



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

FIFTH SECTION

CASE OF ANGELOV AND OTHERS v. BULGARIA

(Application no. 43586/04)

JUDGMENT

STRASBOURG

4 November 2010

FINAL

04/02/2011

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Angelov and Others v. Bulgaria,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Peer Lorenzen, *President*,
Renate Jaeger,
Karel Jungwiert,
Mark Villiger,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva,
Ganna Yudkivska, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 12 October 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 43586/04) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by four Bulgarian nationals, Mr Atanas Kolev Angelov, Mr Mitko Tomov Mitev, Mr Hristo Yankov Yankov and Mr Rangel Yankov Yankov (“the applicants”), on 26 November 2004.

2. The applicants were represented by Ms S. Stefanova and Mr A. Atanasov, lawyers practising in Plovdiv. The Bulgarian Government (“the Government”) were represented by their Agent, Ms S. Atanasova, of the Ministry of Justice.

3. On 2 October 2008 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3 of the Convention).

4. On 11 February 2010 the Government submitted a unilateral declaration and invited the Court to strike the application out of its list of cases, in accordance with Article 37 of the Convention.

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

5. The applicants were born in 1971, 1962, 1966 and 1965 respectively. The second applicant is currently detained in Plovdiv Prison. The third

applicant lives in Nicosia, Cyprus. The remaining applicants live in the village of Stryama in Bulgaria.

6. On 6 and 12 May 1992 the police in Rakovski opened two investigations into several thefts of sheep and goats. Between 13 and 19 May 1992 the applicants submitted written explanations admitting to having committed the thefts.

7. The proceedings remained dormant until January 2002 when a police investigator questioned several witnesses and commissioned two expert reports concerning the value of the stolen animals. Between 21 and 24 January 2002 the investigator brought charges against the four applicants.

8. On 15 March 2002 the first and third applicants were questioned before a judge.

9. In November 2003 the investigation was concluded and on 8 December 2003 the applicants were indicted for theft. On 1 June 2004 they entered into a plea agreement with the prosecution, accepting short suspended sentences. At a hearing held on the same day the Plovdiv District Court affirmed the agreement and discontinued the proceedings. Its decision was final.

THE LAW

I. THE GOVERNMENT'S REQUEST FOR THE APPLICATION TO BE STRUCK OUT UNDER ARTICLE 37 OF THE CONVENTION

10. On 11 February 2010 the Government submitted a unilateral declaration, acknowledging that the domestic proceedings had lasted an unreasonably long period of time, in violation of Article 6 § 1 of the Convention, and offering to pay each of the applicants EUR 500 in respect of pecuniary and non-pecuniary damage, as well as costs and expenses. The Government invited the Court to strike out the application in accordance with Article 37 § 1 (c) of the Convention.

11. In their written reply dated 23 March 2010 the applicants argued that the amount proposed did not constitute sufficient just satisfaction for the damage they had suffered and requested the Court to continue the examination of the application.

12. The Court notes that, under certain circumstances, it may be appropriate to strike out an application under Article 37 § 1 (c) of the Convention on the basis of a unilateral declaration by the respondent Government even if the applicant wishes the examination of the case to be continued. It will, however, depend on the particular circumstances whether the unilateral declaration offers a sufficient basis for finding that respect for

human rights as defined in the Convention does not require the Court to continue its examination of the case (see *Tahsin Acar v. Turkey* (preliminary objection) [GC], no. 26307/95, § 75, ECHR 2003-VI, and *Krawczak v. Poland (no. 2)*, no. 40387/06, § 18, 8 April 2008).

13. Turning to the case at hand, the Court observes that although the Government acknowledged in their unilateral declaration that the domestic proceedings had been unreasonably lengthy, they did not offer the applicants adequate redress. The Court considers that the sum proposed in the declaration in respect of pecuniary and non-pecuniary damage and costs and expenses, namely, EUR 500 per applicant, does not bear a reasonable relationship to the amounts awarded by the Court for non-pecuniary damage in similar cases (see, most recently, *Kostov and Yankov v. Bulgaria*, no. 1509/05, § 31, 22 April 2010, and *Stefanov and Yurukov v. Bulgaria*, no. 25382/04, § 26, 1 April 2010).

14. For these reasons the Court finds that the Government have failed to establish a sufficient basis for finding that respect for human rights as defined in the Convention and its Protocols does not require the Court to continue its examination of the case (see, by contrast, *Jeleva and Others v. Bulgaria* (dec.), no. 274/04, 1 December 2009).

15. That being so, the Court rejects the Government's request to strike the application out of its list of cases under Article 37 of the Convention and will accordingly pursue its examination of the admissibility and merits of the case.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

16. The applicants complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

17. The Government did not comment.

18. The Court notes that in May 1992, within the framework of a police investigation, the applicants submitted written explanations, admitting to having committed the thefts (see paragraph 6 above). It considers that asking for these explanations represented a sufficient notification on the part of the authorities of an allegation that the applicants had committed an offence (see *Stefanov and Yurukov*, cited above, § 15). Thus, the applicants must be considered to have been “charged” within the meaning of Article 6 § 1. However, the period to be taken into consideration began only on 7 September 1992, when the Convention entered into force in respect of Bulgaria. The period in question ended on 1 June 2004 when the Plovdiv District Court affirmed a plea agreement between the applicants and the

prosecution (see paragraph 9 above). It thus lasted about eleven years and nine months for one level of jurisdiction.

19. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, or inadmissible on any other grounds. It must therefore be declared admissible.

20. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicants and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II)

21. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see, for example, *Stefanov and Yurukov*, cited above).

22. Having examined all the material submitted to it, the Court sees no reason to reach a different conclusion in the present case. It notes, in particular, that the authorities remained completely inactive for a period of almost ten years (from 1992 to January 2002, see paragraphs 6-7 above) and that there appear to have been no delays attributable to the applicants. Furthermore, the case appears to be relatively simple. Thus, having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

23. There has accordingly been a breach of Article 6 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

24. The applicants further complained under Article 13 of the Convention of the lack of any effective remedy in respect the excessive length of the proceedings against them.

25. Article 13 reads:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

26. The Government did not comment.

27. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

28. In view of its finding above (see paragraph 23) that the length of the proceedings was excessive, the Court considers that the applicants had an “arguable claim” under Article 13.

29. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudła v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI).

30. The Court is not aware of the existence at the relevant time of any remedy under Bulgarian law, capable of preventing the alleged violation or its continuation, or of providing adequate redress (see *Gerdzhikov v. Bulgaria*, no. 41008/04, § 31, 4 February 2010, and *Stefanov and Yurukov*, cited above, § 21).

31. Accordingly, it finds that in the present case there has been a violation of Article 13 of the Convention on account of the lack of any effective remedy under domestic law in respect of the length of the criminal proceedings.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

32. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

33. The applicants claimed 13,000 euros (EUR) for each of them in respect of non-pecuniary damage.

34. The Government considered that the finding of a violation in the case would in itself constitute sufficient just satisfaction.

35. The Court considers that the applicants must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards to each of them EUR 3,500 under this head, plus any tax that may be chargeable.

B. Costs and expenses

36. The applicants also claimed EUR 3,305 for the costs and expenses incurred before the Court. They requested that any amount awarded under this head be transferred directly into the bank account of their legal representatives, Ms Stefanova and Mr Atanasov.

37. The Government considered this claim to be excessive.

38. According to 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. In the present case, regard being had to the circumstances of the case and the above criteria, the Court considers it reasonable to award the sum of EUR 600 covering costs under all heads, plus any tax that may be chargeable to the applicants. That sum is to be transferred directly into the bank account of the applicants' legal representatives.

C. Default interest

39. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Rejects* the Government's request to strike the application out of the list;
2. *Declares* the application admissible;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds* that there has been a violation of Article 13 of the Convention;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian leva at the rate applicable at the date of settlement:
 - (i) to each applicant, EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) jointly to the four applicants, EUR 600 (six hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid into the bank account of their legal representatives, Ms Stefanova and Mr Atanasov;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
6. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 4 November 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President