

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

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 37032/03
by Fedor Ivanovich SHUBIN
against Russia

The European Court of Human Rights (First Section), sitting on 18 January 2011 as a Chamber composed of:

Christos Rozakis, *President,*
Nina Vajić,
Anatoly Kovler,
Elisabeth Steiner,
Khanlar Hajiyev,
Dean Spielmann,
Sverre Erik Jebens, *judges,*

and Søren Nielsen, *Section Registrar,*

Having regard to the above application lodged on 18 October 2003,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The application was lodged by Mr Fedor Ivanovich Shubin, a Russian national who was born in 1960 and lives in the town of Beloretsk, the Republic of Bashkortostan. He acts *pro se* before the Court. The Russian Government ("the Government") were represented by Ms V. Milinchuk and

Mr G. Matyushkin, the successive Representatives of the Russian Federation at the European Court of Human Rights.

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

The applicant, who participated in the Chernobyl nuclear disaster relief operation, brought proceedings before the Beloretsk Town Court ("the Town Court") against the local social security office seeking increase of his monthly monetary allowance. He also sought to recover the unpaid sum.

On 30 October 1997 the Town Court awarded the applicant a lump sum in arrears and ordered that his monthly allowance be increased starting from November 1997. The Town Court also granted the applicant's claim for non-pecuniary damage and costs. The judgment of 30 October 1997 was not appealed against and became final and enforceable.

The lump sum awarded was paid to the applicant shortly after the judgment of 30 October 1997 had entered into force.

Increased monthly allowance was being paid to the applicant until March 2002. Payment was then discontinued. For that reason the applicant lodged a claim with the Town Court complaining about non-enforcement of the judgment of 30 October 1997. On 4 August 2005 the Town Court held in the applicant's favour and in addition awarded him a sum corresponding to the missing payments between 2002 and 2005. That judgment became final and was swiftly enforced.

Subsequently, the applicant lodged a claim for compensation due to the failure to pay the monthly allowances between 2002 and 2005 in line with the judgment of 30 October 1997. On 28 March 2008 the Town Court allowed the applicant's claim. With reference to the direct applicability of the Convention pursuant to the Russian Constitution and the reasonable-time requirement contained in Article 6 § 1 thereof, the Town Court acknowledged the lengthy non-enforcement of the judgment of 30 October 1997 in the applicant's favour. It concluded that he had suffered non-pecuniary damage. The Town Court granted the applicant 200,000 Russian roubles (approximately 5,000 euros) in compensation. That judgment was upheld on appeal by the Supreme Court of the Republic of Bashkortostan on 24 April 2008. It was enforced on 22 August 2008.

THE COMPLAINT

The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 about the non-enforcement of the final judgment of 30 October 1997 in his favour, namely the authorities' failure to pay monthly allowance in line with that judgment between 2002 and 2005.

THE LAW

The applicant complained about failure to fully enforce the final judgment of 30 October 1997 in his favour during a certain period of time. The Government averred that the applicant was no longer a victim following him being compensated domestically.

Pursuant to the Court's well-established case-law a domestic decision or measure favourable to the applicant is not in principle sufficient to deprive him or her of the victim status within the meaning of Article 34 of the Convention unless the national authorities have acknowledged and afforded redress for the breach of the Convention (see *Amuur v. France*, 25 June 1996, § 36, *Reports of Judgments and Decisions* 1996-III, and *Sakhnovskiy v. Russia* [GC], no. 21272/03, § 67, 2 November 2010).

The Court notes that in its judgments of 4 August 2005 and 28 March 2008 the Town Court not only acknowledged the violation of the applicant's right to have the judgment of 30 October 1997 in his favour properly enforced and awarded the underpayments but also granted him monetary compensation for non-pecuniary damage caused by that infringement of his rights. The Court observes that the amount of compensation granted to the applicant was in line with its own relevant case-law (cf. *Malinovskiy v. Russia*, no. 41302/02, § 52, ECHR 2005-VII (extracts), and *Makarov v. Russia*, no. 21074/03, § 29, 25 January 2007).

The Court finds accordingly that the applicant can no longer claim to be a victim within the meaning of Article 34 of the Convention.

It follows that the application shall be declared inadmissible pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Søren Nielsen
Registrar

Christos Rozakis
President