CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIRST SECTION

DECISION

Application no. 56953/00
by Silvia and Petar YORDANOVI
against Bulgaria

The European Court of Human Rights (First Section), sitting on 5 January 2006 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mrs E. STEINER,
Mr K. HAJIYEV,
Mr D. SPIELMANN
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 30 March 2000,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the correspondence with the parties,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mrs Silvia Petrova Brankova-Yordanova and Mr Petar Filipov Yordanov, are Bulgarian nationals who were born in 1963 and 1974 respectively and at the time when the application was introduced lived in Sofia. On 25 January 2001 they left Bulgaria and their present whereabouts are unknown. They were represented before the Court by Ms D. Dokovska and Ms I. Lulcheva, lawyers practising in Sofia.

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

On 22 September 1999 the applicants were arrested in the context of a criminal investigation against them on allegations of fraud, opened the previous day by the Sofia Investigation Service.

It was stated that at the time of the arrest the first applicant was three months pregnant. She averred that several days before the arrest the normal development of her pregnancy had been confirmed by a physician.

The applicants were taken to a police station, where they were separated. There, the second applicant was questioned and later served with a police order for a twenty-four hour detention.

The first applicant was placed in a room and kept there for the rest of the day and the night, handcuffed. The police officer present in the room allegedly called her a 'bitch' and a 'slut'. He refused to close the window even after the first applicant informed him she was pregnant and complained she was cold. At one point, after taking off her handcuffs to escort her to the toilet, the officer allegedly pushed and kicked her.

The first applicant repeatedly informed the wardens that she was pregnant. At midnight she was taken, handcuffed, for an examination by a gynaecologist at the Sofia Regional Hospital. During the examination she remained handcuffed. A scan was carried out later, allegedly confirming the pregnancy. During the scan the first applicant's handcuffs were removed. After the examination she was taken back to the police station, where she was served with a twenty-four hour detention order.

At about 10 a.m. on 23 September 1999 both applicants were allegedly transferred to another detention facility, where they were put in a cage. They were allegedly not allowed to go to the toilet and remained handcuffed in the cage until 5 p.m. They were only taken out to see an investigator and be charged. After 5 p.m. the applicants were taken to separate cells for the night. At about 5 a.m. the first applicant had an asthma attack. She asked the guards to open the cell door, explaining that she was pregnant and could not breathe. Approximately thirty minutes later she was moved back to the cage and remained there until 8 a.m.

Later that day, 24 September 1999, the applicants were allegedly taken to the detention centre of the Sofia Specialised Investigation Service.

On 25 September 1999 the first applicant was seen by the in-house physician, who, after being informed by her that she had spotted blood on her underwear, promised to arrange an outside medical examination.

At 1 a.m. on 1 October 1999 the first applicant started experiencing abdominal pain. She asked for an antispasmodic drug, and one was given to her by the guards. Allegedly it did not stop the pain. At one point the first applicant started bleeding and collapsed. Two other detainees in the same cell shouted to alert the guards, who only opened the door thirty minutes later. The guards poured water on the applicant, cuffed one of her hands and dragged her along the corridor to a car, which took her to the hospital of the Ministry of Internal Affairs. As there was no gynaecologist there, she was

taken to the gynaecology department of the Medical Academy. When she was brought into the examination room she was still handcuffed. The doctor asked the police officers to remove the cuffs. It appears that the examination found that the applicant had started to undergo a miscarriage. The police officers asked the doctor to hurry with the manipulations, so that the applicant could be brought back to the detention facility without delay. The doctor refused, stating that the applicant was bleeding and her life was at risk. Moreover, every effort had to be made to save the foetus and only if that proved impossible, the doctor would perform an abortion. After the examination the applicant was handcuffed again and remained in the hospital until 7 a.m., when a curettage was performed on her. It seems that it was then discovered that the applicant had in fact had a false pregnancy.

In the meantime the applicants appealed against their detention to the Sofia District Court. The court held a hearing on 1 October 1999 and by a decision of the same date released the first applicant. The court adjourned the examination of the second applicant's appeal until 8 October 1999.

On 8 October 1999 the Sofia District Court decided to release the second applicant on a bail of 500,000 new Bulgarian levs. Since the applicant was not able to pay the amount of the bail, he remained in custody.

The applicants complained to the Sofia District Prosecutor's Office about their charging and about the second applicant's detention. By a decree of 13 October 1999 a prosecutor of the Sofia District Prosecutor's Office ordered the second applicant's immediate release.

The second applicant was released on 14 October 1999.

The decision to release the second applicant was later upheld by the Sofia City Prosecutor's Office, the Sofia Appellate Prosecutor's Office, and Supreme Cassation Prosecutor's Office.

The criminal proceedings against the applicants continued, but were stayed on 13 April 2001 after the competent authorities found that the applicants had left the country on 25 January 2001 and that their present whereabouts were unknown.

COMPLAINTS

1. The first applicant complained under Article 3 of the Convention that despite the fact that she had been pregnant she had been kept in very poor conditions of detention, that she had been ill-treated and that she had been refused timely medical help.

2. Both applicants complained under Article 5 § 1 (c) of the Convention that at the time of their arrest there had been no reasonable suspicion of them having committed an offence.

3. Both applicants complained under Article 5 § 3 of the Convention that after their arrest they had not been brought before a judge or other officer authorised by law to exercise judicial power.

4. The second applicant complained under Article 5 § 3 of the Convention that the amount of his bail fixed by the Sofia District Court had been disproportionately high.

THE LAW

On 3 December 2004, pursuant to a decision of the President of the Chamber of 1 December 2004, notice of the application was given to the respondent Government under Rule 54 § 2 (b) of the Rules of Court. They were invited to submit written observations on the admissibility and merits of the case.

The Government's observations were submitted on 19 April 2005. On 3 May 2005 they were transmitted to the applicants' representatives who were invited to submit observations in reply before 13 June 2005. They did not submit observations within this time-limit, nor did they ask for any extension of time.

On 18 July 2005 the Court sent, by registered mail with acknowledgement of receipt, a letter to the applicants' representatives, informing them of the terms of Article 37 § 1 (a) of the Convention. They were further warned that failure to reply might lead the Court to conclude that the applicants no longer intended to pursue their application. As the acknowledgement of receipt did not arrive back at the Court, a copy of that letter was resent on 16 September 2005, again by registered mail with acknowledgement of receipt. It was received by the applicants' representatives on 30 September 2005. They did not reply.

Having regard to the foregoing and to the terms of Rule 37 § 1 of the Rules of Court, whereby "communications or notifications addressed to the ... advocates of the parties shall be deemed to have been addressed to the parties", the Court finds that the applicants do not intend to pursue their application within the meaning of Article 37 § 1 of the Convention, which, as far as material, provides as follows:

> "The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> (a) the applicant does not intend to pursue his application; ...
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> ...
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> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

Furthermore, the Court is of the view that respect for human rights as defined in the Convention and the protocols thereto does not require the continued examination of the application (Article 37 § 1 *in fine*).

In these circumstances, the Court concludes that the application should be struck out of its list of cases in accordance with Article 37 § 1 of the Convention.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention and to strike the application out of its list of cases.

Søren NIELSEN
Registrar

Christos ROZAKIS
President