



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

FIRST SECTION

Application no. 12969/07  
Andrey Viktorovich GULYAYKIN  
against Russia  
lodged on 15 January 2007

**STATEMENT OF FACTS**

The applicant, Mr Andrey Viktorovich Gulyaykin, is a Russian national, who was born in 1984 and lived in the Lipetsk Region prior to his arrest.

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

The applicant, together with another co-defendant, stood accused of an armed robbery. The main incriminating pieces of evidence against them included statements by the robbery victim and by an eye-witness made at the stage of the pre-trial investigation. The applicant objected to the reading-out of the statements and insisted on having those witnesses examined in court.

By judgment of 2 May 2006, the Simonovskiy District Court of Moscow found the applicant guilty as charged and sentenced him to five years' imprisonment. The conviction was founded, to a decisive extent, on the pre-trial statements by the victim and eye-witness. The judgment indicated that the statements had been read out "with the consent of the parties".

In his statement of appeal, counsel for the applicant pointed out that the crucial testimony was not tested in court and that the defence objected to the reading-out of the pre-trial statements.

On 24 July 2006 the Moscow City Court upheld the judgment on appeal. It pointed out that the District Court had sent a summons to appear to the victim and also had taken unspecified measures to ensure the attendance of the eye-witness. However, the City Court held to delete the words "with the consent of the parties" since that mention was incompatible with the trial record.

## COMPLAINTS

The applicant complains under Article 5 §§ 3 and 4 of the Convention about an excessive length of his pre-trial detention and automatic extensions.

The applicant complains under Article 6 § 3 (d) of the Convention about the Russian courts' failure to ensure the attendance of the key witnesses against him.

### **QUESTION TO THE PARTIES**

Was there a violation of Article 6 §§ 1 and 3 (d) of the Convention on account of the Russian courts' failure to ensure the attendance and examination of the victim and eye-witness in the criminal proceedings against the applicant?