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

FIFTH SECTION

CASE OF BRATOVANOV v. BULGARIA

(Application no. 28583/03)

JUDGMENT

STRASBOURG

23 April 2009

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Bratovanov v. Bulgaria,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Rait Maruste, *President,*
Karel Jungwiert,
Renate Jaeger,
Mark Villiger,
Isabelle Berro-Lefèvre,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 31 March 2009,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 28583/03) 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") by a Bulgarian national, Mr Biser Ivanov Bratovanov ("the applicant"), on 12 August 2003.

2. The applicant was represented by Mr E. Chervenobrejki, a lawyer practising in Sofia. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. On 2 October 2007 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings to the Government. It also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1969 and lives in Kovachevets.

5. In 1995 the applicant entered into contracts under which he undertook to export wheat to foreign companies. On 11 August 1995 the Council of Ministers of Bulgaria adopted Regulation No. 160/1995 whereby the export tax for wheat was increased from 35 United States dollars (USD) to USD 55. The new rate became effective on 25 August 1995.

6. On 24 August 1995 the applicant had already loaded 6,333 metric tons of wheat on to a cargo ship. At 11.30 p.m. on the same day he submitted to the customs authorities in the port of Varna West the necessary customs documents. However, the applicant was not granted authorisation to export the shipment. Thereafter, he continued loading the ship and later paid the export tax at the newly-introduced higher rate, whereupon export authorisation was granted.

7. On 8 October 1996 the applicant brought an action for damages against the Central Customs Office (Главно управление „Митници") and the State Fund "Agriculture" (Държавен фонд „Земеделие") under sections 45 and 55 of the Contracts and Obligations Act of 1951.

8. In a judgment of 10 July 1998 the Sofia City Court dismissed the claim. The court found that the customs officers had not acted unlawfully and that in any event the applicant had not sustained any damage.

9. The applicant appealed.

10. In a judgment of 25 June 1999 the Sofia Appeal Court quashed the Sofia City Court's judgment and referred the case for a fresh examination, indicating that the applicable law was the State Responsibility for Damage Act.

11. The Central Customs Office appealed against the Sofia Appeal Court's judgment. By decision of 19 April 2000, the Supreme Court of Cassation terminated the proceedings as the lower court's decision to refer the case back to the court of first instance was not amenable to cassation appeal.

12. In a judgment of 23 December 2003 the Sofia City Court established that the applicant had sustained damage and granted his claim.

13. The proceedings continued on appeal before the Sofia Appeal Court and the Supreme Court of Cassation at least until 19 April 2007.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

14. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

15. The Government did not make any observations.

16. The period to be taken into consideration began on 8 October 1996 and on 19 April 2007 had not yet ended. It had already lasted on that date ten years and six months at three levels of jurisdiction.

A. Admissibility

17. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that the proceedings instigated by the applicant fall clearly within the scope of tort law. Therefore, the tax-related background of the dispute cannot prevent the right to compensation claimed by the applicant from being considered a "civil right" for the purpose of Article 6 § 1 of the Convention. Finally, the Court considers that this complaint it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

18. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

19. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

20. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

21. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

22. The applicant did not submit a claim for just satisfaction. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the remainder of the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 23 April 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek Registrar	Rait Maruste President