

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

FOURTH SECTION

DECISION

Application no. 12506/08
Branimir Milkov MITEV
against Bulgaria

The European Court of Human Rights (Fourth Section), sitting on 15 January 2013 as a Committee composed of:

David Thór Björgvinsson, *President,*
Vincent A. De Gaetano,
Krzysztof Wojtyczek, *judges*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 15 January 2008 and communicated as part of the grouped communication in Perpelieva and 14 other applications v. Bulgaria (no. 2404/06 and others),

Having regard to the declaration submitted by the respondent Government on 26 July 2012 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Branimir Milkov Mitev, is a Bulgarian national, who was born in 1953 and lives in Sofia. He was represented by Ms K. Lefterova.

The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

The applicant, relying on Article 6 § 1 of the Convention, complained about the length of civil proceedings for the nullification of a contract for the sale of an apartment, and under Article 13 of the Convention and

Article 1 of Protocol No. 1 of the lack of effective remedies in relation to the length and about the impact of the length of the proceedings on his property rights. This part of the application was communicated to the Government.

The civil proceedings started on 4 May 1998 and ended on 17 July 2007. Thus they lasted nine years and two months for three levels of jurisdiction.

The applicant also complained under Article 6 of the alleged unfairness of another set of proceedings that ended by a final judgment of 28 June 2001. Relying on Articles 6, 8 and on Article 1 of Protocol No. 1 he further complained about the outcome of the 1998-2007 proceedings. Relying on Article 3, the applicant complained that during both sets of proceedings the national authorities subjected him to degrading treatment. He further complained under Article 6 that the prosecuting authorities stayed criminal proceedings against third parties.

THE LAW

1. After the failure of attempts to reach a friendly settlement, by a letter dated 26 July 2012 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the application. By this declaration the Government acknowledged the excessive length of the civil proceedings and the lack of effective remedies in respect of the length, and the impact of the length of the proceedings on property rights and offered the applicant a compensation of EUR 2,900.

The Government invited the Court to strike the application out of the list of cases. They suggested that the declaration might be accepted by the Court as "any other reason" justifying the striking out of the case of the Court's list, as referred to in Article 37 § 1 (c) of the Convention.

The declaration also provided that the compensation sum was to cover any pecuniary and non-pecuniary damage, as well as, costs and expenses, where applicable, and would be free of any taxes that may be chargeable, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement. The sum would be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay the sum within the said three-month period, the Government undertook to pay simple interest on it from 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.

When invited to submit comments in reply to the Government's unilateral declaration, in a letter of 31 August 2012 the applicant indicated

that he was not satisfied with the terms of the unilateral declaration on the ground that the proposed sum was insufficient and requested the Court to pursue the examination of his case.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the applications".

The Court also recalls that in certain circumstances, it may strike out an application under Article 37 § 1(c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI); *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03, 18 September 2007).

The Court has established in a number of cases, including those brought against Bulgaria, its practice concerning complaints about the violation of one's right to a hearing within a reasonable time in civil proceedings (see, for example, *Finger v. Bulgaria*, no. 37346/05, §§ 93-96, no. 37346/05, 10 May 2011, with further references).

Having regard to the nature of the admission contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

In view of the above, it is appropriate to strike the application out of the list in so far as it concerns the excessive length of the civil proceedings, the lack of effective remedies in respect of the length and the impact of the length of the proceedings on property rights.

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

2. The applicant also complained under Article 6 of the alleged unfairness of another set of proceedings that ended by a final judgment of 28 June 2001. Relying on Articles 6, 8 and on Article 1 of Protocol No. 1, he further complained about the outcome of the 1998-2007 proceedings. Relying on Article 3, the applicant complained that during both sets of proceedings the national authorities subjected him to degrading treatment. He further complained under Article 6 that the prosecuting authorities stayed criminal proceedings against third parties.

The Court has examined these complaints as submitted by the applicant. Having regard to all the material in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols.

It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and under Article 13 in relation to the applicant's complaints concerning length of proceedings and under Article 1 of Protocol No. 1 in relation to the impact of the length of the proceedings on property rights;

Decides to strike the application out of its list of cases in so far as it relates to the above complaints, in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the application inadmissible.

Fatoş Aracı
Deputy Registrar

David Thór Björgvinsson
President