

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

THIRD SECTION

CASE OF VOLKOV v. RUSSIA

(Application no. 17016/19)

JUDGMENT

STRASBOURG

21 July 2022

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



In the case of Volkov 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 30 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 19 December 2018.

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 was party. He also raised other complaints under the provisions of the Convention.

THE LAW

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

5. The applicant complained principally 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 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 the Court's 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 applicants complain about their 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 applicants' personal presence and determination whether domestic courts put in place any procedural arrangements aiming at guaranteeing their effective participation in the proceedings (see *Yevdokimov and Others v. Russia*, nos. 27236/05 and 10 others, § 48, 16 February 2016).

7. In the present case, the applicant, detainee at the time of the events, was not afforded an opportunity to attend hearings of first and appeal instances in civil proceedings to which he was party (the details of those domestic proceedings are indicated in the appended table). 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 than in *Yevdokimov and Others*, cited above.

8. Having regard to its case-law on the subject, the Court considers that in the instant cases 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. This complaint is therefore admissible and discloses a breach of Article 6 § 1 of the Convention.

II. OTHER ALLEGED VIOLATIONS UNDER WELL-ESTABLISHED CASE-LAW

10. The applicant submitted a complaint under Article 3 which also raises issues under the Convention, given the relevant well-established case-law of the Court (see appended table). This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that this complaint discloses violation of the Convention in the light of its findings in *Svinarenko and Slyadnev v. Russia* ([GC], nos. 32541/08 and 43441/08, §§ 122-39, ECHR 2014 (extracts)).

III. REMAINING COMPLAINTS

11. The applicant also raised other complaints under Articles 3, 8 and 13 of the Convention.

12. The Court has examined the application and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not

disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

13. It follows that this part of the application must be rejected in accordance with Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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."

15. Regard being had to the documents in its possession and to its case-law (see, in particular, *Svinarenko and Slyadnev*, cited above, § 150), the Court considers it reasonable to award the sum indicated in the appended table.

16. 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 complaint about unfair trial in view of the domestic courts' failure to ensure the applicant's participation in hearings in the civil proceedings to which he was party and the complaint about the applicant's placement in a metal case, under well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of the application inadmissible;

2. *Holds* that these complaints disclose a breach of Article 6 § 1 of the Convention on account of the applicant's absence from court hearings in his civil proceedings and of Article 3 of the Convention on account of his placement in a metal cage during court hearings;

3. *Holds*
   (a) 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;
   (b) 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 21 July 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	Other complaint under well-established case-law	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros)[1]
17016/19 19/12/2018	**Mikhail Alekseyevich VOLKOV** 1982	Inadequate conditions in a detention facility and in a courtroom in 2001-2002	29/06/2017 Meshchanskiy District Court of Moscow	24/04/2018 Moscow City Court	16/12/2019 Supreme Court of Russia	Art. 3 - use of metal cages and/or other security arrangements in courtrooms - Placement of the applicant in a metal cage during court hearings before Yeniseyskiy District Court of the Krasnoyarsk Region (several sets of proceedings; participation in a court hearing either in person or by way of videoconference from a metal cage) from 16/10/2018 to 27/09/2019	9,750

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