

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

THIRD SECTION

DECISION

Applications nos. 43538/16 and 17888/18
Anatoliy Sergeyevich SLESAREVSKIY against Russia
and Oleg Mikhaylovich LOKTIONOV against Russia

The European Court of Human Rights (Third Section), sitting on 5 November 2020 as a Committee composed of:

Darian Pavli, *President,*
Dmitry Dedov,
Peeter Roosma, *judges,*
and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 6 § 1 of the Convention concerning their absence from civil proceedings were communicated to the Russian Government ("the Government").

THE LAW

A. Joinder of the applications

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Complaints under Article 6 § 1 of the Convention (applicant's absence from civil proceedings)

The applicants complained that the proceedings to which they were parties were unfair given their absence from hearings. They relied on Article 6 of the Convention, which, in so far as relevant, reads as follows:

> "1. In the determination of his civil rights and obligations ..., everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

As regards application no. 43538/16 the Court finds that Article 6 § 1 of the Convention is inapplicable to the proceedings in which the applicant challenged the quality of the prosecutor's response to his grievances about the prison administration, as they did not involve the determination of the applicant's civil rights or obligations or a criminal charge against him, within the meaning of the Convention (see, among many other authorities, *Inderbiyeva v. Russia*, no. 56765/08, § 113, 27 March 2012).

It follows that this application is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 thereof.

As to application no. 17888/18, the Court observes that both parties were absent from the first-instance hearing with the court having decided to examine the case in writing as a result. The applicant did not argue that he or his representative were unable to present written submissions to the court or were not aware of the position of the responding party. It is clear that the applicant was provided with the case-file materials, written submissions of the respondent party and made written arguments himself. The Court further notes that the applicant took part in the first appeal hearing via a video link. He and his representative both presented their arguments to the appeal court, having mainly referred to the appeal complaint and other written submissions. There is no indication that they raised any additional arguments. The applicant was absent from the second appeal hearing, but was represented. The defendant party did not attend either of the appeal hearings.

The Court notes that the appeal court examined his case anew both as regards points of law and facts. The Court reiterates that the use of videoconferencing equipment is not, as such, incompatible with the notion of a fair and public hearing, but it must be ensured that the detainee is able to follow the proceedings, to see the persons present and hear what is being said, but also to be seen and heard by the other parties, the judge and witnesses, without technical impediment (see *Sakhnovskiy v. Russia* [GC], no. 21272/03, § 98, 2 November 2010, and *Yevdokimov and Others v. Russia*, nos. 27236/05 and 10 others, §§ 42-43, 16 February 2016, with further references). As there was no allegation of malfunctioning or any other restriction on the applicant's ability to follow the proceedings and as

the appeal court was competent to take evidence from the applicant and his counsel and to make a fresh assessment of it, the Court considers that any defect caused by the applicant's absence from the first-instance hearing was rectified at the appeal stage.

This complaint is thus manifestly ill-founded and it follows that application no. 17888/18 must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention (for similar reasoning see *Amirkhanyan v. Russia* (dec.) [Committee], no.25439/14, 9 January 2018).

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 26 November 2020.

Liv Tigerstedt
Acting Deputy Registrar

Darian Pavli
President

APPENDIX

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

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Nature of the dispute	First-instance hearing Date Court	Appeal hearing Date Court	Final decision Date Court
1.	43538/16 14/11/2016	**Anatoliy Sergeyevich SLESAREVSKIY** 26/12/1983		Proceedings against the prosecutor's failure to properly respond to the applicant's complaint	01/09/2015 The Kalininskiy District Court of Tyumen	23/11/2015 The Administrative Division of the Tyumen Regional Court	
2.	17888/18 28/03/2018	**Oleg Mikhaylovich LOKTIONOV** 12/03/1977	Prikhodkina Valeriya Yuryevna Chelyabinsk	Compensation for reputation damages	15/06/2016 Tsentralniy District Court	23/01/2017 Chelyabinsk Regional Court	29/09/2017 Supreme Court of Russia