



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

THIRD SECTION

**CASE OF BALAN AND OTHERS v. SLOVAKIA**

*(Applications nos. 51414/11 and 46098/12)*

JUDGMENT  
*(Revision)*

STRASBOURG

17 July 2018

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



**In the case of Balan and Others v. Slovakia (request for revision of the judgment of 27 June 2017),**

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Helen Keller, *President*,

Pere Pastor Vilanova,

Alena Poláčková, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 26 June 2018,

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

## PROCEDURE

1. The case originated in two applications (nos. 51414/11 and 46098/12) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Mr Branislav Gálus (“the applicant”) and sixty-four other applicants, on 8 August 2011 and 23 July 2012, respectively.

2. In a judgment delivered on 27 June 2017, the Court decided to join the applications and held that there had been a violation of Article 1 of Protocol No. 1 to the Convention as a result of the implementation of rent-control scheme. The Court made awards under Article 41 of the Convention, out of which to the late applicant was awarded 21,000 euros (EUR) in respect of pecuniary and non-pecuniary damage and a portion of a joint award in respect of costs and expenses.

3. On 7 September 2017 the Government informed the Court that they had learned from a submission by the applicant’s lawyer of 15 August 2017 that the applicant had died on 15 February 2016. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 7 November 2017 the Court considered the request for revision and decided to give the applicant’s representative until 22 December 2017 to submit any observations. Those observations were received on that date and a copy of them was transmitted to the Government who commented in reply on 12 January 2018. Their comments have been transmitted to the applicant’s representative for information.

## THE LAW

### THE REQUEST FOR REVISION

5. The Government requested revision of the judgment of 27 June 2017, which they had been unable to execute because the applicant had died before the judgment had been adopted. They noted that the applicant's representative and his relatives had not informed the Court about his death or their wish to pursue the application in his stead. They asked the Court to strike the relevant part of the application out of the list of cases with reference to the cases of *Borovská v. Slovakia* ((revision), no. 48554/10, 16 February 2016) and *Eremiášová and Pechová v. the Czech Republic* ((revision), no. 23944/04, 20 June 2013).

6. The applicant's representative stated that he had learned about the applicant's death only after the delivery of the judgment. He informed the Court that the applicant had three heirs - a spouse, Ms Ľubica Gálusová, and two daughters, Ms Ľubica Maceková and Ms Andrea Gálusová, and that they ask the Court to allow them to pursue the application in the applicant's stead. They submitted a certificate of inheritance of 13 June 2016 and the powers of attorney authorising the applicant's lawyer to represent them before the Court. They further stated that they had had no knowledge of the application pending before the Court and could therefore not have informed the Court about the applicant's death before the adoption of the judgment.

7. In their comments in reply the Government did not contest that the applicant had heirs who wished to pursue the proceedings, but noted, without making any specific suggestion, that the heirs had not owned or inherited the property subjected to rent control.

8. The relevant parts of Rule 80 of the Rules of Court provide:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court, within a period of six months after that party acquired knowledge of the fact, to revise that judgment.

...”

9. The Court considers that the Government's request complies with these requirements and the relevant parts of the judgment of 27 June 2017 should accordingly be revised.

10. The Court is satisfied from the submitted documents that the late applicant had three heirs – a spouse and two daughters, and that they expressed a wish to pursue the application in his stead. The present case is therefore different from the cases referred to by the Government where no relatives expressed the wish to pursue the proceedings and the Court revised

the judgments in that it decided to strike those cases out of the list pursuant to Article 37 § 1 (c) of the Convention.

11. The Court further observes that in a number of case similar to the present one, the original judgments have been revised in a way that the amounts previously awarded to the deceased applicants were awarded to the heirs (see, among many others, *Wypukół-Piętka v. Poland* (revision), no. 3441/02, 8 June 2010; *Nosov and Others v. Russia* (revision), nos. 9117/04 and 10441/04, 15 January 2015; *Kylyuk and Others v. Russia* (revision), nos. 47032/06 and 3 others, 17 January 2017 and *Zherdev v. Ukraine* (revision), no. 34015/07, 25 January 2018).

12. As to the failure to provide information about the applicant's death before the adoption of the judgment, the Court reminds that the parties have a duty to fully cooperate in the conduct of the proceedings and shall keep it informed of all circumstances relevant to the application (Rules 44A and 47 § 7 of the Rules of Court), and that these duties apply also to their representatives. Where a party fails to participate effectively in the proceedings, the Court may draw such inferences as it deems appropriate (Rule 44C). Having regard to the circumstances of the present case, the Court deems unnecessary to draw any such inferences.

13. In so far as the Government's comment in paragraph 7 was substantiated and considering the case-law on the matter, the Court does not discern any issue in the present case.

14. Having considered the above, the Court awards the heirs Ms Ľubica Gálusová, Ms Ľubica Maceková and Ms Andrea Gálusová jointly the amounts it previously awarded to the applicant, namely:

(i) EUR 21,000, plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage,

(ii) EUR 1,000, plus any tax that may be chargeable to them, in respect of legal costs,

(iii) 25 % of the sum claimed by the applicant in respect of the expert opinion on the rental value of the flats, and

(iv) EUR 930 in respect of translation costs to the extent the applicant participated in these costs.

15. The conclusions in the preceding paragraph do not affect the remaining parts of the original judgment.

16. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

**FOR THESE REASONS, THE COURT, UNANIMOUSLY,**

1. *Decides* to revise the judgment of 27 June 2017 in so far as it concerns the claims made by the deceased applicant Mr Branislav Gálus under Article 41 of the Convention;

and accordingly,

2. *Holds* unanimously,
  - (a) that the respondent State is to pay Ms Ľubica Gálusová, Ms Ľubica Maceková and Ms Andrea Gálusová jointly, within three months,
    - (i) EUR 21,000 (twenty-one thousand euros), plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage,
    - (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to them, in respect of legal costs,
    - (iii) 25 % of the sum claimed by Mr Branislav Gálus in respect of the expert opinion on the rental value of the individual flats, and
    - (iv) EUR 930 (nine hundred and thirty euros) in respect of translation costs to the extent Mr Branislav Gálus participated in these costs;
  - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 17 July 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı  
Deputy Registrar

Helen Keller  
President