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

FIRST SECTION

DECISION

Application no. 40864/06
Ashot GRIGORYAN and others
against Armenia

The European Court of Human Rights (First Section), sitting on 16 October 2018 as a Committee composed of:

Ksenija Turković, *President,*
Krzysztof Wojtyczek,
Pauliine Koskelo, *judges,*

and Renata Degener, *Deputy Section Registrar,*

Having regard to the above application lodged on 4 October 2006,

Having regard to the declaration submitted by the respondent Government on 13 June 2017 requesting the Court to strike the application out of the list of cases and the applicants' reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. A list of the applicants is set out in the appendix. All applicants were represented by Mr V. Grigoryan, a lawyer practising in London. The Armenian Government ("the Government") were represented by their Agent, Mr G. Kostanyan, Representative of the Republic of Armenia to the European Court of Human Rights.

2. The applicants complained that the deprivation of their property had been in breach of the requirements of Article 1 of Protocol No. 1 to the Convention and that the ensuing judicial proceedings were in breach of the guarantees of Article 6 of the Convention. The applicants also complained under Articles 6 and 13 of the Convention of lack of access to a court to challenge decrees of the executive related to the expropriation project. Relying on Articles 3, 8 and 13 of the Convention, the applicants had raised

a number of other complaints in relation to the procedure of expropriation of their property.

3. On 3 March 2009 the Court (Third Section) decided to communicate to the Government the part of the application concerning the applicants' complaint of lack of access to a court under Articles 6 § 1 of the Convention and the complaints of applicants Kpryan and Asribabayan (the second and fifth applicants respectively) under Articles 6 § 1 and Article 1 of Protocol No. 1. The remainder of the application was declared inadmissible.

4. By a letter of 25 December 2011, the Court was informed that Kaspar Sarkisov (the seventh applicant) had died. His spouse, Anzhela Asribabayan (the second applicant), his daughters, Elina Sarkisova and Rosalia Sarkisova (the eighth and ninth applicants respectively), and his son, Alexandre Sarkisov (the sixth applicant), expressed their wish to pursue his application before the Court.

5. The Government did not submit any comments in this respect.

THE LAW

6. In the absence of any objection on the part of the Government, the Court sees no reason not to allow the seventh applicant's legal heirs, his spouse and children, to continue the proceedings before the Court in his stead.

A. As regards the second and fifth applicants' complaint under Article 1 of Protocol No. 1 to the Convention

7. After the failure of attempts to reach a friendly settlement, by a letter of 13 June 2017 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by this part of the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

8. The relevant parts of the declaration provided as follows:

> "... the Armenian authorities acknowledge that deprivation of the applicants' possessions was not in compliance with the requirements of Article 1 of Protocol No. 1 of the Convention. The Government regret that the deprivation of the applicants' possessions was incompatible with the principle of lawfulness - not carried out under "conditions provided for by law". No law was adopted in connection with the expropriation of applicants' property and the entire expropriation process was based on a number of Government Decrees.
>
> ...
>
> The Government of the Republic of Armenia, acknowledging the violation of the applicants' rights, offer to pay to the applicants Marine Kpryan and

> Anzhela Asribabayan the amount of EUR 118,000 jointly to cover any and all pecuniary and non-pecuniary damage, as well as any and all costs and expenses.
>
> The above-mentioned sum will be free of any taxes that may be applicable and will be converted into Armenian drams at the rate applicable on the date of payment payable within three months from the date of notification of the decision taken by the Court to strike the case out of its list of cases. In the event of failure to pay these sums 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. ..."

9. By a letter of 12 July 2017, the applicants indicated that they were not satisfied with the terms of the unilateral declaration on the grounds that the Government had failed to acknowledge the violation of Article 1 of Protocol No. 1 to the Convention, also as regards the lack of a legitimate aim for the interference and the lack of proportionality thereof, as well as the violations of their rights guaranteed under Article 6 of the Convention. The applicants requested the Court to reject the Government's proposal, noting that the amount of compensation offered therein was derisory in the light of the damage suffered by them and the acceptance by the Court of the unilateral declaration would allow the Government to avoid responding to their complaints on the merits.

10. The Court reiterates that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

> "for any other reason established by the Court, it is no longer justified to continue the examination of the application".

11. It also reiterates that, in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the case to be continued.

12. To this end, the Court has examined the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Sp. z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

13. The Court has established, in a number of cases brought against Armenia, the nature and extent of the obligations which arise for the respondent State under Article 1 of Protocol No. 1 as regards the deprivation of property in the centre of Yerevan for the purposes of implementation of town-planning projects under the Government Decree

no. 1151-N (see, among other authorities, *Minasyan and Semerjyan v. Armenia*, no. 27651/05, §§ 69-72, 23 June 2009; *Hovhannisyan and Shiroyan v. Armenia*, no. 5065/06, §§ 42-47, 20 July 2010; and *Tunyan and Others v. Armenia*, no. 22812/05, §§ 35-39, 9 October 2012).

14. Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases (see, in particular, *Minasyan and Semerjyan v. Armenia* (just satisfaction), no. 27651/05, §§ 17-21, 7 June 2011) – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

15. Moreover, in the light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

16. The Court notes the modalities agreed by the respondent Government for the payment of the amount proposed.

17. Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

18. Accordingly, it is appropriate to strike the case out of the list in so far as it relates to the complaint covered by the Government's unilateral declaration.

B. As regards the remainder of the application

19. Relying on Article 6 of the Convention, the applicants also complained that they were precluded from disputing the lawfulness of Government decrees which authorised the deprivation of their property. The second and fifth applicants complained under the same provision that there had been a breach of the principle of "equality of arms" during the expropriation proceedings and that the courts had failed in their obligation to give reasons for their judgments.

20. Having regard to the facts of the case and its decision to strike the application out of its list of cases as far as the complaint under Article 1 of Protocol No. 1 concerning the deprivation of the second and fifth applicants' property is concerned, the Court considers that it has examined the main legal question raised in the present application. It concludes, therefore, that there is no need to give a separate ruling on the applicants' complaint of lack of access to a court and second and fifth applicants' complaints under Article 6 of the Convention (see, *mutatis mutandis*, *Kamil*

Uzun v. Turkey, no. 37410/97, § 64, 10 May 2007; and *Ghasabyan and Others v Armenia*, no. 23566/05, § 29, 13 November 2014).

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Article 1 of Protocol No. 1 to the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike that part of the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 8 November 2018.

Renata Degener Deputy Registrar	Ksenija Turković President

APPENDIX

1. Ashot GRIGORYAN is an Armenian national who was born in 1954, lives in Yerevan
2. Anzhela ASRIBABAYAN is an Armenian national who was born in 1955, lives in Odintsovo
3. Armen GRIGORYAN is an Armenian national who was born in 1988, lives in Yerevan
4. Hayk GRIGORYAN is an Armenian national who was born in 1986, lives in Yerevan
5. Marine KPRYAN is an Armenian national who was born in 1958, lives in Yerevan
6. Aleksandr SARKISOV is a Russian national who was born in 1981, lives in Odintsovo
7. Kaspar SARKISOV was an Russian national who was born in 1947 and died in 2011
8. Elina SARKISOVA is an Armenian national who was born in 1978, lives in Odintsovo
9. Rosalia SARKISOVA is a Russian national who was born in 1977, lives in Odintsovo