



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

## THIRD SECTION

### DECISION

Application no. 21977/20  
R.Y.  
against Russia

The European Court of Human Rights (Third Section), sitting on 23 March 2021 as a Committee composed of:

Darian Pavli, *President*,

Dmitry Dedov,

Peeter Roosma, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to the above application lodged on 28 April 2020,

Having regard to the comments submitted by the AIRE Centre, the ILGA-Europe, the International Commission of Jurists, the UK Lesbian and Gay Immigration Group, the World Organization Against Torture and Helsinki Foundation for Human Rights, which had been given leave to intervene in the written procedure (Article 36 § 2 of the Convention and Rule 44 § 3 of the Rules of Court),

Having deliberated, decides as follows:

## FACTS AND PROCEDURE

1. The applicant, Mr R.Y., is an Uzbek national, who was born in 1996. The President granted the applicant's request for his identity not to be disclosed to the public (Rule 47 § 4). He was represented before the Court by Mr A.I. Ryzhov and Ms T.S. Glushkova, lawyers practising in Moscow.

2. The Russian Government ("the Government") were represented by Mr M. Galperin, the Representatives of the Russian Federation to the European Court of Human Rights.

3. The applicant complained under Article 3 of the Convention about his pending administrative removal to Uzbekistan, which has been ordered by the Moscow City Court on 28 February 2020. The applicant, an HIV-positive openly gay man, claimed that he would face the real risk of

ill-treatment in case of his removal in the light of the criminal prohibition of consensual sexual intercourse between men in his country of origin.

4. On 9 June 2020, the Court decided, in the interests of the parties and the proper conduct of the proceedings before it, to indicate to the Russian Government, under Rule 39, that the applicant should not be removed to Uzbekistan for the duration of the proceedings before the Court.

5. On the same day the Court gave notice to the Government of the applicant's complaint detailed above.

6. On 3 September 2020 the Government submitted to the Registry their observations on the admissibility and merits of the application. These were forwarded to the applicant. On 23 September 2020 the applicant's representative, Mr Ryzhov, submitted to the Registry their observations on the admissibility and merits of the application, as well as his claims for costs and expenses. In support Mr Ryzhov attached to the costs and expenses claim a billing hours calculation, bank details and receipts for two express mail shipments. On 2 November 2020 the Government submitted that in absence of a legal assistance contract between the applicant and Mr Ryzhov the above claim should not be granted.

7. On 29 October 2020 Mr Ryzhov informed the Court that on 24 September 2020 the applicant voluntarily left Russia for Sweden. The representative stated that the applicant was in principle safe and currently did not face expulsion to his country of origin. Nevertheless, the representative asked the Court to continue examination of the case and, in any event, to award the costs and expenses in the amount of 3,648 euros.

8. In the letter of 14 December 2020, the Government requested to strike the application out of the list of cases, since the applicant no longer faced the risk of removal from Russia to Uzbekistan. They further maintained their position regarding the award of costs and expenses.

## THE LAW

9. The Court notes that on 24 September 2020 the applicant voluntarily left Russia for Sweden and that his representative stated that the applicant was in principle safe and currently did not face expulsion to his country of origin. Accordingly, it can no longer be asserted that the applicant faces removal from Russia to Uzbekistan and, therefore, an alleged real risk of treatment contrary to Article 3 of the Convention in his country of origin (see similarly *Nurmatov (Ali Feruz) v. Russia* (dec.) [Committee], no. 56368/17, §§ 26-27, 2 October 2018, and *K.Z. v. Russia*, no. 35960/18 [Committee], §§ 8-9, 25 February 2020). The Court has consistently approached the issue as one of a potential violation of the Convention, which can be resolved within the meaning of Article 37 § 1 (b) of the Convention and stricken out of its list of cases, regardless of whether the applicant agrees, once the threat of a violation is removed (see, for an

overview of similar reasoning, *F.G. v. Sweden* [GC], no. 43611/11, §§ 73-74, 23 March 2016).

10. In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention or its Protocols, the Court, in accordance with Article 37 § 1 (c) of the Convention, considers that it is no longer justified to continue the examination of the application.

11. In view of the above, it is appropriate to strike the case out of the list.

12. Turning to the applicant's representative's request to award the costs and expenses in the present case, the Court notes that under Rule 43 § 4 of the Rules of Court when an application has been struck out in accordance with Article 37 of the Convention, the costs shall be at the discretion of the Court. The Court further notes in this regard the Russian Government's argument that no legal assistance contract between the applicant and Mr Ryzhov has been submitted to the Court.

13. Under the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Regard being had to the material in the case file, the Court observes that no document in the Court's possession demonstrates the applicant's legal obligation to pay the representative the amount indicated in the billing hours calculation (compare *V.K. v. Russia*, no. 9139/08, § 52, 4 April 2017). Accordingly, there appears to be no grounds to award the applicant costs and expenses and this claim must be dismissed.

For these reasons, the Court, unanimously,

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

*Dismisses* the applicant's claim of costs and expenses.

Done in English and notified in writing on 22 April 2021.

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Olga Chernishova  
Deputy Registrar

Darian Pavli  
President