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

FIFTH SECTION

DECISION

Application no. 44742/09
Zaro Georgiev STAYKOV
against Bulgaria

The European Court of Human Rights (Fifth Section), sitting on 8 March 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 18 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, Mr Zaro Georgiev Staykov, is a Bulgarian national, who was born in 1961 and lives in Plovdiv.

The Bulgarian Government ("the Government") were represented by their Agent, Mr V. Obretenov, of the Ministry of Justice.

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

The case concerns restitution of agricultural land. The procedure was initiated by the applicant's mother, of whom the applicant is the sole heir. In a judgment of 10 March 2003 the Burgas Regional Court recognised her right to the restitution in kind of two plots of land totalling 2,025 sq. m. However, in subsequent proceedings, which ended on 7 May 2009, between the applicant's mother, succeeded by the applicant, and a third party – a

company, successor of a former State enterprise to which the property had been allocated for management and use after the collectivisation – the question of the plaintiffs' entitlement to restitution in kind was re-examined. It was in particular found that the initial restitution decision was erroneous and that restitution in kind was impossible, because construction works had been carried out on the plots, and in such cases domestic law provided that the interested parties were entitled to compensation in lieu of restitution.

The applicant complained under Article 1 of Protocol No. 1 of the delays in the restitution procedure and the lengthy uncertainty as to the scope of his restitution rights.

On 12 March 2015 the application was communicated to the Government.

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 issues raised by the application.

The Government acknowledged that in the case there had been a violation of Article 1 of Protocol No. 1, and offered to the applicant a compensation of 2,500 euros. They stated that this sum was to cover any damage as well as costs and expenses, would be free of any taxes that may be chargeable to the applicant, and would be converted into Bulgarian levs 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 by the Court to strike the case out of its list. In the event of failure to pay the sum within the said 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.

By a letter of 12 January 2016 the applicant indicated that he was not satisfied with the amount of compensation proposed in the declaration, and invited the Court to continue the examination of the application.

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 observes 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.

The Court has examined carefully the declaration in the present case, in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; see also *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 found violations of Article 1 of Protocol No. 1 on account of excessive delay and lengthy uncertainty in proceedings concerning restitution of agricultural land in a number of cases against Bulgaria (see *Sivova and Koleva v. Bulgaria*, no. 30383/03, 15 November 2011; *Nedelcheva and Others v. Bulgaria*, no. 5516/05, 28 May 2013; *Karaivanova and Mileva v. Bulgaria*, no. 37857/05, 17 June 2014; *Ilieva and Others v. Bulgaria*, no. 17705/05, 3 February 2015; *Nedyalkov and Others v. Bulgaria*, no. 44103/05, 2 June 2015).

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 above – 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 (see *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 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 31 March 2016.

Milan Blaško
Deputy Registrar

Erik Møse
President