



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

FIRST SECTION

Application no. 44223/05
Aleksandr Yevgenyevich MOROZOV against Russia
lodged on 14 October 2005

STATEMENT OF FACTS

The applicant, Mr Aleksandr Yevgenyevich Morozov, is a Russian national who was born in 1975 and lives in Rybinsk, a town in the Yaroslavl region.

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

On 22 November 2002 the Rybinsk Town Court of the Yaroslavl Region found the applicant guilty of causing serious injury to another person, resulting in the latter's death, and sentenced the applicant to a term of imprisonment.

On 16 December 2002 the *Zolotoye koltso* newspaper published an article concerning the criminal proceedings against the applicant which were by that time pending on appeal before the Yaroslavl Regional Court ("the Regional Court").

On 4 February 2003 that court upheld the applicant's conviction.

In July 2004 the applicant lodged a defamation action against the editors of the newspaper with the Kirovskiy District Court of Yaroslavl ("the District Court") seeking compensation for non-pecuniary damage. He claimed, in particular, that the article published by the respondent accused him of being a leader of an organised criminal group, whereas he had never been charged with such an offence, let alone found guilty of it.

On 12 July 2004 the District Court left the applicant's claim unexamined for his failure to pay a court fee, and requested him to resubmit his claim by 26 July 2004. The applicant received that decision on 20 August 2004 and applied for reinstatement of the time-limit for lodging his claim.

On 10 September 2004 the District Court returned to the applicant his request for reinstatement of the time-limit and explained that the applicant had a right to resubmit his libel action. In October 2004 the applicant resubmitted his action to the District Court.

On 26 November 2004 the District Court sent the applicant a notification that his case would be examined on 30 November 2004.

On 29 November 2004 the applicant applied to a court for leave to appear at the hearing of 30 November 2004. It is unclear whether or not the District Court examined the applicant's request for leave to appear at the hearing and issued a decision in this respect.

On 30 November 2004 the District Court examined the applicant's action in his absence. A representative of the respondent newspaper's editor was present at the hearing and submitted that the article in question had not infringed the applicant's rights, since it had been based on the judgement by which the applicant had been found guilty of a criminal offence. On the same date the District Court dismissed the applicant's action.

In his appeal against the judgment of 30 November 2004 the applicant complained, among other things, that his action had been examined in his absence. It is not clear whether the applicant sought leave to attend the appeal hearing.

On 28 January 2005 the Regional Court left the applicant's appeal unexamined because he had failed to pay the court fee.

On 25 April 2005 the Regional Court examined the applicant's appeal in his absence. It appears that the respondent was not present either. The Regional Court found that the District Court's decision to examine the applicant's claim in his absence was lawful, and upheld the judgment of 30 November 2004.

By final decisions of 1 April and 12 July 2005 the Regional Court dismissed the applicant's complaints against the prosecutor's decisions refusing the applicant's request for criminal proceedings to be reopened because of newly discovered circumstances.

COMPLAINTS

1. The applicant complains under Articles 6 and 13 that libel proceedings against the editors of the *Zolotoye koltso* newspaper, which ended on 25 April 2005, were unfair. In particular, the applicant complains that:

(a) on 12 July 2004 the District Court left his libel claim against the editors of the newspaper unexamined, and on 10 September 2004 the District Court returned his request for reinstatement of the time-limits for his libel action to be lodged;

(b) on 30 November 2004 the District Court examined his libel claim in his absence and on 25 April 2005 the Regional Court examined his appeal against the judgment of 30 November 2004 in his absence;

(c) the District Court was not impartial.

2. The applicant further complains under Article 6 that the libel proceedings were very lengthy.

3. The applicant also complains under Article 6 of unfairness and excessive length of the proceedings concerning the re-opening of his criminal case, and which ended on 1 April and 12 July 2005.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair hearing in the determination of his civil rights and obligations, in accordance with Article 6 § 1 of the Convention, in the proceedings he brought against the editors of the *Zolotoye koltso* newspaper before the Yaroslavl Kirovskiy District Court (“the District Court”) which ended on 25 April 2005? In particular, was the applicant afforded an opportunity to present his case effectively before the District Court and the Yaroslavl Regional Court (“the Regional Court”), having regard to the fact that the District Court and the Regional Court examined the case in his absence? Did the District Court examine the applicant’s request for leave to appear at the hearing?

2. Did the applicant have the opportunity to study and comment on the arguments and evidence submitted by the respondent in the libel proceedings before the District Court and the Regional Court? If not, was there a breach of the applicant’s right to adversarial proceedings and equality of arms enshrined in Article 6 § 1 of the Convention? Was the respondent present at any hearings before the District Court and the Regional Court, and did they make submissions to those courts? The Government are requested to indicate the number of hearings held by those courts and indicate at which of them the respondents were present and made submissions.