



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

FIRST SECTION

Application no. 2992/09  
Rinat Talgatovich GADELSHIN  
against Russia  
lodged on 21 November 2008

**STATEMENT OF FACTS**

The applicant, Mr Rinat Talgatovich Gadelshin, is a Russian national who was born in 1980 and is currently serving his imprisonment sentence in Sterlikamsk (the Bashkortostan Republic).

**A. The circumstances of the case**

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

At about 2 a.m. on 27 March 2008 the applicant was arrested by the police in connection with a theft and taken to the police station of Gafuriyskiy District of the Bashkortostan Republic (the police station). The applicant was body-searched and recorded in the police station's logbook of persons brought to it (*книга учета доставленных лиц*). The logbook contained the following information in respect of the applicant: his name and surname, his date of birth and place of residence, the name of the police officer who brought the applicant to the police station and the reason thereof (connection with a theft) as well as the date and exact time of the applicant's arrival at the station (27 March 2008, 2 a.m.).

At 3.35 p.m. on 27 March 2008 the record of the applicant's arrest (*протокол задержания*) was drawn up by the investigator, in charge of the applicant's criminal case. The record of arrest contained a pre-typed standard wording informing the suspect of his procedural rights. It was signed by the applicant and the investigator and the applicant received a copy thereof. According to the record, the applicant was arrested at 3.15 p.m. the same day.

According to the applicant, between 2 a.m. and 3.30 p.m. on 27 March 2008 he was kept at the police station in a cell which measured 3 square meters. The cell was equipped only with a metallic bench unfit for sleeping. He was not allowed to use WC for 13,5 hours. The applicant was not provided with a paper or a pen and, therefore, was not able to write complaints.

On an unspecified day the pre-trial investigation into theft was completed and on 13 May 2008 the case file was submitted to the Gafuriyskiy District Court of the Bashkortostan Republic (the District Court) for trial.

On 5 November 2008 the applicant lodged a complaint with the District Court under Article 125 of the CCrP. He claimed that, in violation of domestic law, the record of his arrest had been drawn up 13,5 hours after his being brought to the police station (it should have been drawn up within three hours), which, in the applicant's opinion, was unlawful and violated his rights.

On 17 November 2008 the District Court refused to examine the applicant's complaint on the merits since the arguments raised in the complaint could potentially affect admissibility of evidence in the trial against the applicant and, therefore, should be examined by the trial court during the trial. On 22 January 2009 the Supreme Court of the Bashkortostan Republic upheld the judgment.

It appears that subsequently the applicant was convicted of theft and sentenced to imprisonment.

## **B. Relevant domestic law**

Article 92 of the Code of Criminal Procedure of the Russian Federation (CCrP) sets out the procedure for the arrest of a suspect. After a suspect is brought to the police station the record of his/her arrest shall be drawn up within three hours. The arrest record must include the date, time, place, grounds and reasons for the arrest. It should be signed by the suspect and the person who made the arrest. The record shall contain a note that the rights set forth in Article 46 of the CCrP had been explained to the suspect.

Article 46 § 4 of the CCrP provides for the procedural rights of a suspect, including the following rights: to be informed of the suspicion against him/her; to receive a copy of the decision to initiate criminal proceedings against him/her or a copy of the arrest record; to make a deposition in relation to the suspicion against him/her or to remain silent; to have legal assistance and to have a confidential meeting with counsel before the first interview.

Article 125 of the CCrP provides for judicial review of a decision or (in)action on the part of an inquirer, investigator or prosecutor, which has affected constitutional rights or freedoms of parties to criminal proceedings. The judge is empowered to verify the lawfulness and reasonableness of the decision/(in)action and to grant the following forms of relief: (i) to declare the impugned decision/(in)action unlawful or unreasonable and to order the respective authority to remedy the violation; or (ii) to reject the complaint.

## QUESTIONS

1. Did the applicant's detention at the police station from 2 a.m. to 3.35 p.m. on 27 March 2008 comply with a procedure prescribed by law, as required by Article 5 § 1 (c) of the Convention? Reference is made to the belated drawing up of the record of the applicant's arrest.
2. Was the applicant subjected to unacknowledged detention on 27 March 2008? Reference is made to contradictory information concerning the exact time of the applicant's arrest in the police station's logbook of arrested persons and in the arrest record drawn up by the investigator (2 a.m. and 3.15 p.m. respectively).
3. Did the applicant have at his disposal an effective procedure by which he could challenge the lawfulness of his detention in the above period, as required by Article 5 § 4 of the Convention?
4. Did the applicant have an enforceable right to compensation for his detention in the above period, as required by Article 5 § 5 of the Convention?
5. The respondent Government are requested to submit a copy of the minutes of the applicant's criminal trial, decisions and judgments taken by the trial courts as well as the applicant's statement of appeal, if any.