

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

THIRD SECTION

CASE OF BELOSLUDTSEV v. RUSSIA

(Application no. 22506/20)

JUDGMENT

STRASBOURG

23 June 2022

This judgment is final but it may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Belosludtsev v. Russia,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Darian Pavli, *President,*
Andreas Zünd,
Mikhail Lobov, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having deliberated in private on 2 June 2022,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application against Russia lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 June 2020.

2. The Russian Government ("the Government") were given notice of the application.

THE FACTS

3. The applicant's details and information relevant to the application are set out in the appended table.

4. The applicant complained that he had been denied an opportunity to appear in person before the court in the civil proceedings to which he had been party.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

5. The applicant complained that his right to a fair hearing had been breached on account of the domestic courts' refusal of his requests to appear in court. He relied on Article 6 § 1 of the Convention, which reads as follows:

Article 6 § 1

"In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

6. The Court reiterates that the applicant, detainee at the time of the events, was not afforded an opportunity to attend hearings in civil proceedings to which he was party. The details of those domestic proceedings are indicated in the appended table. The Court observes that the general principles regarding the right to present one's case effectively before the court and to enjoy equality of arms with the opposing side, as guaranteed by Article 6 of the Convention, have been stated in a number of its previous

judgments (see, among many other authorities, *Steel and Morris v. the United Kingdom*, no. 68416/01, §§ 59-60, ECHR 2005-II). The Court's analysis of an alleged violation of the right to a fair trial in respect of cases where incarcerated applicant complain about his absence from hearings in civil proceedings includes the following elements: examination of the manner in which domestic courts assessed the question whether the nature of the dispute required the applicant's personal presence and determination whether domestic courts put in place any procedural arrangements aiming at guaranteeing his effective participation in the proceedings (see *Yevdokimov and Others v. Russia*, nos. 27236/05 and 10 others, § 48, 16 February 2016).

7. In the leading case of *Yevdokimov and Others,* cited above, the Court already found a violation in respect of issues similar to those in the present case.

8. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the domestic courts deprived the applicant of the opportunity to present his case effectively and failed to meet their obligation to ensure respect for the principle of a fair trial.

9. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

10. 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."

11. Regard being had to the documents in its possession and to its case-law (see, in particular, *Igranov and Others v. Russia,* nos. 42933/13 and 8 others, § 40, 20 March 2018), the Court considers it reasonable to award the sum indicated in the appended table.

12. The Court further 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. *Declares* the application admissible;

2. *Holds* that this application discloses a breach of Article 6 § 1 of the Convention concerning the applicant's absence from civil proceedings;

3. *Holds*

that the respondent State is to pay the applicant, within three months, the amount indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;

(a) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default during the default period plus three percentage points.

Done in English, and notified in writing on 23 June 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention (applicant's absence from civil proceedings)

Application no. Date of introduction	Applicant's name Year of birth	Nature of the dispute Final decision	First-instance hearing date Court	Appeal hearing date Court	Final decision date Court	Amount awarded for non-pecuniary damage (in euros)[1]
22506/20 06/06/2020	**Sergey Aleksandrovich BELOSLUDTSEV** 1978	Establishment of subsidiary responsibility related to the bankruptcy proceedings	23/03/2019 Commercial Court of the Volgograd Region	06/09/2019 the 12th Commercial Court of Appeal	21/04/2020 Supreme Court of the Russian Federation	1,500

[1] Plus any tax that may be chargeable to the applicant.