

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

FOURTH SECTION

DECISION

Application no. 16403/07
Radko Todorov YANCHEV
against Bulgaria

The European Court of Human Rights (Fourth Section), sitting on 20 March 2012 as a Committee composed of:

George Nicolaou, *President,*
Zdravka Kalaydjieva,
Vincent A. De Gaetano, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 16 March 2007,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Radko Todorov Yanchev, was a Bulgarian national who was born in 1934 and lived in Sofia. He was represented before the Court by Mr V. Stoyanov, a lawyer practising in Pazardzhik. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

In 1998 the applicant brought civil proceedings for the nullification of a contract. The proceedings lasted eight years and three months for three levels of jurisdiction.

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COMPLAINTS

The applicant, relying on Article 6 § 1, complained about the length of civil proceedings , and relying on Article 1 of Protocol No. 1, about the impact of the length of the proceedings on property rights and under Article 13 about the lack of effective remedies in respect of the length.

THE LAW

In the instant case, on 8 August 2011 notice of the application was given to the Government and the parties were invited to secure a friendly settlement. On 29 September 2011 the applicant's legal representative informed the Court that the applicant had passed away on 2 April 2007, shortly after having introduced the present application. The representative provided a document issued by the Sofia municipality, which stated that the applicant did not have children and that his heirs were his wife and his brother. He also presented a document, stating that the applicant's wife had passed away in 2008. He informed the Court that her son, from another relationship, wished to pursue the proceedings in the applicant's case. In a letter of 9 November 2011 the applicant's representative further clarified that he did not have any information about the applicant's brother.

The Court notes that in a number of cases in which an applicant died in the course of the proceedings it has taken into account the statements of the applicant's heirs or of close relatives expressing the wish to pursue the proceedings (see, among other authorities, *Deweer v. Belgium*, 27 February 1980, §§ 37-38, Series A no. 35; *X v. France,* no. 18020/91, § 26, 31 March 1992 and *Raimondo v. Italy*, 22 February 1994, § 2, Series A no. 281-A), or the existence of a legitimate interest claimed by a person wishing to pursue the application (see *Malhous v. the Czech Republic* (dec.) [GC], no. 33071/96, ECHR 2000-XII).

On the other hand, it has been the Court's practice to strike applications out of the list of cases in the absence of any heir or close relative who has expressed the wish to pursue an application and in the absence of any legitimate interest to pursue the proceedings (see, among other authorities, *Scherer v. Switzerland*, 25 March 1994, §§ 31-32, Series A no. 287; *Öhlinger v. Austria*, no. 21444/93, Commission's report of 14 January 1997, § 15; *Thévenon v. France* (dec.), no. 2476/02, ECHR 2006-III and *Léger v. France* (striking out) [GC], no. 19324/02, 30 March 2009).

The Court observes that in the present case the request to pursue the proceedings was submitted by a person who is not the applicant's next of kin and who is not the applicant's heir under national law and who further does not claim to have a legitimate interest in having the proceedings

pursued before the Court. It is also noted that the applicant's legal representative did not inform the Court in good time of the applicant's death.

In the light of the foregoing, in accordance with Article 37 § 1 (c) of the Convention, the Court considers that it is no longer justified to continue the examination of the application. Furthermore, having regard to the fact that similar issues have been resolved in other cases before it (see *Finger v. Bulgaria*, no. 37346/05, 10 May 2011) the Court considers that respect for human rights does not require it to continue the examination of the case (see, *mutatis mutandis, Scherer*, cited above).

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Fatoş Aracı Deputy Registrar	George Nicolaou President