

Strasbourg Hears \$98Bln Yukos Case

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Russian state lawyers arriving at the European Court of Human Rights in Strasbourg for a Yukos hearing Thursday. **Vincent Kessler**

Lawyers representing Russia and the former management of Yukos began their arguments before the European Court of Human Rights on Thursday, almost six years after the oil company sued the state for \$98 billion in damages related to its "disguised expropriation."

The high-stakes hearing is the first major case involving Russia since the State Duma voted in January to ratify Protocol 14 to the European Convention on Human Rights, allowing the court to proceed with reforms.

Moscow has regularly treated the court with skepticism, calling its decisions politically motivated. But late last month, the Constitutional Court ordered the state to obey decisions from Strasbourg and demanded legislative action to ensure their smooth implementation.

Former Yukos shareholders are seeking the record \$98 billion for the government's 2006 bankruptcy of Yukos, once Russia's biggest oil producer. Mikhail Khodorkovsky, its former

CEO and co-owner, is serving an eight-year prison sentence for fraud and tax evasion and is on trial again in Moscow on related charges.

The complaint, filed in April 2004, says Yukos "was targeted by the Russian authorities with tax and enforcement proceedings, which eventually led to its liquidation." A first hearing was only scheduled for 2009 because of the complexity of the case.

But in November, the hearing was delayed because Russia's new ad hoc judge, Andrei Bushev, needed time to study the case materials. Bushev, a law professor at St. Petersburg State University, was appointed last fall after predecessor Valery Musin resigned because he was appointed to the board of state-run Gazprom.

The rescheduled hearing was delayed again in January because both Bushev and Deputy Justice Minister Georgy Matyushkin, who heads the Russian delegation in the case, were unable to attend.

Both were present for Thursday's hearing.

Russia's head lawyer in the case, Michael Swainston, asked the court to dismiss the lawsuit, arguing that the court only hears cases dealing with individuals — not companies. But the court sided with Yukos' head lawyer in the hearing, Piers Gardner, who said he should be allowed to represent the former management.

"The court said it would continue. It means that the court agreed that Gardner could continue to represent the Yukos management," Claire Davidson, a spokeswoman for the Yukos team, told The Moscow Times from Strasbourg.

In a 90-minute speech, Gardner told the court that the company was paying its taxes according to the Russian laws. "Nothing was secret, nothing was hidden and nothing was wrong with these arrangements," he said.

Yukos shareholders have argued that the tax charges were politically motivated because Khodorkovsky, at the time Russia's richest man, had posed a challenge to then-President Vladimir Putin.

Yukos' main assets were eventually acquired by state-run Rosneft, now the country's biggest oil company.

Swainston, in turn, argued that Russia had every right to demand that Yukos pay the back taxes, stressing that numerous Russian courts had already ruled against the company.

Karina Moskalenko, a lawyer for Khodorkovsky in Moscow, attended the hearing in Strasbourg as an observer.

"The case has drawn a lot of attention. A large number of people lined up near the Strasbourg court. Everyone was listening with a great interest," she told The Moscow Times by phone.

The hearing, which lasted more than four hours and was conducted in English and Russian, can be viewed on the court's web site. Arguments from Yukos' lawyers took up the majority of the proceedings.

A spokeswoman in Moscow for Matyushkin, the Russian representative to the court, said Thursday that "the trial just started, and there is nothing to comment on yet."

Swainston, a lawyer on commercial disputes with British firm Brick Court Chambers Barristers, could not be reached for comment.

The firm's web site notes that its clients have included Russian billionaires Roman Abramovich and Boris Berezovsky.

Bruce Misamore, head of Yukos International, has said the \$98 billion lawsuit, a joint complaint from more than 55,000 shareholders, is the biggest in the Strasbourg court's 60-year history.

"A decision on the case will be adopted at a later date," Estelle Steiner, a court spokeswoman, said in an e-mailed statement.

Moskalenko said the court would likely take months to reach a decision and that it was too early to comment on a possible outcome. "I believe that the final ruling won't be unanimous," she said.

The European Court of Human Rights had earlier heard several complaints filed by lawyers for Khodorkovsky and his partner, Platon Lebedev, ruling in favor of the jailed businessmen.

Coincidentally, Thursday's arguments came a year to the day after Moscow's Khamovnichesky District Court began hearing the second Yukos case, which could put Khodorkovsky and Lebedev in jail for another 22.5 years.

They are accused of embezzling oil worth more than 892.4 billion rubles (\$25 billion) from Yukos production units and laundering a portion of the profits, 487.4 billion rubles and \$7.5 billion.

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