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

THIRD SECTION

DECISION

Application no. 73086/12
Vasil Dimitrov GEORGIEV
against Bulgaria
(see appended table)

The European Court of Human Rights (Third Section), sitting on 23 March 2023 as a Committee composed of:

Darian Pavli*, President*,
Ioannis Ktistakis,
Andreas Zünd*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having regard to the above application lodged on 27 October 2012,

Having regard to the unilateral declaration submitted by the respondent Government and their request that the application be struck out of the Court's list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The Bulgarian Government ("the Government") were given notice of the applicant's complaints, falling to be examined solely under Article 8 of the Convention, concerning (a) the manner in which the use of special means of surveillance is regulated in Bulgaria and (b) the alleged use of such means against him.

THE LAW

The Government made a unilateral declaration with a view to resolving the issues raised by these complaints. In that declaration, the Government acknowledged that there had been a breach of Article 8 of the Convention resulting from the manner in which the use of special means of surveillance was regulated in Bulgaria and the alleged use of such means against the

applicant, and offered to pay him the amount set out in the appended table. This amount would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision to strike the application out of its list of cases. In the event of failure to pay this amount within that period, the Government undertook to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment would constitute the final resolution of the case.

On that basis, the Government invited the Court to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

A copy of the Government's declaration was sent to the applicant, along with an invitation to submit any comments which he might wish to make in reply. In his comments, the applicant expressed dissatisfaction with the declaration, saying that it did not match up with the Court's settled case-law in relation to secret surveillance, in particular that concerning the oversight of the use of special means of surveillance, and invited the Court to reject the declaration and continue examining his application.

Under Article 37 § 1 (c), an application may be struck out of the Court's list of cases if "for any other reason established by the Court, it is no longer justified to continue [its] examination". In particular, an application may be struck out under this provision on the basis of a unilateral declaration by a respondent Government even if the applicant wishes that its examination be continued (see, for instance, *Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

In its recent judgment in *Ekimdzhiev and Others v. Bulgaria* (no. 70078/12, 11 January 2022), the Court comprehensively examined the laws governing secret surveillance in Bulgaria, as applied in practice, and found that they fell short of the minimum safeguards against arbitrariness and abuse required under Article 8 of the Convention in several respects (ibid., §§ 247, 262-77 and 291-359).

In view of the admissions in the Government's declaration and the amount of compensation offered, which is consistent with the awards made in similar cases, it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

As regards the applicant's objection to the terms of the declaration, there is no reason to find the compensation offered by the Government insufficient to redress the breach of his rights under Article 8 of the Convention. In *Ekimdzhiev and Others* (cited above, § 426), the Court held that the finding of violation was sufficient just satisfaction for any non-pecuniary damage suffered by the applicants. Although the present applicant alleges that he has in fact been subjected to secret surveillance, there is no tangible evidence to support this allegation, and therefore no basis to approach the question of

non-pecuniary damage in his case differently. In the circumstances, there can be no question of pecuniary damage either. As for costs and expenses, the applicant was not legally represented, and the work which he has himself put in preparing his application cannot be seen as costs actually incurred by him (see *Steel and Morris v. the United Kingdom*, no. 68416/01, § 112, ECHR 2005-II; *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, no. 44079/98, § 125, 20 October 2005; and *Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria*, no. 62540/00, § 114, 28 June 2007). A lump sum of 100 euros appears sufficient to cover his clerical and postal expenses in preparing and submitting the application and corresponding with the Court.

In the light of all this, it can also be concluded that respect for human rights as defined in the Convention and the Protocols thereto does not require the Court to nonetheless continue the examination of the application (Article 37 § 1 *in fine*).

Should the Government fail to comply with the terms of their declaration, the application may be restored to the Court's list of cases under Article 37 § 2 (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the application out of the Court's list of cases.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 13 April 2023.

Viktoriya Maradudina	Darian Pavli
Acting Deputy Registrar	President

APPENDIX

Application raising complaints under Article 8 of the Convention (secret surveillance)

Application no. Date of introduction	Applicant's name Year of birth	Date of receipt of the Government's declaration	Date of receipt of the applicant's comments	Amount offered for costs and expenses (in euros)[1]
73086/12 27 October 2012	**Vasil Dimitrov GEORGIEV** 1971	28 November 2022	1 March 2023	100

1. Plus any tax that may be chargeable to the applicant