



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

FIFTH SECTION

CASE OF MAKEDONSKI v. BULGARIA

(Application no. 36036/04)

JUDGMENT

STRASBOURG

20 January 2011

FINAL

20/04/2011

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Makedonski v. Bulgaria,

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

Peer Lorenzen, *President*,

Renate Jaeger,

Karel Jungwiert,

Rait Maruste,

Mark Villiger,

Isabelle Berro-Lefèvre, *judges*,

Pavlina Panova, *ad hoc judge*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 14 December 2010,

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

PROCEDURE

1. The case originated in an application (no. 6036/04) 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 Georgi Mihailov Makedonski (“the applicant”), on 8 October 2004.

2. The applicant was represented by Mrs Z. Stefanova, a lawyer practising in Sofia. The Bulgarian Government (“the Government”) were represented by their Agent, Mrs M. Dimova, of the Ministry of Justice.

3. On 6 November 2008 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 of the Convention).

4. Judge Kalaydjieva, the judge elected in respect of Bulgaria, withdrew from sitting in the case. The President of the Chamber accordingly appointed Ms Pavlina Panova to sit as an *ad hoc* judge (Article 26 § 4 of the Convention and Rule 29 § 1).

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1941 and lives in Sofia.

A. The criminal proceedings against the applicant

6. On an unspecified date in 1992 the Sofia district public prosecutor's office opened criminal proceedings against the applicant on charges of large-scale embezzlement from the trade union where he worked as a financial assistant.

7. On an unspecified date the fact that criminal proceedings had been opened against the applicant was publicised in the local press. The applicant contends that he was dismissed from his job as a result and subsequently had difficulties finding employment as a specialist in the field of finance.

8. On 22 March 1993 the charges against the applicant were amended to embezzlement.

9. Thereafter the case was apparently transferred several times back and forth between the public prosecutor's office and the investigation authorities, the last such remittal being on 6 February 1996.

10. On an unspecified date it was discovered that the applicant's case file was missing. On 9 July 2003 the district public prosecutor's office ordered that the applicant's case file be restored.

11. Between October 2003 and May 2004 the applicant submitted several requests to the Sofia District Court for a procedure to be initiated under Article 239a of the Code of Criminal Procedure of 1974 (CCP) to have his case examined by a court. In order to deal with the requests the District Court repeatedly requested the district public prosecutor's office to send it the applicant's case file, which apparently they failed to do.

12. On 11 March 2004 the District Court remitted the case to the prosecution authorities with instructions to file an indictment against the applicant within two months or discontinue the criminal proceedings against him.

13. On 8 April 2004 the district public prosecutor's office discontinued the criminal proceedings against the applicant on the grounds that no evidence had been gathered that he had committed an offence.

14. On 2 June 2004 the Sofia Regional Court confirmed the discontinuation of the proceedings.

B. The prohibition on leaving the country

15. In an order of 20 January 1994 the district public prosecutor's office imposed a prohibition on the applicant's leaving Bulgaria, under section 7 of the Foreign Travel Passports Act. The prohibition remained in force throughout the criminal proceedings.

16. On an unspecified date in 2002 the applicant lodged a complaint with the Sofia regional public prosecutor's office, seeking that the prohibition on leaving the country be lifted so that he could make a trip to

the Former Yugoslav Republic of Macedonia. On 27 December 2002 the request was transmitted to the district public prosecutor's office.

17. In an order of 14 July 2003 the district public prosecutor's office refused to completely lift the prohibition on leaving the country, as more investigative actions had to be carried out. She suspended it however for a period of one month from 1 August 2003 in order to allow the applicant to make the desired trip. The applicant did not appeal against the order to the higher-level prosecutor's office.

18. On an unspecified date in August 2003 the applicant obtained a foreign travel passport. He attempted to leave the country on 5 September 2003 but was not allowed and his passport was seized at the border because his temporary right to travel abroad had expired.

19. The applicant asserts that on an unspecified date thereafter he requested the lifting of the prohibition to leave the country but received no reply.

20. On 8 April 2004 the district public prosecutor's office lifted the prohibition on the applicant's leaving the country at the same time as the criminal proceedings against him were discontinued.

II. RELEVANT DOMESTIC LAW

A. Article 239a of the Code of Criminal Procedure of 1974

21. An amendment of June 2003 introduced the new Article 239a of the CCP, which provided for the opportunity for a person who has been charged to have his case examined by a court if the investigation has not been completed within the statutory time-limit (two years in investigations concerning serious offences and one year in all other investigations). This possibility was kept in the new CCP of 29 April 2006 (Articles 368-369) but revoked with effect from 28 May 2010.

B. State and Municipalities Responsibility for Damage Act

22. The relevant part of the State and Municipalities Responsibility for Damage Act of 1988 (the "SMRDA": title changed in 2006) provided that the State was liable for damage caused to private persons by organs of the investigation, the prosecution and the courts for, *inter alia*, unlawfully charging a private person with an offence if the criminal proceedings initiated were terminated because the deed was not perpetrated by the said person or the perpetrated deed was not an offence (section 2 (2)). The Act does not mention excessive length of proceedings or prohibition on leaving the country as a ground for an action for damages.

C. Prohibition to leave the country

23. Prior to 1999 the imposition of a prohibition on leaving the country was regulated by the Foreign Travel Passports Act (FTPA), which in section 7 (b) provided that a foreign travel passport could be refused to persons against whom a criminal investigation was pending and by Article 147 § 3 of the CCP, as in force between 14 October 1994 and 1 January 2000, which provided that a person charged with a criminal offence punishable by more than three years' imprisonment was prohibited from leaving the country without authorisation by a prosecutor or a court.

24. In April 1999 the FTPA was replaced by the Bulgarian Identity Documents Act, which in section 75 (3) provided that persons against whom a criminal investigation was pending would not be allowed to leave Bulgaria, their passports would be seized and their requests for new passports would be refused.

25. The regime was further changed on 1 January 2000 with the new Article 153a of the CCP (from 29 April 2006 replaced by Article 68 of the new CCP) which stated that while criminal proceedings were pending at the investigation stage for serious criminal offences, the public prosecutor's office could impose on the person charged a prohibition on leaving the country. Where such a prohibition had been imposed, the public prosecutor's office could grant temporary authorisation for specific trips abroad. Refusal by the public prosecutor's office to grant such an authorisation could be challenged before the relevant court of first instance. When the case was pending before the courts, they would exercise the aforesaid powers granted to the prosecution authorities.

26. The new CCP of 2006 provides in Article 68 § 5 the opportunity for the person charged and his or her lawyer to request from the court the complete revocation of the prohibition on the grounds that there is no longer a danger of absconding.

THE LAW

I. THE GOVERNMENT'S OBJECTION OF INADMISSIBILITY

27. The Government submitted that the applicant had failed to exhaust the available domestic remedies because he had not initiated an action for damages under section 2 (2) of the SMRDA and referred to the existing possibility therein to obtain redress for being unlawfully charged with an offence. The applicant replied that an action under the SMRDA did not represent a remedy to be exhausted as regards his complaints.

28. The Court notes that the applicant complains about the length of the criminal proceedings and the prohibition on travelling abroad. Section 2 (2) of the SMRDA, meanwhile, provides for redress in several exhaustively listed situations, among which there is no mention of excessive length of criminal proceedings or measures taken against a person who has been charged in the course of criminal proceedings, such as a prohibition on leaving the country. Thus, the Government did not indicate how an action under section 2 (2) of the SMRDA would have remedied the complaints currently before this Court in respect of the allegedly excessive length of the criminal proceedings and the prohibition on leaving the country. Moreover, they failed to present copies of domestic court judgments where awards had been made under the SMRDA providing redress for excessive length of criminal proceedings or for a prohibition on leaving the country. Furthermore, the Court notes that a similar objection in respect of complaints about length of proceedings has been rejected in earlier cases (see *Nalbantova v. Bulgaria*, no. 38106/02, § 35, 27 September 2007; *Doinov v. Bulgaria*, no. 68356/01, §§ 31-37, 27 September 2007; and *Mirchev and Others v. Bulgaria*, no. 71605/01, §§ 16-18, 27 November 2008) and sees no reason to reach a different conclusion in the present case.

29. In view of the aforesaid, the Court does not find it proven by the Government that in the circumstances of the present case an action under the SMRDA would have provided for an enforceable right to compensation which could be considered an effective, sufficient and accessible remedy in respect of the applicant's complaints about the length of the criminal proceedings and the prohibition on leaving the country. Furthermore, it does not appear that such a right is secured under any other provision of Bulgarian law (see paragraphs 21-26 above).

30. Considering the above, the Court rejects the Government's objection about failure to exhaust available domestic remedies.

II. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4

31. The applicant complained under Article 2 of Protocol No. 4 that the prohibition on leaving the country imposed on him in 1994 had been unjustified and disproportionate.

The relevant part of Article 2 of Protocol No. 4 provides:

“2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. Admissibility

32. The Court observes that the ban was imposed on the applicant in 1994 and was lifted in April 2004. It is, however, competent *ratione temporis* to examine the period after 4 November 2000, the date on which Protocol No. 4 came into force in respect of Bulgaria. After that date and until the ban was lifted on 8 April 2004 the applicant's freedom of movement was restricted for a period of three years, five months and four days.

33. The Court further finds that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and is not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

34. The applicant claimed that at the time when the prohibition on leaving the country was imposed on him the relevant legislation provided for its imposition automatically and without any assessment of the balance between the individual's rights and the public interests at stake. This measure had not been necessary in his situation and it had been imposed by the prosecution, which could not be considered an independent body. Moreover, even after the entry into force of Article 153a of the CCP in 2000, there were no provisions in the domestic law allowing for the complete revocation of the prohibition. This Article only enabled the public prosecutor's office to grant temporary permission to the restricted individual to leave the country for specific trips. He further argued that after the entry into force of Article 153a no assessment had been made as to whether the prohibition imposed on him was still necessary and in accordance with the purposes of this Article.

35. The Government argued that the applicant's right to freedom of movement had not been violated, as the main purpose of the ban was to ensure his participation in the criminal proceedings against him, the prohibition was not absolute and after 2000 it could be reviewed by a court. They also contended that after 2000 the ban was not imposed automatically against all persons against whom criminal proceedings had been opened, but only against those who were being prosecuted for serious offences and not even against all those, as the prosecutor had the right to decide whether to impose a ban or not. Moreover, in 2003 the applicant had been allowed to leave the country in order to go to the Former Yugoslav Republic of Macedonia.

2. *The Court's assessment*

36. The Court reiterates that Article 2 of Protocol No. 4 guarantees to any person the right to freedom of movement, including the right to leave any country for another country to which he or she may be admitted. Any measure restricting that right must be lawful, pursue one of the legitimate aims referred to in the third paragraph of the above-mentioned Convention provision and strike a fair balance between the public interest and the individual's rights (see *Baumann v. France*, no. 33592/96, § 61, ECHR 2001-V).

37. The Court notes that the ban imposed on the applicant constituted an interference with his right to leave the country.

38. With regard to the lawfulness and the legitimate aim of this interference, the Court is satisfied that the ban was based on the provisions of the relevant legislation (see paragraphs 15 and 23-26 above) and pursued the legitimate aim of prevention of crime. Thus it was covered by Article 2 § 3 of Protocol No. 4 (see *Fedorov and Fedorova v. Russia*, no. 31008/02, § 37, 13 October 2005).

39. With regard to the proportionality of the interference, the Court observes that the applicant was charged with an offence punishable with imprisonment and that the State may apply various preventive measures restricting the liberty of an accused in order to ensure the efficient conduct of a criminal prosecution (see *Fedorov and Fedorova*, cited above, § 41), including prohibition on leaving the country.

40. In that connection the Court notes that the ban imposed on the applicant was not absolute - he could request its temporary removal, which, in fact he did, and could leave the country, provided that he received prior authorisation by a prosecutor.

41. In previous cases against Bulgaria, where the applicants had not requested permission to leave the country and consequently no refusal to grant authorisation was ever made, the Court has rejected similar complaints as manifestly ill-founded (see *Hristov v. Bulgaria* (dec.), no. 32461/02, 3 April 2006 and, more recently, *Iordan Iordanov and Others v. Bulgaria*, no. 23530/02, § 75, 2 July 2009). Unlike these cases, in the present case the applicant availed himself of this opportunity and in 2003 obtained permission to leave the country for one month. It is true that the relevant legislation at the time did not explicitly provide for the complete revocation of a prohibition. However, in 2003 a prosecutor from the district public prosecutor's office which had imposed the restriction on the applicant examined the justification given for the extension of the prohibition and concluded that it could not be completely removed, as further investigative actions were necessary. The Court sees no reason to believe that, had the prosecutor decided that no further investigative actions were necessary, the prohibition would not have been completely removed.

42. Nevertheless, in view of the fact that the criminal proceedings against the applicant never moved beyond the preliminary investigation stage, where for almost nine years, up to 2003, almost no investigative actions with the participation of the applicant were carried out and that after July 2003 no such actions took place whatsoever, the Court is not convinced that the extension of the prohibition was justified. Therefore, the prolongation disturbed the fair balance between the applicant's right of freedom of movement and the public interest of preventing and combating crime.

43. Furthermore, the Court observes that the applicant's request to leave the country, although submitted at the end of 2002, was examined only in July 2003. In view of the circumstances of the case, this period of about six months which the authorities took to reply to the applicant's request cannot be considered reasonable. Thus, the Court considers that the authorities did not act with the necessary diligence when examining the applicant's request.

44. It must also be noted that the prohibition remained unchanged for more than nine years, more than two of which were within the Court's jurisdiction *ratione temporis* and that the reassessment of the applicant's situation of July 2003 was the only reassessment ever carried out. The applicant apparently received no reply to his subsequent request for the prohibition to be removed (see paragraph 19 above). While the Court notes the Government's argument that after 1 January 2000, when the new Article 153a entered into force, the imposition of the restriction was not automatic, it observes that they failed to present any documents indicating that at that time an assessment of whether the extension of the restriction was justified had been made.

45. The Court reiterates that even where a restriction on the individual's freedom of movement was initially warranted, maintaining it automatically over a lengthy period of time may become a disproportionate measure, violating the individual's rights (see, among others, *Riener v. Bulgaria*, no. 46343/99, § 121, 23 May 2006; *Luordo v. Italy*, no. 32190/96, ECHR 2003-IX; *Földes and Földesné Hajlik v. Hungary*, no. 41463/02, §§ 30-36, ECHR 2006-XII; and *Bessenyei v. Hungary*, no. 37509/06, §§ 21-24, 21 October 2008). In the Court's view, the authorities are not entitled to maintain restrictions on an individual's freedom of movement over lengthy periods without periodic reassessments of their justification (see *Riener*, cited above, § 124).

46. In view of the above, the Court considers that the authorities' conduct in the present case ran counter to their duty under Article 2 of Protocol No. 4 to take appropriate care to ensure that any interference with the right to leave one's country remains justified and proportionate throughout its duration, in the individual circumstances of the case. It follows that there has been a violation of the applicant's right to leave his country, as guaranteed by Article 2 § 2 of Protocol No. 4.

III. ALLEGED VIOLATIONS OF ARTICLES 6 § 1 AND 13 OF THE CONVENTION

47. The applicant complained that the length of the criminal proceedings against him had been incompatible with the “reasonable time” requirement laid down in Article 6 § 1 of the Convention and that he did not have effective remedies in that respect as provided by Article 13.

The relevant part of Article 6 § 1 reads as follows:

“In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ...”

Article 13 of the Convention provides as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

48. The Government contested that argument.

49. The Court notes that the period to be taken into consideration began on an unspecified date in 1992, when the criminal proceedings against the applicant were opened. However, given that the Convention entered into force in respect of Bulgaria on 7 September 1992, this is the earliest date that can be considered as the beginning of the relevant period. The proceedings ended on 2 June 2004 when the District Court confirmed their discontinuation. They thus lasted approximately twelve years.

A. Admissibility

50. The Court finds that the complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. Alleged violation of Article 6 § 1 of the Convention in respect of the length of the criminal proceedings

51. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case and the conduct of the applicant and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II).

52. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Pélissier and Sassi*, cited above; and *Balabanov v. Bulgaria*, no. 70843/01, 3 July 2008).

53. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. The proceedings remained at the pre-trial stage for more than eleven years. The case does not appear to have been complex. It is clear from the facts that the delays in the proceedings were caused by the conduct of the authorities and are attributable to them. In particular, delays resulted from the fact that there were several remittals of the case between the prosecutor's office and the investigating authorities (see paragraph 9 above), from the loss of the case file and the efforts to reconstruct it (see paragraph 10 above) and from the failure of the prosecution authorities to send the case file promptly to Sofia District Court (see paragraph 11 above). There is, on the other hand, no indication that the applicant was responsible for any substantial delay.

54. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

55. There has accordingly been a breach of Article 6 § 1.

2. Alleged violation of Article 13 in conjunction with Article 6 § 1 of the Convention

56. The Court reiterates that Article 13 guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 to hear a case within a reasonable time (see *Kudła v. Poland* [GC], no. 30210/96, § 156, ECHR 2000-XI). A remedy is effective if it prevents the alleged violation or its continuation or provides adequate redress for any breach that has already occurred (*ibid.*, § 158; and *Mifsud v. France* (dec.) [GC], no. 57220/00, ECHR 2002-VIII).

57. The Court must, therefore, determine whether, in the particular circumstances of the present case, there existed in Bulgarian law effective remedies in respect of the length of the proceedings.

58. As regards the speeding up of the proceedings, the Court notes that in June 2003 an amendment to the Bulgarian Code of Criminal Procedure, the new Article 239a, introduced the possibility for an accused person to have his case brought before a trial court if the investigation has not been completed within a certain time-limit (see paragraph 21 above). The applicant made use of this remedy, which led to the discontinuation of the proceedings. This however did not make up for the excessive delay already accumulated. As regards the time prior to this date the Court notes that in similar cases against Bulgaria it has found that at the relevant time there was no formal remedy under Bulgarian law that could have expedited the

determination of the criminal charges against the applicant (see *Osmanov and Yuseinov v. Bulgaria*, nos. 54178/00 and 59901/00, §§ 38-42, 23 September 2004; and *Sidjimov v. Bulgaria*, no. 55057/00, § 41, 27 January 2005). The Court sees no reason to reach a different conclusion in the present case.

59. In respect of the possibility of obtaining compensation, the Court refers to its finding that, in the particular circumstances of the present case, an action under the SMRDA did not represent a remedy to be exhausted in respect of length of proceedings (see paragraphs 29 and 30 above). It follows that it cannot be considered an effective remedy within the meaning of Article 13 of the Convention. In addition, the Government has not shown that Bulgarian law provides other means for a litigant to obtain compensation or other redress for excessively lengthy proceedings.

60. Accordingly, there has been a violation of Article 13 of the Convention in that the applicant had no domestic remedy whereby he could enforce his right to a “hearing within a reasonable time”, as guaranteed by Article 6 § 1 of the Convention or adequate compensation in respect thereto.

IV. THE REMAINDER OF THE APPLICANT'S COMPLAINTS

61. The applicant also complained that his private and family life were adversely affected by the criminal proceedings against him and that as a result of the publicity in the local press he had been dismissed from his job and had then had difficulties finding employment as a specialist in the field of finance.

62. The Court has examined the remainder of the applicant's complaints as submitted by him. However, in the light of all the material in its possession, and in so far as the matters complained of are 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.

63. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

64. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

65. In respect of non-pecuniary damage the applicant claimed 20,000 euros (EUR), for the length of the criminal proceedings and the lack of effective remedies in that regard, EUR 30,000 for the prohibition on leaving the country and the lack of effective remedies in that regard and a further EUR 37,000 for the alleged violation of Article 8.

66. The Government contested these claims.

67. The Court observes that the applicant must have sustained non-pecuniary damage as a result of the above established violations. Ruling on an equitable basis and taking into account all the circumstances of the case, it awards him EUR 7,000 under this head.

B. Costs and expenses

68. The applicant also claimed EUR 1,000 in lawyers' fees for the proceedings before the Court. In support of his claim he presented an agreement with his lawyer, stating that the legal fees in connection with his application would be covered by the Bulgarian Lawyers for Human Rights Foundation at a rate of EUR 50 per hour. He further claimed EUR 101 in costs for the translation of his observations, postage and office materials. He submitted postage receipts for the amount of 85 Bulgarian leva (BGN, EUR 43.46) two of which were on the account of the Bulgarian Lawyers for Human Rights Foundation. He further presented two receipts for a total amount of BGN 1,732.63 (EUR 885.90) for payments made to his lawyer by the Bulgarian Lawyers for Human Rights Foundation for the legal work on the applicant's case before the Court. The applicant requested that the amount awarded for costs and expenses under this head be paid to the Bulgarian Lawyers for Human Rights Foundation.

69. The Government contested these claims as excessive.

70. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 1,000, covering costs and expenses under all heads, to be paid directly to the Bulgarian Lawyers for Human Rights Foundation.

C. Default interest

71. The Court considers it appropriate that the default interest 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. *Declares* the complaints concerning the prohibition on leaving the country, the excessive length of the proceedings and lack of effective remedies in that respect admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 2 § 2 of Protocol No. 4 to the Convention;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the excessive length of the proceedings;
4. *Holds* that there has been a violation of Article 13 in conjunction with Article 6 § 1 of the Convention on account of the lack of an effective remedy for the excessive length of the proceedings;
5. *Holds*
 - a) that the respondent State is to pay to the applicant, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian leva at the rate applicable at the date of settlement:
 - (i) EUR 7,000 (seven thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 1,000 (one thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, which to be paid directly to the Bulgarian Lawyers for Human Rights Foundation;
 - (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;
6. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 20 January 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President