



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

FIFTH SECTION

CASE OF IVAN IVANOV v. BULGARIA

(Application no. 53746/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

10 January 2008

This judgment is final but it may be subject to editorial revision.

In the case of Ivan Ivanov v. Bulgaria,

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

Peer Lorenzen, *President*,
Snejana Botoucharova,
Karel Jungwiert,
Rait Maruste,
Javier Borrego Borrego,
Renate Jaeger,
Mark Villiger, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 4 December 2007,

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

PROCEDURE

1. The case originated in an application (no. 53746/00) 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 Ivan Miroslavov Ivanov who was born in 1972 and lives in Pazardzhik (“the applicant”), on 7 September 1999.

2. The applicant was represented by Mr V. Stoyanov, a lawyer practising in Pazardzhik.

3. The Bulgarian Government (“the Government”) were represented by their Agent, Ms M. Kotzeva, of the Ministry of Justice.

4. The applicant complained, *inter alia*, under Articles 6 § 1 and 13 of the Convention about the length of a set of criminal proceedings against him and the lack of an effective remedy relating thereto.

5. On 15 May 2006, after obtaining the parties’ observations, the Court declared the application admissible in so far as these complaints are concerned. The remainder of the applicant’s complaints were declared inadmissible.

6. On 11 June 2007 the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 4 July 2007 and on 14 November 2007 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. On 6 June 1990 two girls, who were mentally challenged, were raped in the town of Pazardzhik on several occasions in the course of the day.

8. A preliminary investigation was opened on the next day, 7 June 1990, against an unknown assailant. On 12 October 1990 the Pazardzhik District Prosecutor's Office suspended the investigation as the victims could not assist in identifying the offenders or the places where the offences had taken place.

9. The preliminary investigation was resumed on 12 November 1990 against the applicant and another two individuals (the "co-accused").

10. On 28 February 1994 the applicant was charged that, together with the co-accused, he had raped the two girls.

11. On an unspecified date another person was also charged that, together with the applicant and the co-accused, he had raped the two girls.

12. On 21 July 1994 an indictment for rape against the applicant and the co-accused was submitted to the Pazardzhik District Court, which was revised in 2003 following further investigation.

13. The Pazardzhik District Court conducted two hearings on 24 March and 23 April 2004, both of which were adjourned due to the defective summoning of some of the parties and the victims.

14. On an unspecified date the criminal proceedings were discontinued apparently because the time-limit for prosecution under the statute of limitations had expired.

THE LAW

15. On 4 July 2007 the Court received the following declaration signed by the applicant's counsel:

"I, Valeri Stoyanov Stoyanov, lawyer, note that the Government of Bulgaria are prepared to pay *ex gratia* the sum of 11,250 euros to Mr Ivan Miroslavov Ivanov with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum EUR 10,500 of which is to cover any pecuniary and non-pecuniary damage and EUR 750 is for costs and expenses, will be converted into Bulgarian leva at the rate applicable on the date of payment, and free of any taxes that may be applicable. These amounts will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights, whereby EUR 10,500 will be disbursed to Mr Ivan Miroslavov Ivanov and EUR 750 will be transferred directly into the bank account of his lawyer, Mr Valeri Stoyanov Stoyanov. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Bulgaria in respect of the facts of this application. I declare that this constitutes a final resolution of the case.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment."

16. On 14 November 2007 the Court received the following declaration from the Government, which had been approved by the Council of Ministers of Bulgaria with a Decision of 8 November 2007 and had been signed by their Agent, Ms M. Kotzeva, of the Ministry of Justice:

"The Government of Bulgaria hereby offer to pay *ex gratia* 11,250 euros (EUR) to Mr Ivan Miroslavov Ivanov with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, EUR 10,500 of which is to cover any pecuniary and non-pecuniary damage and EUR 750 is for costs and expenses, will be converted into Bulgarian leva at the rate applicable on the date of payment, and free of any taxes that may be applicable. These amounts will be payable within three months from the date of notification of the judgment by the Court pursuant to Article 39 of the European Convention on Human Rights, whereby EUR 10,500 will be disbursed to Mr Ivan Miroslavov Ivanov and EUR 750 will be transferred directly into the bank account of his lawyer, Mr Valeri Stoyanov Stoyanov. In the event of failure to pay these amounts within the said three-month period, the Government undertake to pay simple interest on them, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention."

17. The Court takes note of the friendly settlement agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

18. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the application out of its list of cases;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 10 January 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President