



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

FIFTH SECTION

CASE OF RADKOV v. BULGARIA (no. 2)

(Application no. 18382/05)

JUDGMENT

STRASBOURG

10 February 2011

FINAL

10/05/2011

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

In the case of Radkov v. Bulgaria (no. 2),

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

Peer Lorenzen, *President*,
Karel Jungwiert,
Mark Villiger,
Isabelle Berro-Lefèvre,
Zdravka Kalaydjieva,
Angelika Nußberger,
Julia Laffranque, *judges*,

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 18 January 2011,

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

PROCEDURE

1. The case originated in an application (no. 18382/05) 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 Plamen Todorov Radkov (“the applicant”), on 26 April 2005.

2. The applicant was not legally represented. The Bulgarian Government (“the Government”) were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. The applicant alleged, in particular, that the conditions in Lovech Prison where he had been detained violated Article 3 of the Convention, and that he had had no effective remedies in that respect, as required under Article 13 of the Convention.

4. On 10 March 2009 the Court declared the application partly inadmissible and decided to give the Government notice of the complaints concerning the conditions of detention in Lovech Prison and the lack of effective remedies in that respect. It also decided to examine the merits of the remainder of the application at the same time as its admissibility (Article 29 § 3 of the Convention, as in force before 1 June 2010).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1972 and is currently detained in Bobov Dol Prison.

A. The applicant's detention

6. On 26 May 1999 the applicant was arrested on suspicion of murder and placed in the detention centre at the Ruse Investigation Service. On 8 March 2000 he was transferred to Lovech Prison. Initially, he was detained in the prison as an accused, pending the outcome of his trial. After 27 November 2003, when he was convicted and sentenced to life imprisonment, he remained there to serve his sentence. On 5 November 2008 he was transferred to Bobov Dol Prison.

7. After 27 November 2003 the applicant was placed under a “special regime” (see paragraphs 22-23 below).

8. While in Lovech Prison, for an unspecified initial period of time the applicant was in an individual cell measuring four square metres. Subsequently he was placed in a cell measuring 12.6 square metres which he shared with other inmates. None of those cells was equipped with toilet facilities, sinks or running water, and the inmates were allowed to go to the toilet only three times a day, for ten minutes each time. Outside those periods they had to relieve themselves in a plastic bucket which they could empty and clean when going to the toilet.

9. According to the applicant, the food served was insufficient and not of satisfactory quality.

10. Neither the Government nor the applicant submitted information about the conditions of the applicant's detention in Bobov Dol Prison.

11. On 27 April 2004 the applicant complained to the prison administration of the practice of using buckets and of the quality of the food. It is unclear whether he received a reply. After his transfer to Bobov Dol Prison the complaint was destroyed. The Court has not been informed of the administration's reply.

B. The applicant's claim for damages against the authorities

12. On 27 October 2004 the applicant brought a claim before the Lovech District Court against the Ministry of Justice. He sought 3,000 Bulgarian leva (BGN) under section 1 of a 1988 Act governing State liability for damage (see paragraph 25 below), alleging that he had suffered distress and

humiliation as a result of the poor conditions of his detention. The claim concerned the period from 8 March 2000 to 27 October 2004.

13. The judges who dealt with the case visited the prison and inspected the cells in which the applicant had been kept. They heard witnesses and gathered other evidence.

14. In a judgment of 8 July 2005 the Lovech District Court partly allowed the claim. It found that by failing to ensure access to toilet facilities and running water the authorities had failed to comply with their obligation to ensure conditions of detention compatible with human dignity. It held:

“There is no doubt that having to use a bucket for toilet needs, in a cell measuring around ten square metres, without sufficient ventilation, in the presence of others, diminishes human dignity, falls foul of all sorts of criteria of hygiene [and] poses a serious risk to the inmates' health. The conditions, in which [the applicant was] placed, amounted to degrading treatment ...”

15. In the court's opinion, that situation was incompatible with Article 3 of the Convention and several provisions of domestic law. In reaching that conclusion the court had regard to this Court's case-law and the recommendations of the Committee for the Prevention of Torture concerning the use of buckets in the cells (see paragraph 27 below).

16. The court went on to examine the applicant's allegation that the food had been insufficient and of poor quality. However, it found that this was unsubstantiated, as the food served to the inmates was prepared in strict compliance with the portions and requirements adopted by the Ministry of Health.

17. In assessing the amount of damages to be awarded to the applicant, the court said:

“The non-pecuniary damage [in this case] amounted to encroachment upon the identity, honour and dignity of [the applicant, and to] daily psychological and physical discomfort when using a bucket for sanitary needs. [The applicant] failed to establish the extent to which that affected [him] psychologically and caused him to suffer morally. Neither every unpleasant sensation or feeling nor every episode of depression can give rise to an entitlement to receive compensation for non-pecuniary damage. In view of that, in determining the amount of compensation the court takes into account the subjective feelings characteristic of an individual of that age, sex and state of health, as well as [the applicant's] personality, and concludes that [his] psychological sphere was affected in a way and to a degree typical for any person placed in the same situation. There is no indication that [the applicant's] physical or psychological health worsened as a result of the defendant's unlawful failure to act.”

18. The court also emphasised that the claim concerned a long period, lasting from 8 March 2000 to 27 October 2004. On the basis of those considerations, it awarded the applicant BGN 250 (the equivalent of 128 euros (EUR)).

19. As it dismissed part of the claim, the court ordered the applicant to pay a court fee in the amount of BGN 150, which represented a percentage

of the dismissed part (see paragraph 26 below). Thus, the sum that the applicant was to receive came to BGN 100 (the equivalent of EUR 51).

20. On 9 August 2005 the applicant appealed, claiming a higher amount in damages.

21. In a final judgment of 6 January 2006 the Lovech Regional Court upheld the district court's judgment, fully agreeing with its reasoning and saying that

“no evidence [had been] presented for any specific damage or deterioration of [the applicant's] state of health or psychological well-being”.

II. RELEVANT DOMESTIC LAW

A. Enforcement of sentences

22. The 1969 Enforcement of Sentences Act, in force until 1 June 2009, provided for different detention regimes for prisoners. Under section 127b, inmates who served a sentence of life imprisonment were to be initially detained under a “special regime”, which could later be modified into a less strict one.

23. Regulation 56 of the Act's implementing regulations, in force until 1 February 2010, specified that inmates detained under a “special regime” were to be kept in closed premises and under reinforced security.

24. By Article 36 § 2 of the Criminal Code, punishments cannot have as their aim “causing physical suffering or degrading human dignity”. An identical prohibition was contained in section 2(2) of the 1969 Enforcement of Sentences Act.

B. State liability for damages

25. Section 1(1) of the 1988 Act originally called the State Responsibility for Damage Caused to Citizens Act, renamed on 12 July 2006 the State and Municipalities Responsibility for Damage Act (“the 1988 Act”) provides that the State is liable for damage caused to private or legal persons by illegal orders, actions or omissions of government or municipal bodies and officials acting within the scope of, or in connection with, their administrative duties. Under section 4, the compensation awarded should cover all pecuniary and non-pecuniary damage which is the direct and proximate result of the illegal act of omission.

26. Under section 10(2), as worded until May 2008, no court fees or costs were payable by the claimant upon the bringing of a claim. However, if the claim was eventually wholly or partly dismissed, the court was to order the claimant to pay “the court fees and costs due”. The courts

interpreted that provision as meaning that claimants should pay court fees calculated as a *pro rata* percentage of the dismissed part of their claims. In May 2008 that provision was superseded by a new section 9a, which provides for a flat-rate fee for bringing a claim under the Act.

III. REPORTS OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (“THE CPT”)

27. The CPT has not visited Lovech Prison. During its visits to other prisons in Bulgaria, it noted the use of buckets by prisoners for sanitary needs. Finding this practice “unacceptable”, it several times recommended that it be discontinued (see, for example, paragraphs 73 and 77 of the report on its 2006 visit to Bulgaria (CPT/Inf (2008) 11), concerning Sofia Prison, and paragraphs 82, 87 and 118 of the report on its 2002 visit to Bulgaria (CPT/Inf (2004) 21), concerning Burgas and Pleven Prisons).

28. In the report on its 2008 visit (CPT/Inf (2010) 29) the CPT examined the situation of prisoners serving life imprisonment in Sofia Prison and expressed concern as to the legal provisions in force whereby such prisoners were systematically subjected to “special regime” for an initial period of time. It recommended that this practice be reviewed.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3 AND 13 OF THE CONVENTION

29. The applicant complained that the conditions in Lovech Prison were degrading, in breach of Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

30. The applicant complained further that he had not had effective remedies in respect of the conditions of his detention. He relied on Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1. The Court considers that this complaint falls to be examined solely under Article 13 of the Convention, which provides:

“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.”

31. The Government pointed out that the applicant had already been awarded damages in the domestic proceedings on account of the poor living conditions in Lovech Prison for the period from 8 March 2000 to 27 October 2004. They argued that he had failed to exhaust domestic remedies, as it had been open for him to seek damages in respect of his remaining stay in that prison. Furthermore, the Government were of the view that the suffering inflicted on the applicant had not reached the minimum level of severity required under Article 3 of the Convention. Lastly, they pointed out that following a refurbishment of Lovech Prison in the autumn of 2008 the cells had been equipped with sanitary facilities.

32. Furthermore, without putting forward any specific arguments, the Government argued that there had been no violation of Article 13.

33. The applicant contested those arguments. He considered that the amount awarded in response to his claim had been inadequate. He argued that the conditions of his detention had amounted to inhuman and degrading treatment, which had also been recognised by the domestic courts.

34. Under Article 13, the applicant pointed out that he had used a remedy which was available in principle, namely a claim under the 1988 Act. However, even though the domestic courts had acknowledged that he had been detained in degrading conditions, they had awarded him the equivalent of EUR 51, which, in his view, did not amount to adequate compensation. Referring to *Iovchev v. Bulgaria* (no. 41211/98, 2 February 2006), the applicant contended that the domestic courts' formalistic approach, under which, while finding that the conditions of his detention were inhuman and degrading, they required separate proof that he had suffered on account of them, had deprived that remedy of any effectiveness that it may have had in principle.

A. The period from 8 March 2000 to 27 October 2004

1. Admissibility

(a) Article 3 of the Convention

35. The Court observes that the applicant brought a claim under section 1 of the 1988 Act in respect of the conditions of his detention during that period. The claim was partly allowed and resulted in an award of damages (see paragraphs 12-21 above). The question therefore arises whether the applicant can still be considered a victim of a violation of Article 3 in respect of that period. Even though they did not phrase it explicitly, the Government did raise such an argument, as they referred to the fact that the applicant had been awarded compensation (see paragraph 31 above).

36. The question whether an applicant can claim to be a victim of an alleged violation of the Convention is relevant at all stages of the proceedings under the Convention (see, among other authorities, *Burdov v. Russia*, no. 59498/00, § 30, ECHR 2002-III). That question essentially entails on the part of the Court an *ex post facto* examination of the applicant's situation. A decision or measure of the domestic authorities favourable to the applicant is in principle not sufficient to deprive him or her of his or her status as a victim unless those authorities have acknowledged, and then afford adequate redress for, the breach of the Convention (see, as a recent authority, *Ciorap v. Moldova (no. 2)*, no. 7481/06, § 18, 20 July 2010).

37. On the basis of developments in the Bulgarian courts' case-law since 2003, the Court has accepted that a claim under section 1 of the 1988 Act is in principle an effective remedy for poor conditions of detention and is capable of providing adequate compensation to persons who have been kept in such conditions (see *Hristov v. Bulgaria (dec.)*, no. 36794/03, 18 March 2008; *Kirilov v. Bulgaria*, no. 15158/02, §§ 43-48, 22 May 2008; *Shishmanov v. Bulgaria*, no. 37449/02, §§ 58-62, 8 January 2009; *Titovi v. Bulgaria*, no. 3475/03, § 34, 25 June 2009; *Simeonov v. Bulgaria*, no. 30122/03, §§ 43-47, 28 January 2010; and *Georgiev v. Bulgaria (dec.)*, no. 27241/02, 18 May 2010). Indeed, the applicant in the instant case brought such a claim. However, the Court is not persuaded that it provided him adequate redress, for the following reasons.

38. Firstly, the domestic courts, while acknowledging that the conditions of the applicant's detention were in breach of Article 3 of the Convention and had continued for a long time, awarded him a much lesser amount than the one that he sought, on the sole ground that he had failed to adduce evidence that he had suffered damage. The Lovech District Court stated that there was no indication that the applicant's physical or psychological health had worsened (see paragraph 17 above). The Lovech Regional Court endorsed that reasoning, finding that no evidence had been presented to show that the applicant had suffered "any specific damage or deterioration of [his] state of health or psychological well-being" (see paragraph 21 above). The courts did not consider that the evidence proving that the conditions in Lovech Prison were poor could also serve as proof that the applicant had endured non-pecuniary damage – such as stress, anxiety and frustration – on their account. Instead, they apparently expected separate, extrinsic evidence of such damage. As a result, the applicant was awarded BGN 250 (the equivalent of EUR 128) (see paragraph 18 above).

39. In *Iovchev v. Bulgaria* (cited above, § 146) the Court, faced with a similar situation, held that such a formalistic approach could render a claim under section 1 of the 1988 Act ineffective as a remedy. It observed that as a result of that approach, in cases where the non-pecuniary damage stemming from poor conditions of detention cannot be established on the basis of

objective, extrinsic proof, the persons concerned would not be awarded compensation for conditions of detention that are in breach of Article 3. While, unlike Mr Iovchev, the applicant in the present case was awarded a small amount, in view of the developments outlined in the preceding paragraph the Court sees no reason to reach a different conclusion.

40. Moreover, the applicant did not receive even that amount. While he was awarded BGN 250 in damages, he had to pay BGN 150 in court fees due in respect of the dismissed part of his claim, ultimately receiving only BGN 100 (the equivalent of EUR 51). The fees were calculated in line with the rule laid down in section 10(2) of the 1988 Act (see paragraphs 19 and 26 above). In *Stankov v. Bulgaria* (no. 68490/01, §§ 59 and 67, ECHR 2007-VIII) the Court found that that rule often resulted in a disproportionate restriction of the right of access to a court of litigants whose claims were in principle justified. Like Mr Stankov, the applicant cannot be criticised for having claimed an excessive sum, as there is no indication that at the relevant time there existed a well-developed and accessible case-law which might have assisted him in determining the likely quantum of an award in respect of poor conditions of detention (see also, *mutatis mutandis*, *Slavcho Kostov v. Bulgaria*, no. 28674/03, §§ 62 and 63, 27 November 2008).

41. An applicant's status of a victim of a violation of Article 3 may depend on the level of compensation awarded at domestic level (see *Gäfgen v. Germany* [GC], no. 22978/05, § 118, ECHR 2010-..., and *Ciorap (no. 2)*, cited above, §§ 18 and 24). In other contexts, the Court has accepted that awards that are lower than those that it would make but consonant with the legal tradition and the standard of living in the country concerned – but not unreasonably low – may be sufficient to deprive applicants of their victim status (see *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 206, ECHR 2006-V, and *Simaldone v. Italy*, no. 22644/03, § 30, ECHR 2009-... (extracts)). However, the award in the present case did not meet that condition. It was unreasonably low, especially considering that it was intended to provide reparation for a period lasting more than four years (see, *mutatis mutandis*, *Ciorap (no. 2)*, cited above, §§ 24 and 25). The Court concludes that it failed to provide the applicant adequate redress and deprive him of his victim status.

42. The Court further considers that the complaint under Article 3, in so far as it concerns that period, is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

(b) Article 13 of the Convention

43. The Court considers that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

2. Merits

(a) Article 3 of the Convention

44. Restatements of the general principles concerning the examination of conditions of detention under Article 3 may be found in the Court's recent judgments in *Ślawomir Musiał v. Poland* (no. 28300/06, §§ 85-88, ECHR 2009-...(extracts)), *Orchowski v. Poland* (no. 17885/04, §§ 119-229, ECHR 2009-... (extracts)) and *Norbert Sikorski v. Poland* (no. 17599/05, §§ 126-31, 22 October 2009).

45. The Court notes that the complaint examined here concerns the period from 8 March 2000 to 27 October 2004, that is, a period of four years, seven months and nineteen days.

46. For a part of that period, that is, after 27 November 2003, the applicant was detained under a “special regime”, which required that he be kept in closed premises and under reinforced security (see paragraphs 7 and 23 above).

47. Initially, the applicant was kept in an individual cell measuring four square metres and later in a larger cell measuring 12.6 square metres. The cell was not equipped with toilet facilities or sinks and the inmates were allowed to go to the toilet and to wash three times a day, for ten minutes each time. Outside those periods, if they needed to relieve themselves they had to use a plastic bucket, which they could empty and clean when going to the toilet (see paragraph 8 above).

48. The Court notes that the district court judges who dealt with the applicant's claim personally inspected those cells and on the basis of that inspection and other evidence found that the conditions of the applicant's detention amounted to degrading treatment. They also found that having to relieve oneself in a bucket in the presence of other inmates, in a small cell without sufficient ventilation, was not compatible with the requirements of Article 3 (see paragraphs 13-15 above). That ruling was later upheld by the Lovech Regional Court (see paragraph 21 above).

49. The Court sees no reason to depart from the domestic courts' findings (see, *mutatis mutandis*, *Ciorap (no. 2)*, cited above, §§ 22 and 23). Although they were apparently referring only to the period when the applicant shared a cell, the Court sees no reason not to extend that conclusion to the time when he was kept in an individual cell (see paragraph 8 above). It is true that in *Kehayov v. Bulgaria* (no. 41035/98, § 71, 18 January 2005), it held that

“subjecting a detainee to the humiliation of having to relieve himself in a bucket in the presence of other inmates can have no justification, except in specific situations where allowing visits to the sanitary facilities would pose a concrete and serious safety risk”.

However, later, in *Malechkov v. Bulgaria* (no. 57830/00, § 140, 28 June 2007), the Court said that

“despite [of his or her] being accommodated alone in a cell, subjecting a detainee to the inconvenience of having to relieve himself in a bucket cannot be deemed warranted, except in specific situations where allowing visits to the sanitary facilities would pose concrete and serious security risks”.

50. The CPT, in its reports on Bulgaria, also found that the practice was “unacceptable” (see paragraph 27 above). It cannot be overlooked that the applicant remained in such conditions for a considerable period of time (see paragraph 45 above).

51. The foregoing considerations are sufficient to enable the Court to conclude that between 8 March 2000 and 27 October 2004 the applicant was detained in degrading conditions in Lovech Prison. It does not therefore find it necessary to assess whether, as the applicant contended, the food provided in that prison was of poor quality. It notes that the domestic courts dismissed that allegation as unsubstantiated (see paragraphs 16 and 21 above), whereas that the applicant has not presented any evidence to cast doubt on that finding.

52. There has therefore been a violation of Article 3 of the Convention.

(b) Article 13 of the Convention

53. The Court already found that the claim that the applicant brought under section 1 of the 1988 Act, concerning the period from 8 March 2000 to 27 October 2004, failed to provide him adequate redress, chiefly as a result of the domestic courts' excessively formalistic approach (see paragraphs 38-40 above). Like in *Iovchev* (cited above, § 146), the Court considers that as a result of the domestic courts' approach the applicant's claim lost much of its remedial efficacy. Moreover, as it could result only in an award of compensation and could not lead to an improvement of the *status quo*, it was, on its own, not a remedy capable of providing him adequate redress. As the Court observed in several recent cases which concerned persons who continued to be kept in allegedly poor conditions of detention (see *Orchowski*, § 109, and *Norbert Sikorski*, § 116, both cited above; *Łatak v. Poland* ((dec.)), no. 52070/08, §§ 77-85, 12 October 2010; and *Łomiński v. Poland* (dec.), §§ 68-76, no. 33502/09, 12 October 2010), remedies for conditions of detention which are of a purely compensatory nature may be regarded as effective only in respect of applicants who have been either released or placed in conditions which meet Convention standards.

54. The Court finds that the availability of domestic procedures to inmates, aimed at obtaining specific improvements of the conditions of imprisonment, is of crucial importance for the effective protection from inhuman and degrading treatment at the national level, and particularly so in cases concerning long-term imprisonment, where, as indicated in the

preceding paragraph, merely awarding damages cannot be deemed as adequate redress.

55. In the present case, on one occasion in 2004 the applicant complained about the conditions of his detention to the prison administration. However, the complaint was later destroyed and the Court has not been informed of any reply on the part of the administration (see paragraph 11 above). In any event, the Government did not claim that this complaint had prompted the authorities to take steps to improve the conditions of the applicant's detention. The authorities made improvements in Lovech Prison, but this happened much later, in the autumn of 2008 (see paragraphs 6 and 31 above), and apparently without any connection with the applicant's complaint. The Government did not refer to any specific possibilities for the applicant to initiate procedures and obtain, in so far as his complaints might be well-founded, any practical improvement of the conditions of detention.

56. There has therefore been a violation of Article 13 of the Convention.

B. The remainder of the applicant's stay in Lovech Prison

Admissibility

(a) Article 3 of the Convention

57. In respect of the period after 27 October 2004, the Government raised a non-exhaustion objection, because the applicant had not sought damages under the 1988 Act (see paragraph 31 above).

58. In three recent cases which concerned persons who continued to be kept in allegedly poor conditions of detention, the Court dismissed non-exhaustion objections based on their failure to bring or prosecute to a conclusion claims for damages against the State (see *Śławomir Musiał*, §§ 77 and 82, *Orchowski*, §§ 108 and 109, and *Norbert Sikorski*, § 116, all cited above). It explained that remedies for conditions of detention which are of a purely compensatory nature may be regarded as effective only in respect of applicants who have been either released or placed in conditions which meet Convention standards (see *Orchowski*, § 109, and *Norbert Sikorski*, § 116, both cited above). It fully confirmed that position in *Latak*, §§ 77-85, and *Łomiński*, §§ 68-76, both cited above).

59. For the same reason, it can be concluded that as long as the applicant continued to be kept in the same conditions, a claim for damages would not have in itself constituted an effective remedy. However, the Court cannot fail to notice that on 5 November 2008 the applicant was transferred to another prison (see paragraph 6 above). He has not complained about the conditions there and has not provided any information about them (see

paragraphs 10 and 29 above, and compare with *Georgiev* and *Latak*, §§ 78 and 81, both cited above). A claim under section 1 of the 1988 Act cannot therefore be ruled out as ineffective under the above-mentioned test. Nor can it be considered devoid of any prospect of success. It is true that, as a result of the courts' approach, the applicant's claim concerning his stay in prison before 27 October 2004 did not result in an adequate amount of compensation (see paragraphs 38-40 above). However, it cannot be overlooked that, in view of the general state of the domestic courts' jurisprudence, claims under section 1 of the 1988 Act are as a rule an effective avenue of redress in respect of poor conditions of detention (see paragraph 37 above). In those circumstances, the Court is not persuaded that a second claim by the applicant would have likewise failed to provide him adequate redress. The applicant has not brought such a claim.

60. It follows that, in so far as it concerns the applicant's detention in Lovech Prison after 27 October 2004, the complaint under Article 3 must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

(b) Article 13

61. In view of its finding that the applicant did have an effective remedy in respect of his complaint under Article 3, and bearing in mind the close affinities between Article 13 and Article 35 § 1 of the Convention, the Court concludes that the applicant's complaint under Article 13 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention (see *Slimani v. France*, no. 57671/00, § 42, ECHR 2004-IX (extracts)).

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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

63. The applicant claimed EUR 45,000 in respect of non-pecuniary damage, pointing out that his detention in conditions contrary to Article 3 of the Convention had continued for a very long period of time.

64. The Government contested this claim.

65. The Court considers that the applicant must have sustained non-pecuniary damage as a result of the breaches of his rights found in the

case. The Court considers it reasonable to award the amount which the applicant sought before the domestic courts, namely BGN 3,000, the equivalent of EUR 1,530, taking also into account that its finding of a violation of Article 3 was only based on the applicant's having to use buckets for sanitary needs in the prison (see paragraphs 44-52 above). To this should be added any tax that may be chargeable.

B. Costs and expenses

66. The applicant also claimed EUR 200 for costs and expenses.

67. The Government urged the Court to dismiss this claim, pointing out that it was not supported by any documents.

68. According to the Court's case-law, applicants are entitled to the reimbursement of their 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. To this end, Rule 60 §§ 2 and 3 of the Rules of Court stipulates that applicants must enclose with their claims for just satisfaction "any relevant supporting documents", failing which the Court "may reject the claims in whole or in part". In the present case, noting that the applicant has failed to produce any documents in support of his claim, the Court does not make any award under this head.

C. Default interest

69. 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 application, in so far as it concerns the applicant's detention from 8 March 2000 to 27 October 2004, admissible and the remainder inadmissible;
2. *Holds* that in respect of the period from 8 March 2000 to 27 October 2004 there has been a violation of Article 3 of the Convention;
3. *Holds* that in respect of the period from 8 March 2000 to 27 October 2004 there has been a violation of Article 13 of the Convention;

4. *Holds*

(a) that the respondent State is to pay the applicant, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,530 (one thousand five hundred and thirty euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Bulgarian leva at the rate applicable on the date of settlement;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English, and notified in writing on 10 February 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President