



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

FIRST SECTION

Application no. 5651/07  
Sergey Vladimirovich SHKAYDUROV  
against Russia  
lodged on 25 December 2006

**STATEMENT OF FACTS**

The applicant, Mr Sergey Vladimirovich Shkaydurov, is a Russian national, who was born in 1983 and lived until his arrest in Samara.

**The circumstances of the case**

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 13 February 2006 the applicant was arrested on suspicion of aggravated kidnapping and extortion.

Two days later the Samara District Court of Samara authorised the applicant's placement in custody, having reasoned that the gravity of the charges against him, as well as his liability to abscond, pervert justice and reoffend warranted his detention.

The applicant's lawyer appealed. The applicant alleged that he had not been informed of the results of the appeal hearing.

On 4 April 2006 the District Court extended the applicant's detention until 28 June 2006, having reasoned as follows:

“The court considers that an application for the extension of [the applicant's] detention on remand should be accepted as he is charged with a particularly serious criminal offence punishable by more than two years' imprisonment, and if released, he can obstruct the proceedings by destructing evidence, tampering with witnesses, and hiding evidence of the crime. In order to prevent the abovementioned circumstances and to prevent [the applicant] from absconding the investigation, the court finds the investigator's request well-founded and accepts it. In these circumstances there are no grounds to apply a more lenient measure of restraint to [the applicant].”

As follows from a court stamp, on 5 April 2006 the District Court received the applicant's lawyer's appeal statement. The applicant argued that the appeal had never been examined.

On 26 June 2006 the District Court authorised another extension of the applicant's detention until 28 August 2006, having employed the reasoning identical to the one in its previous detention order.

Another extension was authorised on 26 August 2006, in the absence of the applicant. The District Court merely scheduled the first trial hearing and noted that the measure of restraint applied to the applicant and his co-defendants should not be changed. The applicant submitted that he had not been served with a copy of that decision and therefore had been unable to challenge it on appeal.

On 30 January 2007 the Samara District Court, by a collective order, extended the applicant's and his co-defendants' detention until 18 May 2007, having noted the gravity of the charges and lack of any changes in the defendants' personal situation warranting their release.

The Samara Regional Court upheld that decision on 16 May 2007, having endorsed the District Court's reasoning.

## COMPLAINTS

The applicant complained under Article 5 of the Convention that his lengthy detention had not been based on pertinent reasons, that his appeals against the detention orders of 15 February and 4 April 2006 had never been examined and that he had not been afforded an opportunity to attend the hearing on 26 August 2006 or to appeal against that order.

## QUESTIONS TO THE PARTIES

1. Was the length of the applicant's detention on remand in breach of the "reasonable time" requirement of Article 5 § 3 of the Convention? In particular, were the domestic courts' decisions extending the applicant's detention founded on "relevant and sufficient" reasons and were the proceedings conducted with a "special diligence" (cf. *Olstowski v. Poland*, no. 34052/96, § 78, 15 November 2001; *Ilikov v. Bulgaria*, no. 33977/96, § 81, 26 July 2001)?

2. Was the procedure by which the applicant sought to challenge the lawfulness of his pre-trial detention in conformity with Article 5 § 4 of the Convention? In particular:

(a) was the decisions of 15 February, 4 April and 26 August 2006 amenable to an appeal? If those decision could have been appealed against, were the applicant's appeals decided upon by a competent court in conformity with the requirements of Article 5 § 4 of the Convention? If so, the Government are asked to produce copies of the appeal decisions against those detention orders and inform the Court when the applicant was served

with copies of those decisions or notified of the decisions taken. The Government are asked to support their submissions with evidence (copies of the statements bearing a stamp of the applicant's detention facility and/or the applicant's signature confirming the receipt;

(b) was the applicant afforded an opportunity to attend the detention hearing on 26 August 2006?