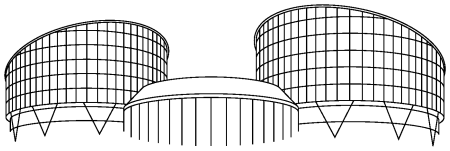

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

DECISION

Application no. 27885/06
Ruben GRIGORYAN and Gohar GALSTYAN
against Armenia

The European Court of Human Rights (First Section), sitting on 28 March 2017 as a Committee composed of:

Kristina Pardalos, *President*,
Robert Spano,
Pauliine Koskelo, *judges,*
and Renata Degener, *Deputy Section Registrar,*

Having regard to the above application lodged on 11 July 2006,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicants, Mr Ruben Grigoryan ("the first applicant") and Ms Gohar Galstyan ("the second applicant"; "the applicants"), are Armenian nationals, who were born in 1956 and 1964 respectively and live in Yerevan. They were represented before the Court by Mr V. Grigoryan, a lawyer authorised to practise in Yerevan and currently based in London.

2. The Armenian Government ("the Government") were represented by their Agent, Mr G. Kostanyan, Representative of the Republic of Armenia at the European Court of Human Rights.

A. The circumstances of the case

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

4. From 1964 the second applicant lived in flat no. 12 situated at 11 Byuzand Street in central Yerevan, and measuring 45 sq. m. It appears

that the second applicant did not have a formally recognised right of ownership in respect of the flat, as it had been built without authorisation.

5. In 1985 the applicants married.

6. In 1986 the first applicant moved in with the second applicant. From then on they lived together in the above-mentioned flat on a permanent basis. They were also registered by law as residents.

7. On 25 May 1998 the second applicant applied to the State Real Estate Registry ("SRER") seeking to have her title recognised in respect of the flat in accordance with Government Decree no. 114 of 25 February 1998. The second applicant alleges that this application remained unanswered.

8. On 1 August 2002 the Government adopted Decree no. 1151-N, approving the expropriation zones of the real estate situated within the administrative boundaries of the Kentron District of Yerevan to be taken for State needs (see paragraph 57 below). Having a total area of 345,000 sq. m., Byuzand Street was listed as one of the streets falling within such expropriation zones.

9. On 17 June 2004 the Government decided to contract out the construction of one of the sections of Byuzand Street to a private company, Glendale Hills. The latter was authorised to negotiate directly with the owners of the property subject to expropriation and, should such negotiations fail, to institute court proceedings on behalf of the State seeking forcible expropriation of such property.

1. The first set of proceedings

10. On 29 October 2004 the first applicant applied to the SRER seeking to have his title to the flat recognised.

11. By a letter of 1 November 2004 the SRER rejected the first applicant's application, with reference to, *inter alia*, Government Decree no. 1748-N (see paragraphs 59-62 below), on the ground that the flat in question, which was an unauthorised construction, was situated in an expropriation zone.

12. On 14 December 2004 the first applicant contested the SRER's rejection before the courts, seeking to declare it unlawful and to oblige SRER to recognise his right of ownership of the flat. The first applicant was represented before the courts by a lawyer.

13. On 16 March 2005 the Kentron and Nork-Marash District Court of Yerevan found the SRER's rejection lawful with reference to Government Decree no. 1151-N (see paragraph 57 below) and paragraph 3 of Government Decree no. 1748-N (see paragraphs 59-62 below).

14. On 29 March 2005 the first applicant lodged an appeal.

15. On 21 July 2005 the Civil Court of Appeal examined the first applicant's claim in an expedited procedure and decided to uphold the judgment of the District Court. According to the first applicant, no copy of this judgment was ever served on him.

16. On 4 August 2005 the first applicant lodged an appeal on points of law in which he indicated 11 Byuzand Street as his address. He argued at the outset that no copy of the judgment of 21 July 2005 had been served on him and he was, therefore, prevented from lodging a well-grounded appeal. Thus, detailed arguments would be submitted in a supplement to this appeal immediately upon receipt of a copy of that judgment. The first applicant further argued that the judgment was unfounded and contradicted Armenia's Constitution, laws and international agreements. The first applicant requested that the judgment be quashed.

17. By a letter of 17 October 2005, addressed to 11 Byuzand Street from where the applicants had already been evicted (see paragraph 34 below), the Court of Cassation notified the first applicant that it would hold a hearing on his appeal on 21 October 2005.

18. On 21 October 2005 the Court of Cassation decided to dismiss the appeal. The Court of Cassation found the argument that the judgment of the lower court contradicted the Constitution to be unfounded. It further refused to examine the remainder of the arguments on the ground that they lacked any detailed basis.

19. The first applicant alleges that no copy of this decision was sent to him, as required by Article 241 of the Code of Civil Procedure (the CCP). It appears from the case file that, by a letter of 3 November 2005, the Court of Cassation sent a copy of this decision to the first applicant's address at 11 Byuzand Street.

20. On 16 March 2006 the first applicant applied to the Civil Court of Appeal, requesting copies of the materials of his case.

21. On 21 March 2006 the first applicant received the requested copies, including a copy of the decision of 21 October 2005.

2. The second set of proceedings

22. It appears that on 20 August 2004 Glendale Hills made a compensation offer to the applicants in accordance with Government Decree no. 950 (see paragraph 58 below), whereby they would receive 2,000 US dollars (USD) each. They did not accept this offer.

23. On 24 September 2004 Glendale Hills instituted proceedings against the applicants on behalf of the State, seeking to have them evicted upon paying them compensation envisaged by Government Decree no. 950.

24. On 26 November 2004 the first applicant filed an application with the courts seeking to recognise a fact of legal significance, namely that he had enjoyed use of the flat as his possession since 1986.

25. On 30 November 2004 the Kentron and Nork-Marash District Court of Yerevan, presided by Judge O., decided to join the two cases.

26. On 17 December 2004 the District Court decided to stay the proceedings on the applicants' request on the ground that, on 14 December 2004, the first applicant had applied to the courts to have his

title recognised in respect of the flat, and until a decision had been taken in those proceedings (see paragraph 12 above).

27. On 12 May 2005 the District Court decided to resume the proceedings on the ground that, on 16 March 2005, a judgment had been adopted in the first set of proceedings, whereby the first applicant's claim had been rejected.

28. On 17 May 2005 the District Court decided to disjoin the two applications on the ground that the expropriation claim needed urgent determination, whereas the first applicant's application was manifestly ill-founded.

29. On the same date, the District Court decided to leave the first applicant's application of 26 November 2004 unexamined, since the first applicant had failed to appear.

30. On the same date, the District Court examined Glendale Hills's claim, in the presence of the plaintiff's representative and in the absence of the applicants. The District Court noted that the first applicant's claim seeking to have his title recognised in respect of the flat had been dismissed by the judgment of 16 March 2005 and decided to grant the plaintiff's claim with reference to, *inter alia*, Government Decrees nos. 1151-N and 950 (see paragraphs 57 and 58 below), awarding each applicant compensation in the amount of USD 2,000 against their right of use of accommodation and ordering their eviction. This judgment stated that the applicants had failed to appear, despite having been notified about the time and place of the hearing. The applicants allege that they had never received such notification.

31. No appeal was lodged against this judgment, so it became enforceable.

32. On 3 June 2005 the District Court issued a writ of execution.

33. On 15 June 2005 the applicants were visited at home by the bailiff in connection with the enforcement. The applicants allege that only then did they find out about the hearing and the judgment of 17 May 2005.

34. On 16 June 2005 the applicants were forcibly evicted from their flat by the bailiff.

35. On 18 August 2005, when the flat was already demolished, the applicants lodged an appeal on points of law against the judgment of 17 May 2005 under Article 223 § 2 of the CCP through an advocate holding a special licence. The applicants complained that they had not been duly notified of the time and place of the hearing of 17 May 2005 and that the claim had been determined in their absence. They alleged that they had found out about the contested judgment only on 15 June 2005 and sought to have it quashed.

36. On 7 October 2005 the Court of Cassation decided to grant the appeal. It found that the summons notifying the applicants of the hearing of 17 May 2005 had been sent to them on 16 May 2005 and there was no evidence in the case file that this summons had been received by them. The

Court of Cassation quashed the judgment of 17 May 2005 on that ground and remitted the case to the Civil Court of Appeal.

37. On 16 December 2005 the Court of Appeal held a hearing. The applicants and K.P., their representative according to the authority form issued on 2 December 2005, were present at the hearing. The relevant parts of the audio recording of this hearing are transcribed as follows:

> "Presiding judge: This is in fact the second time that the plaintiff has failed to appear. What is the position on whether to postpone the hearing or to leave the claim unexamined?
>
> K.P.: We think that it should be left unexamined.
>
> Presiding judge: Do you agree with the opinion of your representative?
>
> Applicants: Yes...
>
> Presiding judge: ... the court decides to leave the claim lodged by Glendale Hills unexamined. The decision can be appealed against by the plaintiff to the Court of Cassation within three days. The parties may receive the original copy of the decision in three days..."

38. The Government alleged that a copy of this decision was sent to the applicants on 20 December 2006, while the applicants contested this allegation.

39. On 7 June 2006 the applicants applied to the Civil Court of Appeal, requesting copies of the materials of their case.

40. On 15 June 2006 the applicants received the requested copies, including a copy of the decision of 16 December 2005.

3. The criminal proceedings against the applicants' lawyer

41. On 7 October 2005 the lawyer who represented the applicants before the domestic courts and before the Court, Mr V. Grigoryan, was arrested and charged with embezzlement and forgery of documents. He was released from detention on 15 February 2006.

B. Relevant domestic law

42. For a summary of other relevant domestic provisions which are not mentioned below see the judgment in the case of *Minasyan and Semerjyan v. Armenia* (no. 27651/05, §§ 23-25, 23 June 2009).

1. The Civil Code (in force from 1 January 1999)

43. According to Article 188, as in force at the material time, an unauthorised structure was a habitable building, construction, other structure or other immovable property built on a plot of land not allocated for that purpose in accordance with a procedure prescribed by law and other legal acts or built without the requisite permission or built with serious breaches

of town planning norms and rules. The person who had built an unauthorised structure did not acquire ownership rights in its respect. He was not entitled to dispose of the structure, including by selling, donating and renting or carrying out other transactions, except for cases prescribed by law. The recognition of the title of such persons could be refused if the maintenance of the structure violated the rights and interests of others or posed threats to the life and health of others.

2. The Code of Civil Procedure (as in force at the material time)

44. According to Article 78 § 3, a court summons is sent to the address provided by the party.

45. According to Article 80, parties to proceedings should inform the court and other parties of any change in their address during the proceedings. If such notification is absent, court documents are sent to the last known address and are considered to be delivered even if the addressee no longer resides or can be found at that address.

46. According to Article 103 (1), the court shall leave the claim or the application unexamined if the plaintiff, who has been duly notified of the time and place of the hearing, fails to appear in court and does not ask the court to examine the case in his absence.

47. According to Article 160 § 1, an application seeking to annul unlawful acts of public authorities, local self-government bodies and their officials shall be submitted to a court dealing with civil cases or the Commercial Court, pursuant to their jurisdiction over cases. The court cannot examine applications seeking to annul those acts, the determination of whose conformity with the Constitution of Armenia falls within the exclusive jurisdiction of the Constitutional Court.

48. According to Article 220, a judgment of the Court of Appeal was to be duly sent to the parties within three days of its pronouncement.

49. According to Article 223 § 2 and 225, an appeal on points of law against the judgments of the first instance court, the Court of Appeal and the Commercial Court which had entered into force could be lodged by advocates holding a special licence and registered with the Court of Cassation. Such appeals could be lodged within three months from the date of entry into force of the judgment.

50. According to Article 241, the Court of Cassation’s decision shall be duly sent to the appellant, other participants in the proceedings and the relevant court, within seven days of its adoption.

3. Law on the Legal Status of Unauthorised Buildings and Constructions and Plots of Land Occupied without Authorisation (in force from 22 February 2003 until 22 February 2005 – «Ինքնակամ կառուցված շենքերի, շինությունների և ինքնակամ զբաղեցված հողամասերի իրավական կարգավիճակի մասին» ՀՀ օրենք)

51. This Law envisaged the grounds and procedure for recognition of ownership rights in respect of unauthorised buildings and constructions.

52. According to Article 2, this Law applied to unauthorised buildings and constructions which had been built without permission prior to the entry into force of this Law and had been registered at the SRER prior to 15 May 2001, including semi-structures whose construction had been completed by 50% or more.

53. According to Article 4 §§ 2 and 6, the ownership right in respect of unauthorised buildings and constructions built on plots of land owned by private persons or legal entities could be recognised, if such recognition was not contrary to town planning norms. This right was to be recognised by the Mayor of Yerevan.

54. According to Article 8 §§ 1 and 2, applications for recognition of ownership rights were to be submitted to the local department of the SRER. Within five days from the date of receipt of an application, the local department of the SRER was to submit a plan of the building or construction in question to the Mayor of Yerevan, who would then decide to reject or grant the application.

55. According to Article 10 § 4, the procedure for examination of applications and requests concerning unauthorised buildings and constructions which had not been registered at the SRER prior to 15 May 2001, as well as before the entry into force of this Law, was to be established by the Government.

4. Government Decree no. 114 of 25 February 1998 Concerning the Stocktaking and State Registration of Unauthorised Buildings and Constructions (in force from 28 February 1998 until 31 January 2004 – ՀՀ կառավարության 1998 թ. փետրվարի 25-ի թիվ 114 որոշում՝ ինքնակամ կառուցված շենքերի, շինությունների հաշվառման և պետական գրանցման մասին)

56. By this Decree, the Government approved the procedure for stocktaking and State registration of buildings and constructions built in violation of the laws and other legal acts, without appropriate permission (or plan), without having been provided with a plot of land through a prescribed procedure, not complying with the main plans of the urban or rural areas, the layouts for use of land, the detailed town planning schemes, and the requirements of technical standards.

5. *Government Decree no. 1151-N of 1 August 2002 Concerning the Implementation of Construction Projects within the Administrative Boundaries of the Kentron District of Yerevan (in force from 1 August 2002 until 1 October 2006 – ՀՀ կառավարության 2002 թ. օգոստոսի 1-ի թիվ 1151-Ն որոշում՝ Երևանի Կենտրոն թաղային համայնքի վարչական սահմանում կառուցապատման ծրագրերի իրականացման միջոցառումների մասին)*

57. For the purpose of implementing construction projects in Yerevan, the Government decided to approve the expropriation zones of the immovable property (plots of land, buildings and constructions) situated within the administrative boundaries of the Central District of Yerevan to be taken for the needs of the State, with a total area of 345,000 sq. m. The Mayor of Yerevan was instructed to determine the boundaries of the plots of land to be taken for the needs of the State and to register them at the Real Estate Registry. The owners and users of the immovable property situated within the expropriation zones were to be informed of the deadlines, sources of financing and the procedure for taking their immovable property. Valuation of the immovable property in question was to be organised and carried out by the relevant licensed organisations.

6. *Government Decree no. 950 of 5 October 2001 Approving the Procedure for the Taking of Plots of Land and Real Estate Situated within the Alienation Zones of Yerevan, their Compensation, Elaboration of Price Offers and their Realisation (ՀՀ կառավարության 2001 թ. հոկտեմբերի 5-ի թիվ 950 որոշում Երևան քաղաքի օտարման գոտիներում գտնվող հողամասերն ու անշարժ գույքը վերցնելու, փոխհատուցելու, գնային առաջարկը ձևավորելու և իրացնելու կարգը հաստատելու մասին)*

58. According to Paragraph 7(c) of the approved procedure, persons and their minor children registered in unauthorised constructions shall each be given assistance in the amount equivalent to USD 2,000 on the basis of a document confirming the fact of registration (passport, birth certificate or a certificate provided by the authority dealing with registration issues).

7. *Government Decree no. 1748-N of 15 May 2003 approving the procedure for consideration of applications concerning unauthorised buildings and other real estate which had remained unregistered prior to the entry into force of the Law on the Legal Status of Unauthorised Buildings and Constructions and Plots of Land Occupied without Authorisation (ՀՀ կառավարության 2003 թ. մայիսի 15-ի թիվ 1748-Ն որոշում մինչև «Ինքնակամ կառուցված շենքերի, շինությունների և ինքնակամ զբաղեցված հողամասերի իրավական կարգավիճակի մասին» ՀՀ օրենքն ուժի մեջ մտնելը*

հաշվառումից դուրս մնացած ինքնակամ կառուցված շենքերի, շինությունների, ինքնակամ զբաղեցված կամ ՀՀ օրենսդրության խախտումներով օտարված (տրամադրված, ձեռք բերված) պետական սեփականության հողամասերի վերաբերյալ դիմումների և հայտերի քննարկման կարգը հաստատելու մասին)

59. By this decree the Government approved the procedure envisaged by Article 10 § 4 of the Law on the Legal Status of Unauthorised Buildings and Constructions and Plots of Land Occupied without Authorisation.

60. According to paragraph 2, unauthorised buildings and constructions which had been registered prior to 15 May 2001 and were shown on the maps prepared as a result of mapping carried out for the purpose of the initial State registration, as well as those which had been properly recorded on ownership certificates prior to the introduction of the system of State registration of property rights (1 March 1998), were considered as "registered prior to the entry into force of the Law". Applications and requests seeking to determine the status of unregistered, unauthorised buildings and constructions could be filed until the Law was effective.

61. According to paragraph 3, this procedure did not apply to unauthorised buildings and constructions which, according to Government decrees, were situated within the boundaries of plots of lands to be taken for the needs of the State or society.

62. According to paragraph 2 of the approved procedure, the owners of unregistered buildings and constructions were to apply to the local department of the SRER to have their rights recognised in respect of such buildings and constructions.

COMPLAINTS

63. The applicants complained that the authorities' refusal to recognise their title in respect of the flat in the first set of proceedings was in breach of the requirements of Article 1 of Protocol No. 1.

64. The applicants complained under Article 6 § 1 of the Convention that they did not have a fair hearing in the second set of proceedings and that their eviction and deprivation of their property as a result of these proceedings were in breach of the guarantees of Article 1 of Protocol No. 1 to the Convention.

65. The applicants further complained about the lack of access to a court to contest the lawfulness of Government Decree no. 1151-N which had affected their property rights.

THE LAW

A. Complaints under Article 6 § 1 and Article 1 of Protocol No. 1 as regards the first set of proceedings

66. The applicants complained that the refusal of the authorities to recognise their title in respect of the flat was contrary to the requirements of Article 1 of Protocol No. 1 to the Convention. Relying on Article 6 § 1 of the Convention, they also alleged lack of access to a court in that they could not contest before the courts the lawfulness of Government Decree no. 1151-N of 1 August 2002 which had directly affected their property rights in the first set of proceedings.

1. The Government's preliminary objection on non-compliance with the six-month time-limit

67. The Government raised a preliminary objection under Article 35 § 1 of the Convention which, in so far as relevant, provides:

> "1. The Court may only deal with the matter ... within a period of six months from the date on which the final decision was taken."

The Government stated that the applicants had failed to comply with the six-month time-limit in respect of their complaint concerning the refusal to recognise their ownership to the flat. In particular, the decision of the Court of Cassation of 21 October 2005 was served on them at their last indicated address. It was the applicants' legal obligation to inform the courts of a new correspondence address if the old one changed in the course of the proceedings, but they had failed either to provide a new address or to make any efforts to obtain a copy of the decision in question, which they did only five months after the decision had been made.

68. The applicants argued that the Government had failed to substantiate that either they or their representative had received a copy of the decision of 21 October 2005. In fact, they were provided with a copy of this decision only on 21 March 2006 when the first applicant received the materials of the case file following his request from the Court of Appeal. Moreover, their representative, who would have been able to obtain the necessary information about the hearing before the Court of Cassation and a copy of the resultant decision, was detained during the period in question. The applicants submitted that they had accordingly complied with the six-month time-limit as regards the first set of proceedings, which had started to run from 21 March 2006, the date when they became aware of the decision of 21 October 2005.

2. The Court's assessment

69. The Court reiterates that the object of the six-month time-limit under Article 35 § 1 is to promote legal certainty, by ensuring that cases raising issues under the Convention are dealt with in a reasonable time and that past decisions are not continually open to challenge. It marks out the temporal limits of supervision carried out by the organs of the Convention and signals to both individuals and State authorities the period beyond which such supervision is no longer possible (see *Sabri Güneş v. Turkey* [GC], no. 27396/06, §§ 39 and 40, 29 June 2012; *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], no. 39630/09, § 134, ECHR 2012).

70. The Court further reiterates that where an applicant is entitled to be served *ex officio* with a written copy of the final domestic decision, the object and purpose of Article 35 § 1 of the Convention are best served by counting the six-month period as running from the date of service of the written judgment (see *Worm v. Austria*, 29 August 1997, § 33, *Reports of Judgments and Decisions* 1997-V). Where the domestic law does not provide for service, the Court considers it appropriate to take the date the decision was finalised as the starting-point, that being when the parties were definitely able to find out its content (see *Papachelas v. Greece* [GC], no. 31423/96, § 30, ECHR 1999-II). At the same time, it is incumbent on the applicants to follow the domestic proceedings with due diligence (see *Ipek v Turkey* (dec.), no. 39706/98, 7 November 2000).

71. The Court notes that only the first applicant challenged the Civil Court of Appeal's judgment of 21 July 2005. His appeal on points of law was lodged on 4 August 2005 and rejected by the decision of the Court of Cassation of 21 October 2005, which was the final decision concerning his claim seeking recognition of ownership rights in respect of the flat. The application was lodged with the Court on 11 July 2006, more than six months after 21 October 2005. The applicants claim that the six-month time-limit should run from 21 March 2006, the date when the first applicant was provided with the materials of the case, including a copy of the decision of 21 October 2005, following his request of 16 March 2006.

72. The Court observes that the first applicant was notified of the hearing of 21 October 2005 and later served a copy of the decision delivered on that date at the address of the flat from which he had already been evicted in June 2005. Neither from the case file nor from the submissions of the applicants does it appear that the first applicant had notified the courts of his new address or, in the case of the absence of a permanent address, any correspondence address to which court documents could be sent. On the contrary, the first applicant's appeal on points of law indicated his former address, although he no longer resided there. It is not entirely clear whether the courts had also been provided with the applicant's representative's address. However, even assuming that this was the case, the representative was in detention as from 7 October 2005 (see paragraph 41 above).

73. In view of the foregoing, the Court finds that, although the domestic law did provide for service of written judgments (see paragraph 50 above), owing to the first applicant's lack of compliance with the rules of civil procedure, it was objectively impossible for the Court of Cassation to serve its decision of 21 October 2005 on him. In particular, the first applicant, contrary to the requirements of domestic civil procedure (see paragraphs 44 and 45 above), had failed to provide the court with a current correspondence address. Moreover, the Court of Cassation, albeit with a two-day delay, had sent a copy of the decision to the first applicant's last known address, as required by the procedure (see paragraph 19 above). The authorities therefore cannot be held responsible for the belated service of the decision in question in the circumstances where proper service had become impossible as a result of the first applicant's own procedural omissions, namely the failure to comply with the domestic procedural requirement to inform the court about his address.

74. Furthermore, the applicants did not adduce any particular reason for the first applicant not having been able to enquire about the outcome of his appeal on points of law lodged back in August 2005 earlier than in March 2006. As for the argument that the representative was detained during the relevant period, the Court observes that he was released already on 15 February 2006 and that in any event it was the first applicant and not the representative who requested to be provided with the materials of the case. The Court further observes that the applicant's request was granted rather speedily and that it does not appear that he had any problem in obtaining the copies of documents from the case file.

75. The Court thus concludes that the six-month period in respect of this complaint started to run from 21 October 2005. The present application was introduced only on 11 July 2006. The Government's preliminary objection must therefore be allowed.

76. It follows that this part of the application has been lodged out of time and must therefore be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

B. Complaints under Article 6 § 1 and Article 1 of Protocol No. 1 as regards the second set of proceedings

77. The applicants complained that they were not duly notified of the hearing of 17 May 2005 and were unable to obtain re-examination of their case after the judgment of 17 May 2005 had been quashed, since the Court of Appeal decided to leave the claim against them unexamined because of the plaintiff's failure to appear. As in respect of the first set of proceedings, the applicants alleged lack of access to a court also in the second set of proceedings (see paragraph 66 above). They relied on Article 6 § 1 of the Convention.

78. The applicants further complained that their eviction and resultant deprivation of their possessions were not in compliance with the requirements of Article 1 of Protocol No. 1 to the Convention.

1. The Government's preliminary objection on non-compliance with the six-month time-limit

79. The Government submitted that the applicants' complaints concerning the second set of proceedings had been lodged outside the six-month time-limit. In particular, the applicants, who were present at the hearing before the Court of Appeal on 16 December 2005, were informed of the court's decision on that date when the decision was pronounced by the presiding judge at the hearing. Furthermore, the decision of 16 December 2005 was sent to the applicants at their last known address on 20 December 2005. The Government argued that, in any event, the running of the six-month period should be calculated from 16 December 2005, the date on which the applicants became aware of the decision.

80. The applicants submitted that the Government had failed to provide any evidence substantiating that the decision of 16 December 2005 was sent to them or their representative or that it had been received by them. The applicants argued that, although they were present at the hearing of 16 December 2005, they did not receive a copy of the decision of the same day until 15 June 2006 when they received it as a result of their own request. The applicants submitted in conclusion that they had complied with the six-month time-limit, which should be considered to run from 15 June 2006, the date when they found out about the decision of 16 December 2005.

2. The Court's assessment

81. The Court, referring to its case-law cited in paragraphs 69-70 above, notes that according to the rules of civil procedure at the relevant time, the Court of Appeal was under an obligation to send its decision to the parties within three days (see paragraph 48 above). The Government claimed that the decision of 16 December 2006 was sent to the applicants' last known address on 20 December 2006 and submitted the relevant postal receipt (see paragraph 38 above). The applicants contested that this had been the case. The Court observes that the date on the postal receipt submitted by the Government is illegible. However, even assuming that the decision in question was indeed sent to the applicants on 20 December 2006 at their last known address, it could not have been served on them because they had already been evicted from that address (see paragraph 34 above). Furthermore, as already noted, the applicants had not provided the domestic courts with another correspondence address, as required by the domestic civil procedure (see paragraph 73 above).

82. The Court further observes that both applicants and K.P., another representative replacing their main representative who was in detention, were present at the hearing of 16 December 2005 when the decision to leave the claim against them unexamined was pronounced (see paragraph 37 above). The applicants were informed that they could obtain a copy of the decision within three days and that it could not be appealed against by them (ibid.). Therefore, contrary to the applicants' allegation, they became aware of the Court of Appeal's decision not to examine their case on the day of the hearing when they were also informed that no further appeals to contest that decision were available to them, that decision being appealable only in respect of the plaintiff (see paragraph 37 above). Moreover, the applicants had the possibility to request a copy of the decision within three days following the hearing, which they failed to do. There is nothing to show that they were prevented from obtaining a copy of the decision before 15 June 2006.

83. In these circumstances, the Court discerns no reason for it to consider a later starting date for the six-month period in respect of the complaints concerning the second set of proceedings. It will accordingly consider 16 December 2006 as the date from which the calculation of the six-month time-limit should begin. The application was lodged on 11 July 2006 that is more than six months after this date.

84. The Government's preliminary objection must therefore be allowed.

85. It follows that this part of the application must also be rejected as having been lodged outside the six-month limit in accordance with Article 35 §§ 1 and 4 of the Convention.

C. Other complaints

86. The applicants also raised a number of other complaints under Articles 6, 8, 13 and 34 of the Convention.

87. Having regard to all the material in its possession, and in so far as these complaints fall within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that the remainder of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Done in English and notified in writing on 20 April 2017.

Renata Degener
Deputy Registrar

Kristina Pardalos
President