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

FIFTH SECTION

DECISION

Application no. 46969/09
Olga Velikova PETROVA
against Bulgaria

The European Court of Human Rights (Fifth Section), sitting on 14 June 2016 as a Committee composed of:

Erik Møse, *President*,
Yonko Grozev,
Mārtiņš Mits, *judges*,
and Milan Blaško, *Deputy Section Registrar*,

Having regard to the above application lodged on 21 July 2009,

Having regard to the declaration submitted by the respondent Government on 16 November 2015 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, Ms Olga Velikova Petrova, is a Bulgarian national, who was born in 1954 and lives in Plovdiv. She was represented before the Court by Mr M. Ekimdzhiev and Ms K. Boncheva, lawyers practising in Plovdiv.

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

The facts of the case, as submitted by the parties, may be summarised as follows.

In a final judgment of 20 October 1994 the Supreme Court awarded the applicant 20,000 old Bulgarian levs (BGL, the equivalent of around United States dollars 312 at that time) in damages, plus interest, against a State-owned company in relation to an occupational disease suffered by her. On 13 January 1995 the applicant was issued with a writ of execution in

respect of the awarded amounts. On 23 January 1995 she requested that the bailiff institute enforcement proceedings against the company. The enforcement proceedings were subsequently stayed because insolvency proceedings against the company had been opened in the meantime. The insolvency proceedings ended on 19 February 2009 with a judgment of the Plovdiv Regional Court. The applicant did not receive payment as the company's resources were not sufficient to cover all the debts.

The applicant complained about the failure by the national authorities to enforce the said final court decision in her favour. She relied on Article 6 § 1 of the Convention, Article 1 of Protocol No. 1 and Article 13 of the Convention in conjunction with the preceding provisions.

The application was communicated to the Government on 10 July 2014.

THE LAW

After the failure of attempts to reach a friendly settlement, on 16 November 2015 the Government submitted a unilateral declaration with a view to resolving the issue raised by the application.

The Government acknowledged that in the case there had been a violation of the right to a fair trial, protected by Article 6 § 1 of the Convention, a violation of the right to peaceful enjoyment of the applicant's possessions, protected by Article 1 of Protocol No. 1 and a violation of the right to effective remedies, protected by Article 13 of the Convention in connection with Article 6 § 1 and Article 1 of Protocol No. 1. The Government also offered to pay to the applicant compensation in the amount of EUR 5,200 which they considered reasonable in the light of the Court's case-law. The sum referred to above was to cover any and all damage as well as costs and expenses plus any tax that may be chargeable to the applicant. The sum would be converted into Bulgarian levs at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the decision taken by the Court to strike the case out of the list of cases. In the event of failure to pay this 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. Payment of the sum above would constitute the final resolution of the case.

By a letter of 11 January 2016, the applicant indicated that she was not satisfied with the terms of the unilateral declaration on the ground that the financial terms of the declaration did not adequately correspond to the pecuniary and non-pecuniary damage sustained by her.

The Court reiterates 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 application".

The Court also reiterates 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 has examined the declaration carefully 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 in respect of Bulgaria, its practice concerning complaints about the violation of Article 6 § 1, Article 1 of Protocol No. 1 and Article 13 as a result of the failure of the authorities to enforce judgments in the applicants' favour (see, for example, *Burdov v. Russia (no. 2)*, no. 33509/04, ECHR 2009; *Yuriy Nikolayevich Ivanov v. Ukraine*, no. 40450/04, 15 October 2009, and *Stoyanov and Tabakov v. Bulgaria*, no. 34130/04, 26 November 2013).

Having regard to the nature of the admissions 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*).

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).

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

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the modalities 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 7 July 2016.

Milan Blaško
Deputy Registrar

Erik Møse
President