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

THIRD SECTION

DECISION

Application no. 10599/14
Sotir Zhivkov YANKOV and Others
against Bulgaria

The European Court of Human Rights (Third Section), sitting on 6 February 2024 as a Committee composed of:

Ioannis Ktistakis*, President*,
Yonko Grozev,
Andreas Zünd*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the application (no. 10599/14) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 23 January 2014 by three Bulgarian nationals and a Bulgarian limited liability company, whose relevant details are listed in the appended table ("the applicants"), and who were represented before the Court by Mr M. Ekimdzhiev and Mrs S. Stefanova, lawyers practising in Plovdiv;

the decision to give notice of the complaints concerning the freezing of the applicants' assets with a view to their prospective forfeiture as proceeds of crime to the Bulgarian Government ("the Government"), represented by their Agent, Ms S. Sobadzhieva from the Ministry of Justice, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the freezing of numerous assets of the applicants – in particular real property – with a view to their prospective forfeiture as proceeds of crime, in proceedings under the Forfeiture of Proceeds of Crime Act 2005 (hereinafter "the 2005 Act", for more detail see *Todorov and Others v. Bulgaria*, nos. 50705/11 and 6 others, §§ 90-110, 13 July 2021). The

measures were imposed in 2013, after the applicants-physical persons were charged with large-scale tax evasion, and have remained in force, pending the outcome of the criminal proceedings. Under the 2005 Act, actual forfeiture claims can only be brought if the applicants are convicted in a final judgment.

2. The applicants complained, relying on Article 1 of Protocol No. 1 and Articles 6 § 1 and 13 of the Convention, that the freezing measures were arbitrary and unjustified, and that they had remained in force for an overly lengthy period of time.

3. On 28 October 2021 the Registry of the Court sent a letter to the applicants, asking them whether there were any relevant developments in the criminal proceedings against them and in the proceedings under the 2005 Act. In a letter dated 14 December 2021 the applicants responded that the criminal proceedings remained pending, and that "the interlocutory measures against the applicants [were] still in force".

4. The case was communicated to the Bulgarian Government on 12 April 2022. In the months that followed the parties exchanged observations.

5. It then transpired from the Government's observations on the admissibility and merits of the case that the situation with the applicants' frozen real property had changed. In fact, many of the properties concerned – several plots of land, flats and garages – had been mortgaged prior to being frozen under the 2005 Act, and between 2014 and 2016 were put up for public sale and sold to third parties. The impugned freezing measures in favour of the State were accordingly lifted.

6. The most valuable real property the applicants complained about – an industrial facility comprising land and numerous buildings, owned by the fourth applicant, the company Yankov i Sie OOD (see the appended table) – was also sold to a third party in 2016, after in 2014 the company was declared bankrupt. The interlocutory measures under the 2005 Act were lifted in 2016.

THE COURT'S ASSESSMENT

7. The Government argued on the basis of the above that the applicants had abused their right to individual application to the Court, as they had withheld from it important information.

8. Under Article 35 § 3 (a) of the Convention, an application may be rejected as an abuse of the right of individual application if, among other reasons, it was knowingly based on untrue facts, or if the applicants submit incomplete and thus misleading information. Such information must concern the very core of the case. The same applies if important new developments occur during the proceedings before the Court and the applicants fail to disclose that information, thereby preventing the Court from ruling on the case in full knowledge of the facts (see, among other authorities, *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *Bekauri v. Georgia*, (dec.) no. 14102/02, §§ 21-23, 10 April 2012).

9. In the case at hand, the applicants complained of the freezing of their assets in proceedings under the 2005 Act (see paragraph 2 above). However, they failed to inform the Court that in the years following the lodging of their application they had lost the titles to a large number of the assets concerned, including the most valuable of them – the applicant company's industrial facility, and that the interlocutory measures complained of had been lifted. The obligation to inform the Court of any relevant new developments is contained in Rule 47 § 7 of the Rules of Court. In the present case, the Court expressly asked before the communication whether there had been any new relevant developments in the proceedings under the 2005 Act (see paragraph 3 above). The applicants withheld the relevant information and, accordingly, when communicating the application to the respondent Government in 2022 (see paragraph 4 above), the Court did so without full knowledge of the facts. The complaints raised by the applicants concerning the justifiability and the duration of the interlocutory measures against them, the Court is of the view that the information that was concealed from it concerned the very core of the case (compare *Zbyranyk and Smetanin v. Ukraine* (dec.) [Committee], nos. 453/21 and 9741/21, 10 March 2022).

10. The applicants did not present any valid justification for their failure to inform in due time the Court of the new developments discussed above.

11. Accordingly, the Court upholds the Government's objection that the applicants' conduct constituted an abuse of the right of application within the meaning of Article 35 § 3 (a) of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 March 2024.

Olga Chernishova Deputy Registrar	Ioannis Ktistakis President

Appendix

List of applicants:

No.	Applicant's Name	Year of birth/ registration	Place of residence
1.	Sotir Zhivkov YANKOV	1956	Plovdiv
2.	Elena Atanasova YANKOVA	1961	Plovdiv
3.	Maria Sotirova YANKOVA	1984	Plovdiv
4.	YANKOV I SIE OOD	1992	Plovdiv