



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

FIRST SECTION

Application no. 11996/08
Mikhail Nikolayevich SOLGALOV
against Russia
lodged on 26 February 2008

STATEMENT OF FACTS

THE FACTS

The applicant, Mr Mikhail Nikolayevich Solgalov, is a Russian national, who was born in 1972 and lives in Moscow. He is represented before the Court by Mr Y.N. Martynov, a lawyer practising in Moscow.

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

On 30 August 2006 the applicant was detained as a suspect in a criminal case concerning embezzlement which had been under investigation since 2005. On several occasions the Tverskoy District Court of Moscow extended the applicant's detention. The last detention order before the case was sent to court was issued on 27 March 2007.

On 28 April 2007 the investigation ended and the case was transferred to the Tverskoy District Court for judicial examination. The case was later remitted to Taganskiy District Court who had jurisdiction.

On 8 May 2007 the court fixed a preliminary hearing for 21 May 2007 and, according to the decision of 28 August 2007, ordered the applicant's continued detention. The applicant contests that his detention had been extended by the decision in question.

On 15 May 2007 the detention order of 27 March 2007 expired. The applicant remained in detention. On 17 May 2007 he complained to the chief of the detention facility about the lack of lawful grounds for his detention. After a negative reply the applicant sued the detention facility for having failed to release him after the expiration of the detention order.

On 9 June 2007 the criminal case was remitted to the prosecutor's office for further investigation, and, according to the decision of 28 August 2007, the Taganskiy District Court authorised the applicant's continued detention.

The applicant contests that his detention had been extended by the decision in question.

On 13 June 2007 the decision of 8 May 2007 was upheld by the appeal instance.

On 18 June 2007 the Golovinskiy District Court of Moscow rejected the applicant's claim against the detention facility and found his continued detention lawful, having noted that it had been authorised on 8 May and 9 June 2007. The applicant was not brought to the courtroom, despite his request to take part in these proceedings.

On 28 August 2007 the Moscow City Court upheld the district court's decision of 18 June 2007. The applicant alleges that he was not able to take part in this hearing because he was not brought to the courtroom, despite his request. He received a copy of this decision on 5 October 2007.

On 25 October 2007 the Taganskiy District Court ordered the applicant's continued detention, until 28 January 2008.

COMPLAINTS

The applicant complains under Article 5 § 1 of the Convention that his detention between 15 May 2007 and 25 October 2007 was not covered by a judicial order.

He also complains under Article 5 § 4 of the Convention that the lawfulness of his detention in that period was not amenable to judicial review. He claims, in particular, that the proceedings that ended on 28 August 2007 did not constitute an effective remedy, in particular because he could not be present at the hearings.

QUESTIONS TO THE PARTIES

1. Was the applicant's detention from 15 May 2007 to 25 October 2007 based on any judicial order? Was his detention during this period compatible with the requirements of Article 5 § 1 (c) of the Convention? The Government are requested to provide copies of all relevant decisions in respect of the applicant's detention in this period.

2. 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?