FIRST SECTION
DECISION
AS TO THEADMISSIBILITY OF
Application no.25551/05
by Vladimir PetrovichKOROLEV
against Russia

The European Court ofHuman Rights (First Section), sitting on 1 July 2010 as a Chamber composed of:
ChristosRozakis, *President,*
AnatolyKovler,
ElisabethSteiner,
DeanSpielmann,
SverreErik Jebens,
GiorgioMalinverni,
GeorgeNicolaou, *judges,*
andSøren Nielsen, *Section Registrar,*
Having regard to theabove application lodged on 27 July 2004,
Having deliberated,decides as follows:

THE FACTS
The applicant, MrVladimir Petrovich Korolev, is a Russian national who was born in 1954 andlives in Orenburg, the Russian Federation.
Thecircumstances of the case
The facts of thecase, as submitted by the applicant, may be summarised as follows.
The applicant suedthe Head of the Passport and Visa Department at the Regional Directorate of theInterior for having denied him access to documents pertaining to a delay inissuing his new travel passport.
On 25 September 2001the Verkh-Isetskiy District Court of Ekaterinburg dismissed the applicant'sclaim. On 13 November 2001 the Sverdlovskiy Regional Court quashed the judgmenton appeal and referred the case back to the district court.
On 16 April 2002 thedistrict court allowed the applicant's claim, ordering the Head of the Passportand Visa Department to allow the applicant access to all the documents andmaterials relating to the issuing of his passport. The court also held that thePassport and Visa Department should pay the applicant 22.50 Russian roubles(RUB) in compensation for the court fees.
On 4 July 2002 thisjudgment was upheld on appeal and became final.
It is not evidentfrom the case file if and when the respondent authority complied with thejudgment in the part concerning the applicant's access to his file. Allreported actions taken by the applicant in the wake of the judgment were solelyaimed at recovering the RUB 22.50 awarded by the district court.
On 22 July 2002 thedistrict court issued a writ of execution which was explicitly limited to thepayment of the court's award of RUB 22.50. On 28 April 2003 the bailiffstarted the enforcement proceedings.
On 15 December 2003the applicant challenged the bailiff's inactivity before the district court. On22 December 2003 the judge found the complaint to fall short of theprocedural requirements and requested the applicant to comply therewith by5 January 2003. The applicant was in particular requested tosubstantiate the bailiff's alleged failure.
The applicantsupplemented his complaint on 31 December 2003.
On 6 January 2004 thecourt found that the applicant had not complied with the said requirements anddismissed the complaint without considering its merits. On 10 February 2004 theSverdlovskiy Regional Court upheld that decision.

COMPLAINTS
The applicantcomplained that the authorities' failure to pay him the amount awarded by thedomestic courts had violated his rights under
Article 6 of theConvention and Article 1 of Protocol No. 1. He also complained underArticle 6 about the domestic courts' failure to consider his applicationchallenging the bailiffs' inactivity.

Referring also toArticle 6, the applicant furthermore complained of various breaches of domesticprocedural requirements by the domestic courts, notably of the time-limitsprovided for by domestic law.

THE LAW
The Court must firstdetermine whether the complaints are admissible under Article 35 of theConvention, as amended by Protocol No. 14 which entered into force on 1June 2010.
The Protocol added anew admissibility requirement to Article 35 which, in so far as relevant,provides as follows:
"3. The Court shalldeclare inadmissible any individual application submitted under Article 34 ifit considers that:
(...)
(b) the applicant hasnot suffered a significant disadvantage, unless respect for human rights asdefined in the Convention and the Protocols thereto requires an examination ofthe application on the merits and provided that no case may be rejected on thisground which has not been duly considered by a domestic tribunal."
In accordance withArticle 20 of the Protocol, the new provision shall apply from the date of itsentry into force to all applications pending before the Court, except thosedeclared admissible. In view of the circumstances of the present case the Courtfinds it appropriate to examine at the outset whether the applicant'scomplaints comply with this new admissibility requirement.
In doing so, theCourt will bear in mind that the purpose of the new admissibility criterion is,in the long run, to enable more rapid disposal of unmeritorious cases and thusto allow it to concentrate on the Court's central mission of providing legalprotection of human rights at the European level (see Explanatory Report toProtocol No. 14, CETS No. 194 (hereinafter referred to as "ExplanatoryReport"), §§ 39 and 77-79). The High Contracting Parties clearly wishedthat the Court devote more time to cases which warrant consideration on themerits, whether seen from the perspective of the legal interest of theindividual applicant or considered from the broader perspective of the law ofthe Convention and the European public order to which it contributes (seeExplanatory Report, § 77). More recently, the High Contracting Partiesinvited the Court to give full effect to the new admissibility criterion and toconsider other possibilities of applying the principle *deminimis non curat praetor* (see Action Plan adopted by the High LevelConference on the Future of the European Court of Human Rights, Interlaken, 19February 2010, § 9(c)).

A. Whether the applicant hassuffered a significant disadvantage
The main elementcontained in the new admissibility criterion is the question of whether theapplicant has suffered a "significant disadvantage". It is common ground thatthese terms are open to interpretation and that they give the Court some degreeof flexibility, in addition to that already provided by the existingadmissibility criteria (see Explanatory Report, §§ 78 and 80).
In the Court's view,these terms are not susceptible to exhaustive definition, like many other termsused in the Convention. The High Contracting Parties thus expected the Court toestablish objective criteria for the application of the new rule through thegradual development of the case-law (see Explanatory Report, § 80).
Inspired by theabovementioned general principle *deminimis non curat praetor*, the new criterion hinges on the idea thata violation of a right, however real from a purely legal point of view, shouldattain a minimum level of severity to warrant consideration by an internationalcourt. The assessment of this minimum level is, in the nature of things,relative and depends on all the circumstances of the case (see, *mutatismutandis*,*Soering v. the United Kingdom*, 7 July 1989, § 100, Series A no.161). The severity of a violation should be assessed, taking account of boththe applicant's subjective perceptions and what is objectively at stake in aparticular case.
In the circumstancesof the present case, the Court is struck at the outset by the tiny and indeedalmost negligible size of the pecuniary loss which prompted the applicant tobring his case to the Court. The applicant's grievances were explicitly limitedto the defendant authority's failure to pay a sum equivalent to less than oneeuro awarded to him by the domestic court.
The Court isconscious that the impact of a pecuniary loss must not be measured in abstractterms; even modest pecuniary damage may be significant in the light of theperson's

specific condition and the economic situation of the country or regionin which he or she lives. However, with all due respect for varying economiccircumstances, the Court considers it to be beyond any doubt that the pettyamount at stake in the present case was of minimal significance to theapplicant.
The Court is mindfulat the same time that the pecuniary interest involved is not the only elementto determine whether the applicant has suffered a significant disadvantage.Indeed, a violation of the Convention may concern important questions ofprinciple and thus cause a significant disadvantage without affecting pecuniaryinterest. It could even have been so in the present case had the applicantcomplained, for example, of the authorities' failure to enforce his legitimateright to consult his file at the Passport and Visa Department. Yet, theapplicant did not challenge the execution of the domestic judgment in thatpart, limiting his claims solely to pecuniary damage. Thus, the Court can seeno hindrance to the enforcement of the applicant's right of access to his file,which was the main purpose of the domestic litigation at issue. Admittedly, theapplicant's insistence on the payment of RUB 22.50 by the respondent authoritymay have been prompted by his subjective perception that it was an importantquestion of principle. Although relevant, this element does not suffice for theCourt to conclude that he suffered a significant disadvantage. The applicant'ssubjective feeling about the impact of the alleged violations has to bejustifiable on objective grounds. However, the Court does not perceive any suchjustification in the present case, as the main issue of principle was in alllikelihood resolved to the applicant's advantage.
In view of theforegoing, the Court concludes that the applicant has not suffered asignificant disadvantage as a result of the alleged violations of theConvention.

B. Whether respect for humanrights as defined in the Convention and the Protocols thereto requires anexamination of the application on the merits

The second elementcontained in the new criterion is intended as a safeguard clause (seeExplanatory Report, § 81) compelling the Court to continue the examinationof the application, even in the absence of any significant damage caused to theapplicant, if respect for human rights as defined in the Convention and theProtocols thereto so requires. The Court notes that the wording is drawn fromthe second sentence of Article 37 § 1 of the Convention where it fulfils asimilar function in the context of decisions to strike applications out of theCourt's list of cases. The same wording is used in Article 38 § 1 as a basisfor securing a friendly settlement between the parties.
The Court notes thatthe Convention organs have consistently interpreted those provisions ascompelling them to continue the examination of a case, notwithstanding itssettlement by the parties or the existence of any other ground for striking thecase out of its list. A further examination of a case was thus found to be necessarywhen it raised questions of a general character affecting the observance of theConvention (see *Tyrerv. the United Kingdom*, no. 5856/72, Commission's report of 14December 1976, Series B 24, p. 2, § 2).
Such questions of ageneral character would arise, for example, where there is a need to clarifythe States' obligations under the Convention or to induce the respondent Stateto resolve a structural deficiency affecting other persons in the same positionas the applicant. The Court has thus been frequently led, under Articles 37 and38, to verify that the general problem raised by the case had been or was beingremedied and that similar legal issues had been resolved by the Court in othercases (see, among many others, *Canv. Austria*, 30 September 1985, §§ 15-18, Series A no. 96, and *Légerv. France* (striking out) [GC], no. 19324/02, § 51, ECHR2009-...).
Considering thepresent case in this way, as required by new Article 35 § 3 (b), andhaving regard to its responsibilities under Article 19 of the Convention, theCourt does not see any compelling reason of public order (*ordrepublic*) to warrant its examination on the merits. First, the Courthas on numerous occasions determined issues analogous to that arising in theinstant case and ascertained in great detail the States' obligations under theConvention in that respect (see, among many others, *Hornsbyv. Greece*, 19 March 1997, *Reportsof Judgments and Decisions* 1997-II; *Burdovv. Russia*, no. 59498/00, ECHR 2002-III; and *Burdovv. Russia (no. 2)*, no. 33509/04, ECHR 2009-...). Second, boththe Court and the Committee of Ministers have addressed the systemic problem ofnon-enforcement of domestic judgments in the Russian Federation and the needfor adoption of general measures to prevent new violations on that account (see*Burdov(no. 2)*, cited above, and the Committee of Ministers' InterimResolutions CM/ResDH(2009)43 of 19 March 2009 and CM/ResDH(2009)158 of3 December 2009). An

examination on the merits of the present casewould not bring any new element in this regard. The Court concludesthat respect for human rights, as defined in the Convention and the Protocolsthereto, does not require an examination of the present application on themerits.

C. Whether the case was dulyconsidered by a domestic tribunal

Article 35 § 3(b) does not allow the rejection of an application on the grounds of the newadmissibility requirement if the case has not been duly considered by adomestic tribunal. Qualified by the drafters as a second safeguard clause (seeExplanatory report, § 82), its purpose is to ensure that every casereceives a judicial examination whether at the national level or at theEuropean level, in other words, to avoid a denial of justice. The clause isalso consonant with the principle of subsidiarity, as reflected notably inArticle 13 of the Convention, which requires that an effective remedy againstviolations be available at the national level.

In the Court's view,the facts of the present case taken as a whole disclose no denial of justice atthe domestic level. The applicant's initial grievances against the Stateauthorities were considered at two levels of jurisdiction and his claims weregranted. His subsequent complaint against the bailiff's failure to recover thejudicial award in his favour was rejected by the district court fornon-compliance with domestic procedural requirements. The applicant failed tocomply with those requirements, not having resubmitted his claim in accordancewith the judge's request. This situation does not constitute a denial ofjustice imputable to the authorities.

As regards thealleged breaches of domestic procedural requirements by those two courts, theConvention does not grant the applicant a right to challenge them in furtherdomestic proceedings once his case has been decided in final instance (see *Tregubenkov. Ukraine*, no. 61333/00, 21 October 2003, and *Sitkovv. Russia* (dec.), no. 55531/00, 9 November 2004). That thesecomplaints were not subject to further judicial review under domestic law doesnot, in the Court's view, constitute an obstacle for the application of the newadmissibility criterion. To construe the contrary would prevent the Court fromrejecting any claim, however insignificant, relating to alleged violationsimputable to a final national instance. The Court finds that such an approachwould be neither appropriate nor consistent with the object and purpose of thenew provision.

The Court concludesthat the applicant's case was duly considered by a domestic tribunal within themeaning of Article 35 § 3 (b).

D. Conclusion

In view of theforegoing, the Court finds that the present application must be declaredinadmissible in accordance with Article 35 § 3 (b) of the Convention, asamended by Protocol No. 14. This conclusion obviates the need to considerif the application complies with other admissibility requirements.

Forthese reasons, the Court unanimously

Declares the applicationinadmissible.

SørenNielsen Christos Rozakis
Registrar President