

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

FOURTH SECTION

DECISION

Application no. 26471/06
Nevena Taneva ZAGORCHINOVA
against Bulgaria

The European Court of Human Rights (Fourth Section), sitting on 5 July 2012 as a Committee composed of:

Päivi Hirvelä, *President,*
Ledi Bianku,
Zdravka Kalaydjieva, *judges,*

and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 20 June 2006,

Having regard to the decision of 21 September 2010,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

## THE FACTS

The applicant, Ms Nevena Taneva Zagorchinova, is a Bulgarian national, who was born in 1932 and lives in Plovdiv. She is represented before the Court by Mr D. Dyakov, a lawyer practising in Plovdiv.

The Bulgarian Government ("the Government") are represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

### A. The circumstances of the case

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

The applicant's father owned several plots of agricultural land in the area around Chirpan, which were nationalised after 1944. In 1991, following the adoption of denationalisation legislation in Bulgaria, the applicant and the remainder of her father's heirs applied for the restitution of the land. Their right to restitution or compensation in respect of several plots of land was acknowledged in two judgments of the Chirpan District Court of 30 October 1996 and 29 October 1999.

Subsequently, by two decisions of 20 April 2001 the Chirpan agricultural land commission specified that the heirs were to receive compensation through comparable municipally-owned land or compensation bonds.

In 2002 the applicant brought a claim against the agricultural land commission seeking damages for its failure to complete the restitution process in good time. On 23 November 2004 the claim was dismissed by the Stara Zagora Regional Court, which referred, inter alia, to the fact that the applicant had already been awarded compensation bonds.

Prior to the communication of the present application, the applicant assured the Court that the Stara Zagora Regional Court had erred and that she had not received any compensation for her father's land.

After the communication the respondent Government submitted documents showing that compensation bonds in the name of the applicant's father's heirs had been issued on 30 May 2003. The Government specified that the applicant and the remaining heirs had never presented themselves at the Chirpan Agricultural Department (former agricultural land commission) to receive the necessary documents. They are still entitled to do so.

### B. Relevant domestic law and practice

The relevant domestic law and practice concerning the process of restitution of agricultural land have been summarised in the Court's judgments in the cases of *Mutishev and Others v. Bulgaria* (no. 18967/03, §§ 61-90, 3 December 2009) and *Lyubomir Popov v. Bulgaria* (no. 69855/01, §§ 83-88 and 92-92, 7 January 2010).

## COMPLAINTS

Relying on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1, the applicant complained that the authorities had unjustifiably delayed the process of restitution of agricultural land.

# THE LAW

The Court is of the view that the applicant's complaints fall to be examined solely under Article 1 of Protocol No. 1, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The Government urged the Court to dismiss the complaints as inadmissible, considering that the applicant's assertions that she had not received compensation amounted to an abuse of the right to individual application and that, in addition, her complaints were time-barred because the restitution procedure had been completed on 30 May 2003, more than six months before the lodging of the present application on 20 June 2006. The Government argued also that the complaints were manifestly ill-founded.

The applicant reiterated that she had not been aware of the issuance of compensation bonds in her father's heirs' name. In addition, she argued that the heirs should have been allotted comparable municipally-owned land instead. She reiterated her assertion that the restitution process had lasted an unjustifiably long period of time.

The Court takes note of the Government's objections that the applicant had abused her right to individual application and that the application was time-barred. It takes note also of the applicant's repeated assertions that she had not been aware of the issuance of compensation bonds. The Court considers that it is not necessary to determine whether the Government's objections are justifiable, as it considers that the application is in any event inadmissible for the reasons below.

The Court notes that the present complaint, which concerns allegations of unjustified delays in the restitution procedure, is of the type examined in the case of *Lyubomir Popov v. Bulgaria*, no. 69855/01, §§ 109-131, 7 January 2010.

The Court notes further that the applicant's entitlement to restitution or compensation arose with the two judgments of the Chirpan District Court of 1996 and 1999. In April 2001 the Chirpan agricultural land commission adopted two decisions providing for compensation and in May 2003 compensation bonds were issued in the name of the applicant's father's heirs. Even though these stages of the restitution procedure took several years, the Court does not consider that there were any unreasonable delays,

given that each stage must have necessitated some technical preparation and that there were no especially lengthy periods of inactivity.

Furthermore, even though it has not been established that the applicant was, at the time, informed of the fact that compensation bonds had been issued in her and the remaining heirs' name, the Court considers that she must have become aware of it soon after that and at the latest with the Stara Zagora Regional Court's judgment of 23 November 2004, where it was mentioned that she had been awarded bonds. Thus, had the applicant enquired about the situation at the relevant time and presented herself at the Chirpan agricultural land commission (later Agricultural Department), she could have obtained the necessary documents concerning the bonds as early as 2004, which would have completed the restitution process. The applicant does not justify her failure to do so. Indeed, given her insistence that she should receive compensation through other plots of land and not bonds, it could appear that the applicant chose not to seek the bonds, in the hope of obtaining a different outcome of the procedure.

As already discussed above, the Court's task in the present case is to assess whether the authorities delayed unjustifiably the process of restitution of the applicant's father's agricultural land. The Court already found that between 1996 and 2003 there had been no excessive delays. It further finds that after 2004 it was up to the applicant to bring about the completion of the restitution process and that any delay after that date was imputable to her. Accordingly, the Court concludes that the restitution procedure was not unjustifiably delayed by the authorities.

It follows that the present complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

*Declares* the application inadmissible.

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| Fatoş Aracı<br>Deputy Registrar | Päivi Hirvelä<br>President |