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

FIFTH SECTION

DECISION

Application no. 8949/11
Encho Stoyanov STOYANOV and Others
against Bulgaria

The European Court of Human Rights (Fifth Section), sitting on 22 November 2016 as a Committee composed of:

Erik Møse, *President,*
Yonko Grozev,
Mārtiņš Mits, *judges,*
and Anne-Marie Dougin, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 17 December 2010,

Having regard to the declaration submitted by the respondent Government on 11 April 2016 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicants, Mr Encho Stoyanov Stoyanov, Ms Galina Stoyanova Stoyanova and Mr Yakim Atanasov Yakimov, are Bulgarian nationals, who were born in 1945, 1947 and 1948 respectively and live in Ruse. They were represented before the Court by Ms S. Margaritova-Vuchkova, a lawyer practising in Sofia.

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 proceedings concerning restitution of agricultural land, in two decisions of 11 June 1993 the competent land commission restored the applicants' rights to two plots of land totalling 6,000 square metres**.**

However, it turned out that after the collectivisation the land had been allocated for management and use to a State-owned enterprise, which after 1991 had been registered as a company. In 1997 it sold the property to another company, P.

In subsequent proceedings brought by the applicants against P., which ended on 30 June 2010, the national courts, re-examining the question whether the applicants were entitled to restitution in kind, found that they were not, 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 applicants received the compensation they were entitled to in February 2011.

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

On 22 June 2015 the application was communicated to the Government.

THE LAW

After the failure of attempts to reach a friendly settlement, on 11 April 2016 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 jointly to the three applicants 6,000 euros in compensation. 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.

The applicants did not comment on the declaration.

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."

In the present case, the Court has examined the Government's declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Sp. 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 the 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 (*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 15 December 2016.

Anne-Marie Dougin	Erik Møse
Acting Deputy Registrar	President