



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

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SECOND SECTION

Application no. 9643/24
Katerina PARTINOVA KUS-IVANOVA against North Macedonia
and 2 other applications
(see list appended)
communicated on 3 July 2026

SUBJECT MATTER OF THE CASE

The applications concern the State's positive obligations to protect the applicants from exposure to severe air pollution by taking measures to mitigate ambient air pollution.

The applicant in application no. 9643/24 was a resident of Strumica at the relevant time. The other two applicants resided in Skopje. The relevant limits under domestic law regarding air quality were frequently exceeded in the aforementioned towns, and the applicants submit that they had been negatively affected by the severe air pollution.

On 13 February and 13 March 2020 respectively, the applicants submitted individual applications before the Administrative Court for protection against an unlawful action (under section 56 of the Law on Administrative Disputes) directed against the State and relevant authorities. They claimed that certain omissions on the part of the authorities in meeting their obligations under the relevant domestic law regarding ambient air quality had constituted unlawful actions which hindered the applicants' right to enjoy a healthy environment (a right protected under Article 43 of the Constitution) and alleged a violation of the State's positive obligations under Articles 2 and 8 of the Convention. The applicants argued that their case concerned an ongoing situation that had begun in 2018 (application no. 9643/24) and 2012 (applications nos. 13426/24 and 13428/24), respectively.

The applicants submitted reports from the State air quality monitoring system that showed that the limit values for concentrations of PM₁₀ (fine particles or particulate matter 10 micrometres) had exceeded the yearly limit of 35 days per annual year (that was set under the relevant domestic regulations) each year for the period in question. For example, for Skopje (measuring station Rektorat), the PM₁₀ limit values had been exceeded 191 days in 2012, 190 days in 2017 and 150 days in 2019. For Strumica, the PM₁₀ limit values had been exceeded 112 days in 2018 and 109 days in 2019.

The applicants sought from the Administrative Court an order that the relevant authorities act in accordance with the principles of precaution and prevention, as required under the Law for Healthy Environment and the Law on Ambient Air Quality, and take relevant actions such as the following: preparation and adoption of National Plan for Ambient Air Protection (the last one had been adopted in respect to the period 2013-2018); ensuring regular and timely reporting on ambient air quality and dissemination of adequate information to the public, including about possible health consequences and related recommendations; putting in place an effective system for reduction of the ambient air pollution in accordance with the limit values set under the relevant domestic regulation; and ensuring compliance with the relevant domestic law by conducting regular inspections.

Initially, the Administrative Court dismissed the applications on grounds that the cumulative conditions required under section 56 of the Law on Administrative Disputes had not been met. It found that the applications did not concern administrative actions or omissions which interfered with an individual freedom or a right, but rather actions that were defined as falling within lawful powers of the public authorities under domestic law. These decisions were quashed by the Supreme Court on grounds that the relevant facts had not been properly established. It instructed the Administrative Court to establish whether the authorities acted in accordance with their obligations under the relevant domestic law.

In separate decisions, the Administrative Court dismissed each of the three applications without holding a public oral hearing. On the basis of written submissions of the relevant authorities, it found that, except with respect to the adoption of the National Plan for Ambient Air Protection, the authorities had generally complied with their monitoring, reporting and supervision obligations. It further held that the cumulative conditions required under section 56 of the Law on Administrative Disputes had not been met for the following reasons. What was at stake was not a direct, but an indirect individual interest, since the claimed actions and omissions impacted the whole population. The applications did not concern administrative actions or omissions which interfered with an individual freedom or a right.

By separate decisions dated 17 October 2023 (concerning the case no. 9643/24) and 27 November 2023 (concerning the cases nos. 13426/24 and 13428/24), the Supreme Court dismissed the applicants' appeals and

upheld the Administrative Court's decisions. The applicants received a copy of the decisions on 23 November and 22 December 2023, respectively.

The applicants complain under Article 2 of the Convention that the State breached its positive obligation to protect them.

The applicants also complain about a breach of Article 8 of the Convention on account of their exposure to severe air pollution that, in their view, negatively affected their well-being. They further complain that the State breached its positive obligation to take specific measures to avoid, prevent or reduce pollution that is harmful to human life and health. They specifically refer to the following shortcomings: failure to prepare and adopt a National Plan for Ambient Air Protection; failure to ensure continuous and timely information to the public; failure to prepare and publish relevant reports on emissions and air quality; failure to establish an effective system for reduction of ambient air pollution in accordance with the relevant limit values and to supervise the compliance with the relevant domestic legal framework concerning ambient air quality.

Lastly, the applicants complain under Article 6 of the Convention that no public oral hearing was held in the proceedings before the domestic courts.

QUESTIONS TO THE PARTIES

1. Can the applicants be regarded as victims, within the meaning of Article 34 of the Convention as interpreted by the Court, of a breach of one of the Convention rights relied on in the present applications, by reason of the alleged omissions of the domestic authorities and the alleged failure to protect them effectively against the effects of ambient air pollution? In particular, have the applicants suffered severe consequences of the inadequate action or inaction alleged by the respondent State (see, for general principles, *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, §§ 460-72, 9 April 2024)?

2. Is Article 2 the Convention applicable to the facts complained of in this connection (see, *mutatis mutandis*, *Cannavacciuolo and Others v. Italy*, nos. 51567/14 and 3 others, §§ 383-92, 30 January 2025)? If yes, has the State complied with its positive obligations to take all measures the authorities could reasonably be expected to take, in the light of the relevant provisions and principle contained in the domestic regulations on ambient air quality, in order to protect the applicants' right to respect for their life (*ibid.*, §§ 394-96)?

3. Is Article 6 § 1 of the Convention, under its civil head, applicable to the relevant facts complained of in this connection? In particular, did the proceedings in question pertain to a dispute over a “right” which can be said at least on arguable grounds, to be recognised under domestic law and was the outcome of the proceedings directly decisive for the right in question (see, for general principles, *Verein KlimaSeniorinnen Schweiz and Others*, [cited above](#), §§ 594-607; see also, *mutatis mutandis*, *Cangı and Others v. Türkiye*, no. 48173/18, §§ 34-38, 14 November 2023)?

4. If the answer to the question number 3 is in the affirmative, has there been a breach of the applicants’ right to a public and oral hearing under Article 6 § 1 (see, *mutatis mutandis*, *Mitkova v. the former Yugoslav Republic of Macedonia*, no. 48386/09, §§ 55-63, 15 October 2015)?

5. Has Article 8 the Convention been applicable? If yes, had the State complied with its positive obligations to take all measures the authorities could reasonably be expected to take, in the light of the relevant provisions and principles contained in the domestic regulations on ambient air quality, in order to protect the applicants’ right to respect for their private life (see, *mutatis mutandis*, *Pavlov and Others v. Russia*, no. 31612/09, § 75, 11 October 2022, and *Greenpeace E.V. and Others v. Germany* (dec.), no. 18215/06, 19 May 2009)?

6. The Government are invited to submit information and copies of relevant reports and documents listing and describing the measures undertaken in order to reduce the air pollution in Strumica and Skopje, as well as to mitigate its effects on the well-being and on the health of the population concerned, including the applicants.

PARTINOVA KUS-IVANOVA v. NORTH MACEDONIA AND OTHER APPLICATIONS –
SUBJECT MATTER OF THE CASE AND QUESTIONS

APPENDIX

No.	Application no.	Case name	Lodged on	Applicant Year of Birth Place of Residence	Represented by
1.	9643/24	Partinova Kus-Ivanova v. North Macedonia	22/03/2024	Katerina PARTINOVA KUS-IVANOVA 1981 Skopje	Zharko HADJI-ZAFIROV
2.	13426/24	Cvetkovska v. North Macedonia	22/04/2024	Meri CVETKOVSKA 1991 Skopje	Zharko HADJI-ZAFIROV
3.	13428/24	Bitrakov v. North Macedonia	20/04/2024	Konstantin BITRAKOV 1993 Skopje	Zharko HADJI-ZAFIROV