CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 23790/03
by Viktor Nikolayevich SHEIN
against Russia

The European Court of Human Rights (First Section), sitting on 29 March 2007 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mrs N. VAJIĆ,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr D. SPIELMANN,
Mr S.E. JEBENS, *judges*
and Mr S. NIELSEN, *Section Registrar,*

Having regard to the above application lodged on 4 July 2003,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Viktor Nikolayevich Shein, is a Russian national, who was born in 1955 and lives in Blagoveshchensk. The respondent Government were represented by Mr P. Laptev, Representative of the Russian Federation at the European Court of Human Rights.

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

The applicant is a former serviceman. In 1990 he was dismissed from his post of a major for health reasons.

In 2001 the applicant instituted proceedings against the Ministry of Defence, seeking compensation for damage to health and the resulting loss of income.

On 27 August 2001 the Military Court of the Blagoveshchensk Garrison (*Благовещенский гарнизонный военный суд*) partially granted the applicant's claim and ordered the defendant to pay him lump sum compensation of 72,012.17 Russian roubles (RUR) and to make monthly payments of RUR 4,627.39 with the subsequent indexation in accordance with the civil code. No appeal was lodged against the judgment and it acquired legal force on 11 September 2001.

On 24 September 2001 the Military Court issued a writ of execution. On an unspecified date, the applicant submitted the execution writ to the 3rd Inter-District Bailiff's Office in Moscow (*Третий межрайонный отдел службы судебных приставов по ЦАО г. Москвы*).

By a letter 29 October 2001 the Bailiff's Office returned the execution writ, advising the applicant to apply to the relevant Department of the Federal Treasury.

By a letter of 17 September 2003 the Blagoveshchensk Department of the Federal Treasury (*отделение Федерального казначейства по г. Благовещенску*) returned the execution writ and informed the applicant about the inability to enforce the judgment for the lack of funds on the account of the Blagoveshchensk Commissariat (*комиссариат г. Благовещенска*). The applicant was advised to apply to the Ministry of Finance for the latter to recover the court award from the Ministry of Defence.

According to the Government, on 8 September 2004 the Department of Finance and Economy of the Far-Eastern Military Circuit paid the applicant the sum of RUR 243,225. On 1 December 2004 the applicant received an additional payment of RUR 27,600.

COMPLAINT

The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 about the non-enforcement of the judgment of 27 August 2001.

THE LAW

On 16 December 2004 the application was communicated to the respondent Government.

On 13 April 2005 the Government's observations on the admissibility and merits of the application were forwarded to the applicant who was invited to submit his written observations in reply by 31 May 2005.

On 11 May 2005 the English version of the Government's observations was forwarded to the applicant. The time-limit for the submission of the applicant's observations remained unaffected.

As the applicant's observations on the admissibility and merits had not been received by 31 May 2005, on 21 June 2005 the Registry advised the applicant by registered mail that his failure to respond might lead the Court to the conclusion that he had lost interest in the case. The applicant was also informed that in such circumstances the Court might strike the case out of its list of cases.

As it follows from the advice of receipt which returned to the Court, the letter of 21 June 2005 reached the applicant on 1 July 2005.

The applicant did not reply.

The Court recalls Article 37 of the Convention which, in the relevant part, reads as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> (a) the applicant does not intend to pursue his application;
>
> ...
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

The Court notes that the applicant was requested to submit written observations on the admissibility and merits of the case. He subsequently received a reminder thereof. The applicant was also informed about a consequence of his failure to submit the observations. No response has been received to date. The Court infers therefrom that the applicant does not intend to pursue his application. Furthermore, the Court considers that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the case.

In these circumstances it considers that Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list in accordance with Article 37 § 1 (a) of the Convention.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Søren NIELSEN
Registrar

Christos ROZAKIS
President