from the police reports (see *Kasparov and Others v. Russia*, no. 21613/07, § 64, 3 October 2013).

47. The Court also notes that the decision closing the criminal case concerning the demonstration of 19 February 2014, and the decisions taken in the course of the disciplinary proceedings against the judges concerned, point to the fact that the charges against the applicants were not based on sufficient or reliable evidence (see paragraphs 11 and 28 above).

48. The foregoing considerations suggest that the applicants were convicted and sentenced in a virtually identical summary manner, without a thorough and objective assessment of their cases. Given the gravity of the underlying defects identified in relation to those proceedings, the Court considers that in the particular circumstances of the case there is sufficient basis to conclude that the applicants' detention "after conviction", which they had served in part, was not "lawful" within the meaning of Article 5 § 1 (a) of the Convention (see, *mutatis mutandis*, *Stoichkov*, cited above, § 58, and *Gumeniuc*, cited above, § 26).

49. The Court thus finds that the applicants' detention during the period they served the administrative-offence sentences initially imposed on them (between 20 and 22 February 2014) was in breach of Article 5 § 1 of the Convention.

50. In the circumstances, the Court finds it unnecessary to examine whether the applicants' detention prior to their conviction on 20 February 2014 was compatible with that provision.

III. CONCLUDING REMARKS

51. The Court observes, in conclusion, that in this case it has found a violation of Article 5 § 1 of the Convention on account of the unjustified detention of the applicants in connection with their actual or suspected participation in the Maidan protests in Kharkiv on 19 February 2014. As in the other Maidan-related judgments (see *Shmorgunov and Others*, cited above, §§ 520 and 527; *Lutsenko and Verbytskyy v. Ukraine*, nos. 12482/14 and 39800/14, §§ 115 and 121, 21 January 2021, not final; *Kadura and Smaliy v. Ukraine*, nos. 42753/14 and 43860/14, § 153, 21 January 2021, not final; and *Dubovtsev and Others* (cited above, §§ 81 and 83), the violations established in this case point to a deliberate strategy on the part of the authorities, or parts thereof, to hinder and put an end to the protests.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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."

A. Damage

53. The applicants claimed 10,000 euros (EUR) each as regards non-pecuniary damage.

54. The Government argued that the claims in respect of non-pecuniary damage were excessive and that the applicants had failed to seek compensation for non-pecuniary damage at domestic level, even though such compensation had been available to them.
55. Having regard to its findings concerning the admissibility of the applicants' complaints under Article 5 (see, notably, paragraphs 39-40 above), the Court considers that the Government did not demonstrate that the applicants were able in practice to obtain reparation for the consequences of the violation of their Convention rights found in this case.
56. Judging on an equitable basis, the Court awards each of the applicants EUR 1,200, plus any tax that may be chargeable, in respect of non-pecuniary damage.
B. Costs and expenses
57. The applicants did not submit claims for costs and expenses. Accordingly, the Court considers that there is no call to award them any sum on that account.
C. Default interest
58. 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 there has been a violation of Article 5 § 1 of the Convention on account of the applicants' detention during the period set out in paragraph 49 above;
4. *Holds*
(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,200 (one thousand two hundred euros), plus any tax that may be chargeable, each to Mr M. Vorontsov, Mr A. Savchenko, Mr V. Strukov, Mr O. Romankov and Mr D. Sinelnikov in respect of non-pecuniary damage, 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.
5. *Dismisses* the remainder of the applicants' claims for just satisfaction.
Done in English, and notified in writing on 21 January 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.
Victor Soloveytchik Registrar
Síofra O'Leary President

APPENDIX

No.	Application no. and date application was lodged	Applicant's name, year of birth place of residence	Representative
1	58925/14 19/08/2014	**Maksym Valeriyovych VORONTSOV** 1979 Kryvyy Rig	Nataliya Gennadiyivna OKHOTNIKOVA
2	58969/14 19/08/2014	**Anton Oleksandrovych SAVCHENKO** 1992 Kharkiv	Nataliya Gennadiyivna OKHOTNIKOVA
3	58976/14 19/08/2014	**Volodymyr Ivanovych STRUKOV** 1959 Kharkiv	Nataliya Gennadiyivna OKHOTNIKOVA
4	58981/14 19/08/2014	**Oleksandr Sergiyovych ROMANKOV** 1995 Kharkiv	Gennadiy Vladimirovich TOKAREV
5	59120/14 19/08/2014	**Denys Oleksandrovych SINELNIKOV** 1976 Kharkiv	Gennadiy Vladimirovich TOKAREV

[1] See https://www.youtube.com/watch?v=IAohIQyWdS8.