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

THIRD SECTION

DECISION

Application no. 56289/19
Radka Ivanova KUZMANOVA and Ivan Valkov IVANOV
against Bulgaria

The European Court of Human Rights (Third Section), sitting on 9 May 2023 as a Committee composed of:

Ioannis Ktistakis*, President*,
Yonko Grozev,
Andreas Zünd*, judges*,
and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 56289/19) 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") on 17 October 2019 by two Bulgarian nationals, Ms Radka Ivanova Kuzmanova and Mr Ivan Valkov Ivanov ("the applicants"), who were born in 1940 and 1965 respectively and live in Shumen and who were represented by Mr M. Ekimdzhiev, Ms K. Boncheva and Ms M. Dokova-Kostadinova, lawyers practising in Plovdiv;

the decision to give notice to the Bulgarian Government ("the Government"), represented by their Agents, Ms A. Panova and Ms M. Kotseva, of the complaints concerning the adequacy of compensation paid to the applicants for property expropriated from them, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case is of the type examined in *Kostov and Others v. Bulgaria* (nos. 66581/12 and 25054/15, 14 May 2020), and concerns the adequacy of compensation for expropriation under the State Property Act. In 2018 the Council of Ministers expropriated 7,341 sq. m of land owned by the

applicants, granting compensation of 2,004 Bulgarian levs (BGN), equivalent to approximately 1,024 euros (EUR), at a rate of BGN 0.27 (EUR 0.14) per sq. m. Since only one comparable transaction was available to serve as a basis for calculating a fair market value, and that was insufficient under the relevant legal provisions, the compensation was set under the Regulation on the calculation of the value of agricultural land (hereinafter "the Regulation"; for more details see *Kostov and Others*, cited above, §§ 30-32). In a final judgment of 17 April 2019, the Supreme Administrative Court upheld the Council of Ministers' decision, including the level of compensation.

2. The applicants complained under Article 1 of Protocol No. 1, relying in addition on Article 13 of the Convention, that the compensation was too low.

THE COURT'S ASSESSMENT

3. The relevant domestic law and practice and the criteria concerning the adequacy of compensation for expropriation under the State Property Act have been described in *Kostov and Others* (cited above). In particular, the Court reiterated that the taking of property without payment of an amount reasonably related to its value would normally constitute a disproportionate interference, and that the amount of compensation had to be calculated on the basis of the value of the property at the date on which ownership of it was lost (ibid., §§ 62-63).

4. In the individual cases examined in *Kostov and Others*, where the Regulation had also been applied, the Court found a violation of Article 1 of Protocol No. 1. It considered that, despite the lack of sufficient number of market comparators meeting the requirements of the State Property Act, there were serious indications that the market value of the applicants' land was likely to have been much higher than the compensation calculated under the Regulation. That compensation did not therefore meet the requirement of being reasonably related to the value of the applicants' land (ibid., §§ 81-87 and the conclusion reached in § 91).

5. The Court therefore has to assess in the present case, on the basis of the facts submitted by the parties, whether the compensation awarded to the applicants, and calculated under the same Regulation as in *Kostov and Others* (cited above), was reasonably related to the market value of their land.

6. The property expropriated from the applicants was described in the relevant documents as agricultural land in the village of Gradishte, Shumen Municipality. As mentioned above, the compensation calculated under the Regulation was set at BGN 0.27 (EUR 0.14) per sq. m.

7. In order to justify such compensation as adequate, the Government pointed out that the rate used in the only transaction considered comparable under the applicable legislation was lower, namely BGN 0.10 (EUR 0.05) per

sq. m. In addition, other owners of property that had been expropriated in the area had received compensation similar to that awarded to the applicants.

8. The applicants, on the other hand, relied on an expert report commissioned by them and dated 4 April 2022. On the basis of the data in the report, they argued that a fair level of compensation for their property would have been BGN 1.10 (EUR 0.56) per sq. m. According to the report, this was the average value of agricultural land in the Shumen Region (of which the Shumen Municipality is only a part) irrespective of the type and characteristics of the land. The data were taken from "publicly available sources – Internet". The expert considered that there had been "no registered sales of similar properties" in the relevant period. The applicants presented separate information obtained from the websites of estate agencies and other publications carrying general information about the local property market, suggesting about BGN 0.80 (EUR 0.41) per sq. m as the average price of agricultural land in the Shumen Region in the period preceding the expropriation.

9. In *Kostov and Others* (cited above) the Court considered the amounts of compensation calculated under the Regulation inadequate, but did not rule out the adequacy of that instrument in other circumstances. What was decisive was whether the applicants had shown that there could be major discrepancies between values indicative of a market price and the amount of compensation calculated under the Regulation (see §§ 86-87 of the judgment).

10. In the present case, the expert report and the publications submitted by the applicants are too general, do not take account of the location and the characteristics of the applicants' land, and cannot be relied on to establish a fair market value. At the same time, contrary to the statement of the applicants' expert, there existed a market comparator where land had been sold at a price lower than the compensation awarded to the applicants.

11. The applicants have not thus sufficiently substantiated their claim that the compensation calculated under the Regulation was not reasonably related to the market value of their expropriated land.

12. Accordingly, unlike the situation in *Kostov and Others* (cited above, § 92) and in accordance with the criteria set in that judgment, it cannot be said that the interference with the applicants' rights under Article 1 of Protocol No. 1 was disproportionate, or that the requirements of that provision were not met.

13. The above conclusion also means that the applicants had no "arguable claim" for the purposes of Article 13 of the Convention.

14. In view of the above and in the light of all the material in its possession, the Court finds that the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 June 2023.

Olga Chernishova Deputy Registrar	Ioannis Ktistakis President