

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

THIRD SECTION

CASE OF ASEN ASENOV v. BULGARIA

(Application no. 38741/19)

JUDGMENT

Art 14 (+ Art 8) • Discrimination • Positive obligations • Private life • Supreme Administrative Court's failure to secure compliance with positive obligation to afford redress to Roma applicant for extreme negative stereotyping statements made by leader of political party • Art 14 (+ Art 8) applicable as statements' negative impact reached required level considering characteristics of group, content of statements, their form, context and reach, as well as author's position and status • Failure to adequately assess statements and to engage in a balancing exercise between competing rights at stake in line with criteria laid down in Court's case-law

Prepared by the Registry. Does not bind the Court.

STRASBOURG

12 May 2026

FINAL

12/08/2026

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



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In the case of Asen Asenov v. Bulgaria,

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

Ioannis Ktistakis, *President*,
Peeter Roosma,
Lətif Hüseynov,
Darian Pavli,
Diana Kovatcheva,
Úna Ní Raifeartaigh,
Canòlic Mingorance Cairat, *judges*,
and Milan Blaško, *Section Registrar*,

Having regard to:

the application (no. 38741/19) 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 Asen Martinov Asenov ("the applicant"), on 15 July 2019;

the decision to (a) give the Bulgarian Government ("the Government") notice of the complaints under Articles 8 and 14 of the Convention that (i) by quashing a decision of the Commission for Protection from Discrimination in relation to statements that a politician had made about Roma in Bulgaria, the Supreme Administrative Court had deprived the applicant's private life of protection from hostile speech, and that (ii) the reasons given by that court had demonstrated disregard towards the protection of the rights of minorities; and (b) declare the remainder of the application inadmissible;

the decision to conduct the proceedings in the case simultaneously with those in *Budinova and Isaev v. Bulgaria* (no. 60342/19);

the observations by the respondent Government and the observations in reply by the applicant;

the comments by the European Roma Rights Centre, which had been granted leave to intervene in the proceedings;

Having deliberated in private on 31 March 2026,

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

INTRODUCTION

1. The applicant, a Roma rights activist, complained to the Commission for Protection from Discrimination about statements concerning Roma made by a politician in Bulgaria's Parliament. The Commission upheld the complaint, finding that parts of the politician's speech had constituted harassment towards the applicant, but following a claim for judicial review by the politician, that decision was quashed by the Supreme Administrative Court. The main issue before the Court is whether the way in which the

Supreme Administrative Court dealt with the case was in line with Bulgaria's positive obligations under Articles 8 and 14 of the Convention.

THE FACTS

2. The applicant was born in 1985 and lives in Shumen. He was represented by Mr A. Kashamov, a lawyer practising in Sofia.

3. The Government were represented by their Agent, Ms V. Hristova of the Ministry of Justice.

I. BACKGROUND

A. The applicant

4. The applicant is of Roma ethnic origin.

B. Mr Valeri Simeonov

5. At the relevant time, Mr Valeri Simeonov was the leader of the political party the National Front for the Salvation of Bulgaria, founded in 2011, which the applicant described as nationalist; Mr Simeonov was one of the main founders of that party. In the parliamentary elections in October 2014, the party ran as part of a coalition named Patriotic Front. Nineteen of the coalition's candidates were elected as members of Parliament. Mr Simeonov was among them, and became chairman of the coalition's parliamentary group.

6. Later, in 2016, the National Front for the Salvation of Bulgaria allied itself with two other parties – Ataka[1] and the VMRO-Bulgarian National Movement – and formed a coalition called United Patriots. At the parliamentary elections in March 2017, that coalition secured 27 parliamentary seats. Between May 2017 and November 2018, Mr Simeonov was Deputy Prime Minister.

7. Mr Simeonov was also the owner of SKAT, a cable television channel. According to the applicant, SKAT was "known for expressing radical opinions that have repeatedly been perceived as extreme and imbued with intolerance towards minority groups".[2]

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[1] For details about Ataka, see *Karaahmed v. Bulgaria* (no. 30587/13, §§ 7-10, 24 February 2015), *Budinova and Chaprazov v. Bulgaria* (no. 12567/13, §§ 4-7, 16 February 2021) and *Behar and Gutman v. Bulgaria* (no. 29335/13, §§ 4-7, 16 February 2021). Mr Simeonov was among its founders in 2005, but in 2009 quit the party.

[2] The leader of Ataka, Mr Volen Siderov, was also a presenter of an eponymous daily show aired by *SKAT* between 2003 and 2009 (see *Budinova and Chaprazov*, § 5, and *Behar and Gutman*, § 5, both cited above).

II. MR SIMEONOV'S STATEMENTS AT ISSUE IN THE CASE

8. At the beginning of the plenary sitting of the Bulgarian Parliament on 17 December 2014, before it could proceed with its agenda for the day, Mr Simeonov, speaking from the rostrum, made the following speech on behalf of his parliamentary group (see paragraph 5 *in fine* above):

> "In less than 20 days, Bulgarian society has witnessed several brutal criminal acts committed by members of the Roma ethnic group against minors, as well as against medical personnel during the performance of their official duties. The cases have stunned and shocked the public with their brutality, impudence and sense of impunity.
>
> On 5 December, a 12-year-old student with a mild form of intellectual disability was raped in the school of the village of [D.], the [B.] region, and the rapist was of Roma origin, a repeater in the eighth grade from the same school. The child victim was admitted to the multi-disciplinary hospital in [B.] with numerous lacerations and haemorrhages.
>
> A few days later, a brutish mob of Gypsies from the illegal ghetto held an unauthorised rally in the centre of the village and demanded the resignation of the mayor of the village, [I.A.], as strange as this may sound.
>
> On 30 November, in the village of [V.], the [B.] region, Dr [I.M.], an emergency worker, was beaten by Gypsies while performing her duties in an attempt to save a human life. On this occasion, a distinguished Bulgarian minister, [P.M.], stood up against the cowardly disregard and mockery of the honour of the profession. Naturally, he was denounced by the impudent – I will spare you the details – [Movement for Rights and Freedoms].[3] Thank you.
>
> These three cases out of hundreds of similar ones in recent years are yet another shameful piece of evidence of the destructive processes in Bulgarian society over the past 20 years. It is indisputable that a large part of the Gypsy ethnic group live outside of any laws, rules and human norms of conduct. For them, the laws do not apply; taxes and fees are incomprehensible concepts – bills for electricity, water, [and] social and health insurance have been replaced by the belief that they have only rights, but no duties or responsibilities. For them, theft and robbery have become a way of life, lawbreaking – a norm of conduct; giving birth to children – a profitable business at the expense of the State, caring for the next generation; and the educating of minors in begging, prostitution, theft and drug trafficking.
>
> The Gypsy barons impose a model of existence that is radically opposite to the rules in Bulgarian society. Bulgaria is facing the abyss of an ethnic crisis. Two opposing and mutually exclusive worlds are facing each other in our tormented homeland: the world of the poor pensioners who nevertheless pay their bills, who hang from homemade nooses attached to the ceilings on account of illness and lack of money, and the world of brutalised thieves and rapists, drunk beyond recognition after receiving monthly child and social benefits.
>
> Everything said so far would serve as a good breeding ground for the numerous human rights organisations of Roma, Helsinki, sorosoid and neoliberal origin as a basis for accusations of racism, ethnic discrimination and all sorts of crimes that they would

[3] For details about that political party in Bulgaria, traditionally associated with the Turkish and Muslim minorities there, see *Riza and Others v. Bulgaria* (nos. 48555/10 and 48377/10, §§ 8-9, 13 October 2015).

charge against me and the Patriotic Front. However, this would be inaccurate, untrue and hasty. Because the truth is that Bulgarian society and the State are facing a serious problem which must be overcome decisively and by applying the full force of the law. The law that the great Levski[4] said should be the same for everyone, regardless of ethnicity.

The question remains, what are the reasons for part of the Gypsy ethnic group becoming a destroyer of statehood and the laws? Why have the people who, during the time of socialism 25 years ago, worked, sent their children to school and contributed to the creation of public good now turned into brazen, arrogant and brutalised humanoids, demanding the right to wages without working, demanding sickness benefits without being sick, child benefits for children who play with pigs in the street and maternity benefits for women with the instincts of street bitches? What led our dark-skinned compatriots to believe that everything is owed to them, that everything is permitted to them, and that everyone is obliged to feed, clothe and give them medical treatment for free? The answer to these questions would explain the root causes and would show us how to solve this difficult problem. And this answer has its political projection or, as the representatives of [the Movement for Rights and Freedoms] would put it 'exactly', they have their own political vector.

For the second decade now, Bulgarian society has been subjected to a sinister political experiment, comparable only to the one implemented in 1917 at the beginning of the Bolshevik uprising in Saint Petersburg. Following the same model, [the Movement for Rights and Freedoms] has usurped the right to be the sole representative of the Gypsy ethnic group, promising it political representation and minority privileges, without any obligations. Fulfilling its hellish goal of dividing and antagonising Bulgarian society after the successes achieved among the illiterate Turkish population, in 2005 the deified leader of the pro-Turkish party [Ahmed Doğan] promised the Gypsies in [S.] that they would not pay for electricity if they voted for [the Movement for Rights and Freedoms]. In 2009, in parallel with the promises of not paying for water and electricity, [the Movement for Rights and Freedoms] propagandists also applied a new method of winning Gypsy votes – direct purchase. The local elections in 2011, the parliamentary elections in 2013 and 2014, and the European elections in 2014 were totally manipulated and led to catastrophic processes of distortion of the election results. In parallel with the creation of Bulgarian levs stolen from the State and municipal budgets, [the Movement for Rights and Freedoms] propagated hysterical hatred of the Bulgarian ethnicity and instilled primitive xenophobia and self-isolation among the Turkish and Gypsy ethnicities.

At the same time, the leaders of the criminal political economic clique demonstrated their closeness to the dictatorial and anti-people regime of Recep Tayyip Erdoğan, now President, and, until recently, Prime Minister of the Republic of Turkey. The one who drowned the mass protests against the trampling of democracy and civil liberties in Turkey in blood in 2013; the one who sent tanks and aircraft against the Kurds fighting for their freedom; the one who is the exponent of Turkey's neo-Ottoman claims towards its Balkan neighbours, and the one who two days ago declared: 'Europe should mind its own business.' Here is the root of evil, herein lies the reason for the instilled hatred, in the brutal screams 'Death to the Bulgarians' and the bloodied knives, irons and axes. Herein lie the fear, pain and tears of our parents and children, the humiliation, grief and feeling of powerlessness of the Bulgarian doctors, policemen, social workers and

[4] Vasil Levski (1837-73) was a Bulgarian revolutionary who sought to foment an uprising to liberate Bulgaria from Ottoman rule and set up a network of secret regional committees. Dubbed "the Apostle of Freedom", he is a national hero of Bulgaria.

> teachers. Here, the root of evil is in the Bulgarian Parliament! As well as in the vile collusion of Bulgarian parties with the criminal mafia [the Movement for Rights and Freedoms], depending on the momentary distribution of forces. Therefore, Bulgaria has no chance if the Bulgarian politicians do not let go of their political shortsightedness and do not cut short their unprincipled agreements in the name of power with the most sinister creation of the so-called transition[5]!
>
> There is no chance, no chance if we do not rely on patriotism, unity and the rage to survive! The Patriotic Front will take the requisite legislative measures to guarantee the security of State officials, as well as to heighten the criminal liability, including the imprisonment of brazen lawbreakers and their patrons. Long live Bulgaria!"

9. Reacting to statements made by two members of parliament from the Movement for Rights and Freedoms in response to his speech, Mr Simeonov said:

> "At no point in my address did I speak about the entire ethnic group, but about a part of that ethnic group – the one that breaks the law, kills, rapes, steals. I am sorry if the gentleman who spoke before me considers himself to be affiliated with that part of the ethnic group. I am sorry!
>
> I believe that he has reason to feel offended and to consider himself affiliated with that part of the ethnic group that brutally breaks the law, tramples on the ... dignity of all its fellow citizens and compatriots, because ... I saw him with my own eyes the other day coming to work ... with two Volvo cars and stopping on a restricted parking space."

III. PROCEEDINGS UNDER THE PROTECTION FROM DISCRIMINATION ACT 2003

A. Before the Commission for Protection from Discrimination

1. Course of the proceedings

10. In January 2015 the applicant complained about parts of Mr Simeonov's speech to the Commission for Protection from Discrimination under section 50 of the Protection from Discrimination Act 2003 (see paragraph 62 below). He alleged that they had revealed racism towards the Roma community, had disparaged all its members, and could stir up hatred towards Roma and result in discrimination against them. In that connection, he pointed out that (a) the speech had been broadcast by nearly all national media outlets, and that (b) Mr Simeonov had made the speech in his capacity as a member of parliament, which had made it possible for him to reach a wider audience. In the applicant's view, Mr Simeonov had acted wilfully as he had been aware of the consequences of his statements – that they would motivate a wide audience towards discrimination on an ethnic basis and ethnic hatred. The applicant added that as a Bulgarian national of Roma ethnic origin he had felt discriminated against and insulted, because he

[5] The transition to democracy and a market economy in Bulgaria is the general name for the historical, political, and economic processes in the years after the fall of the communist regime there in 1989. It is often referred to as "The Transition" (*Преходът*).

was not a "brazen and arrogant creature and a brutalised humanoid demanding the right to wages without working, demanding sickness benefits without being sick, [or] child benefits for children who play with pigs in the street", and because his mother or wife did not have "the instincts of street bitches" (those being words featuring in Mr Simeonov's speech – see paragraph 8 above).

11. In his response to the complaint, Mr Simeonov stated that he had never had personal contact with the applicant, or infringed or called for the infringement of his rights on ethnic grounds. The applicant's impressions were subjective and based on a skewed reading of his speech, out of its proper context. If seen in its entirety rather than on the basis of the selective passages reported in the media, that speech had clearly not concerned the whole Roma community but only that segment of it which broke the laws and social norms of conduct, failed to take care of their children, abused social assistance and engaged in crime. There was no reason for the applicant, who evidently did not conduct himself in that manner, to feel any association with such people. He had, moreover, not pointed to any specific ways in which the speech had affected him or a group to which he belonged.

12. The Commission heard the case in March, April and September 2016.

2. The Commission's decision

(a) The decision itself

13. On 29 March 2017 a three-member panel of the Commission found that the following parts of Mr Simeonov's speech had amounted to harassment against the applicant contrary to paragraph 1(1) of the additional provisions of the Protection from Discrimination Act 2003 (see paragraph 49 below):

> "In less than 20 days, Bulgarian society witnessed several brutal criminal acts committed by members of the Roma ethnic group against minors, as well as against medical personnel during the performance of their official duties. The cases have stunned and shocked the public with their brutality, impudence and sense of impunity ... The question remains, what are the reasons for part of the Gypsy ethnic group becoming a destroyer of statehood and the laws? Why have the people who ... now turned into brazen, arrogant and brutalised humanoids, demanding the right to wages without working, demanding sickness benefits without being sick, child benefits for children who play with pigs on the street and maternity benefits for women with the instincts of street bitches?"

14. The Commission fined Mr Simeonov 1,000 Bulgarian levs (equivalent to 511 euros) and directed him to refrain from such acts in the future (see *реш. № 119 от 29.03.2017 г. по пр. № 24/2015 г., КЗД*).

15. The Commission first pointed out that according to its earlier decisions, reporting events involving individual members of an ethnic community in a way that stigmatised or attributed blame to that community as a whole through generalisation amounted to discrimination. In such

situations, the question whether the facts to which the statements referred had taken place was irrelevant, because sweeping generalisations, qualifications and insinuations about an entire group based on the specific acts of its members was in itself discriminatory.

16. The Commission then observed that in his speech Mr Simeonov had deliberately opted for the word "Gypsy", which conjured up negative stereotypes and was laden with prejudice. The linking of that ethnic group with serious crime stirred up hatred towards the group and fed the negative stereotypes about it; no law-enforcement authority collected or published statistics about the ethnicity of those engaging in crime. There was thus no basis for Mr Simeonov's strongly-worded allegations, according to which only Roma attacked emergency medical personnel. He had furthermore branded them as outlaws, linking their ethnicity with criminality without any reference to specific data, and had thus expressed a value judgment. That sort of negative stereotyping and aggressive portrayal of the Roma community as a whole had amounted to unwanted conduct based on one of the grounds listed in section 4(1) of the Protection from Discrimination Act 2003 – ethnicity (see paragraph 47 below) – and had created a hostile environment. The statements had thus amounted to harassment on the basis of ethnicity, and therefore to discrimination contrary to section 5 of the Act read in conjunction with paragraph 1(1) of the Act's additional provisions (see paragraphs 48-49 below).

17. It was true that the statements had amounted to an exercise of Mr Simeonov's constitutional right to freedom of expression. That right was, however, not absolute, and could be restricted under Articles 39 § 2 and 57 § 2 of the Constitution (see paragraphs 42-43 below). The position under international law, in particular Article 10 of the Convention, was the same: the right to freedom of expression was not absolute, and its exercise carried with it special duties and responsibilities. In particular, it did not include the advocacy of national, racial or religious hatred. The standing rules of parliament also prohibited those sorts of statements.

18. In that connection, it had to be borne in mind that according to the preamble of the Constitution, human dignity was an overarching principle, and that it was specifically protected under Article 4 § 2 and Article 32 § 1 of the Constitution (see paragraphs 38, 39 and 41 below). It was also protected under international law. The prohibition of discrimination in Article 6 § 2 of the Constitution and section 4(1) of the Protection from Discrimination Act 2003 (see paragraphs 40 and 47 below) was one of the means of ensuring its protection. Discrimination in the form of harassment contrary to section 5 of that Act read in conjunction with paragraph 1(1) of the Act's additional provisions (see paragraphs 48-49 below) specifically targeted human dignity, which was why the prohibition of such harassment was a legitimate restriction of freedom of expression. Human dignity could also be affected by

disparaging statements about a group, in particular an ethnic group, with which the victim identified.

19. In the light of all that, it had to be accepted that Mr Simeonov had exercised his freedom of expression in a manner conflicting with the general principle of protection of human dignity. He could not therefore benefit from the constitutional protection of that freedom.

20. An act of discrimination was particularly serious when its author was a public figure entrusted with public duties such as Mr Simeonov. The place where his statements had been made – the rostrum of Parliament – had been an additional aggravating factor, since that had led to larger publicity owing to the direct broadcasting of the statements on a public television channel and their reporting by all media.

21. By contrast, Mr Simeonov's statement, which had not been addressed to any particular person, had not amounted to incitement to discrimination under paragraph 1(5) of the additional provisions of the Protection from Discrimination Act 2003 (see paragraph 50 below).

(b) The separate opinion

22. One of the panel's members wrote a separate opinion in which she expressed disagreement with the reasons given for the decision. According to her, Mr Simeonov's statements had not targeted the entire Roma ethnic community but only that segment of it which had engaged in attacks against emergency medical personnel. She added that in a democratic society the right to disseminate information concerned not only information which would be received favourably or with indifference, but also information which could offend, shock or disturb a sector of the population or a group of people. Bulgarian society was familiar with Mr Simeonov's vivid and colourful manner of expression, and with his peculiar choice of words in relation to the topics on which he spoke. There was no doubt that many of the things that he had said could have been put in more moderate and uncontroversial terms, especially bearing in mind the high parliamentary position that he held and the publicity his statements attracted. It was thus necessary to give him instructions about the language that he should use.

B. Judicial review of the Commission's decision

1. Proceedings before the Burgas Administrative Court

(a) Course of the proceedings

23. Mr Simeonov sought judicial review of the Commission's decision.

24. The applicant made no submissions in reply to Mr Simeonov's claim. For its part, the Commission argued that it was ill-founded. Neither the applicant nor the Commission appeared or were represented at the hearings before the Burgas Administrative Court.

(b) Judgment of the Burgas Administrative Court

25. In March 2018 the Burgas Administrative Court dismissed Mr Simeonov's claim (see *реш. № 564 от 23.03.2018 г. по адм. д. № 1786/2017 г., БАС*).

26. The court held, in particular, that the Commission had correctly applied the Protection from Discrimination Act 2003. In his speech, Mr Simeonov had used disparaging language towards Roma. His remarks had been insulting and had debased and dehumanised the Roma community. Since they had concerned not only the specific perpetrators of criminal offences, but also the manner of living and communal habits of the community, they had been capable of creating a hostile environment for all of its members. It had to be accepted that, regardless of the purpose of the statement, it had amounted to discrimination in the form of harassment. For an act to constitute harassment under paragraph 1(1) of the Act's additional provisions (see paragraph 49 below), the perpetrator did not have to intend to create an intimidating, hostile, degrading, humiliating or offensive environment – it was sufficient for the act to be of such a nature as to cause that effect.

27. The court went on to say that the Commission had been correct to hold that Mr Simeonov's statements could not benefit from the constitutional protection of freedom of expression. The fine imposed by the Commission and the directions that it had given had also been correct, and had fully corresponded to the gravity of Mr Simeonov's act.

28. Lastly, the court held that there was no need to deal with Mr Simeonov's submission that his statements could not be characterised as incitement to discrimination, since the Commission had already made such a finding.

2. Proceedings before the Supreme Administrative Court

(a) Course of the proceedings

29. Mr Simeonov appealed on points of law.

30. Mr Simeonov argued, in particular, that it remained unclear how one could harass or discriminate against someone else by way of a public statement without naming that person or having any contact with him or her. Nor was it clear how his speech had actually affected the applicant or his dignity; neither the applicant's complaint to the Commission nor the Commission's decision had contained any specific assertions in that regard. The findings of the Commission and of the Burgas Administrative Court on those points had been wholly based on the applicant's subjective perceptions. Under the decision issued by the Commission and the Burgas Administrative Court, anyone could claim to be the victim of discriminatory harassment from any statement that he or she disliked.

31. Mr Simeonov went on to submit that members of parliament did not have to back up their statements with official data, and that their freedom of expression was enshrined in the Constitution, which made them immune from criminal liability for their statements inside Parliament. The statements that they made there could not be characterised as discriminatory harassment. Neither the Commission nor the Burgas Administrative Court had properly explained how they could be viewed in such a way.

32. Neither the applicant nor the Commission made submissions in reply to the appeal. The Supreme Administrative Court heard the appeal in October 2018; neither the applicant nor the Commission appeared or were represented.

(b) Judgment of the Supreme Administrative Court

33. In January 2019 the Supreme Administrative Court quashed the Burgas Administrative Court's judgment and the Commission's decision (see *реш. № 636 от 15.01.2019 г. по адм. д. № 7229/2018 г., ВАС, V о.*).

34. The court started by noting that discriminatory treatment in the form of harassment was a separate type of discrimination defined in section 5 of the Protection from Discrimination Act 2003 read in conjunction with paragraph 1(1) of the Act's additional provisions (see paragraphs 48-49 below). The analysis of that definition showed that that type of discrimination consisted of unwanted conduct related to a characteristic protected under section 4(1) of the Act (see paragraph 47 below) and was either intended to cause or had caused negative consequences consisting of the infringement of the dignity of, and the creation of a negative environment for, the target of the harassment, who also had to have a protected characteristic. That was not the case of the applicant. As evident from his complaint to the Commission (see paragraph 10 *in fine* above), he did not identify with the segment of the Roma population described in Mr Simeonov's statements. Those statements had not referred to specific people, and the Protection from Discrimination Act 2003, properly construed, did not concern such statements, relating to undefined groups of people – including when they were members of a specific race, sex, interest group, or a religious, ethnic or other sort of social community.

35. It had to be noted in that connection that Mr Simeonov had not intended to cause negative consequences specifically for the applicant. Nor had he infringed the applicant's dignity or created a negative environment for him. Properly construed, paragraph 1(1) of the Act's additional provisions (see paragraph 49 below) referred to a specific environment: a business, a workplace, a specific institution, university, school, religious temple, house, and so on. No such environment had been identified with respect to the applicant. The lower court had been incorrect to hold that Mr Simeonov's statements had been capable of creating a hostile environment for all those of "Gypsy ethnicity".

36. The court went on to say that by finding that general statements about reprehensible conduct by an ethnic group could provoke negative attitudes towards all its members, the Commission had engaged in "aggressive moralising". Its finding that the negative stereotyping of the Roma community had created a hostile environment was puzzling. The Commission had thereby impermissibly pitted two ethnic groups against one another, by prohibiting the victims of crime from informing the public (irrespective of the manner in which that had been done) that they had been the victims of crime at the hands of people from another ethnic, religious or other social group. The Commission's conclusion that Mr Simeonov had misused his freedom of expression could not be accepted either, since he had neither targeted anyone in particular nor sought to stir up hatred. That had been clear from his speech; his manner and style of expression had not been themselves an opinion, but simply the form in which that opinion had been presented, which had been a matter of personal choice. Freedom of expression included the possibility of airing all sorts of opinions, irrespective of whether they were correct, benevolent, agreeable, polite, non-racist, non-xenophobic, and so on. Holding otherwise would amount to censorship, which was impermissible in a democratic State.

37. The Commission's finding that prohibiting discrimination in the form of harassment had amounted to a constitutionally permissible restriction of freedom of expression had been based on an impermissibly extensive interpretation of Article 39 § 2 of the Constitution (see paragraph 42 below). The tension between the anti-discrimination legislation and civil liberties could not be resolved to the detriment of the latter, as that would stray from the aims of that legislation – to ensure equality before the law, equality of treatment and effective protection against discrimination – and transform it into a tool for restricting, suppressing and controlling the right to express one's opinion.

RELEVANT LEGAL FRAMEWORK

I. BULGARIAN DOMESTIC LAW

A. Constitutional provisions and case-law under those provisions

38. The third clause of the preamble to the 1991 Constitution reads:

> "Elevating to the rank of supreme principle the rights of the human being, [his or her] dignity and security ..."

39. Article 4 § 2 of the Constitution states, *inter alia*, that Bulgaria "guarantees the life, dignity and rights of the individual".

40. Article 6 § 2 of the Constitution provides for equality before the law in the following terms:

> "All citizens shall be equal before the law. There shall be no restrictions of rights or privileges on grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinions, political affiliations, or personal, social or property status."

41. Article 32 § 1 enshrines the right to protection of one's private life and dignity in the following terms:

> "Citizens' private life shall be inviolable. All shall be entitled to protection against unlawful interference with their private ... life and against infringements of their honour, dignity or good name."

42. Article 39 § 1 provides that everyone is entitled to express an opinion and publicise it through words (whether written or oral), sounds or images, or in any other way. Under Article 39 § 2, that right may not be "exercised to the detriment of the rights and reputation of others, or for incitement to ... enmity or violence against anyone".

43. Article 57 § 2 contains a general limitation clause under the terms of which:

> "It shall not be permissible to abuse rights or exercise them to the detriment of the rights or legal interests of others."

44. Under Article 69, members of parliament bear no criminal liability for opinions that they have expressed.

45. In defamation cases against members of Bulgaria's Parliament, the Sofia Court of Appeal and the Sofia City Court have expressly held that the immunity conferred by Article 69 of the Constitution does not extend to civil liability (see *реш. № 189 от 04.02.2013 г. по в. гр. д. № 2576/2012 г., САС*, appeal on points of law not admitted for examination by *опр. № 1124 от 09.10.2013 г. по гр. д. № 4805/2013 г., ВКС, IV г. о.*, and *реш. № 8588 от 16.12.2019 г. по гр. д. № 16536/2018 г., СГС*, upheld in its relevant part by *реш. № 10098 от 26.01.2021 г. по в. гр. д. № 584/2020 г., САС*, appeal on points of law not admitted for examination by *опр. № 60529 от 22.06.2021 г. по гр. д. № 1424/2021 г., ВКС*). The Bulgarian courts have thus allowed claims for damages in respect of statements made by members of Bulgaria's Parliament from the rostrum (see *реш. № 1614 от 22.03.2011 г. по гр. д. № 12757/2009 г., СГС*, upheld by *реш. № 1843 от 22.11.2012 г. по в. гр. д. № 1710/2012 г.*, *САС*, appeal on points of law not admitted for examination by *опр. № 1081 от 25.09.2013 г. по гр. д. № 2120/2013 г., ВКС, IV г. о.*).

B. The Protection from Discrimination Act 2003

46. The Protection from Discrimination Act was enacted in 2003 and came into force on 1 January 2004. According to the explanatory notes to the Government bill which led to its enactment (no. 202-01-61), it was intended

to transpose into Bulgarian law, *inter alia*, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (see paragraph 67 below). The Bulgarian Parliament's Committee for European Integration's report on the bill, presented at its first reading on 10 July 2003, noted the same thing.

1. Prohibition of discrimination and harassment

(a) Statutory provisions

47. Section 4(1) of the Act prohibits any direct or indirect discrimination on the basis of sex, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which Bulgaria is party.

48. Under section 5, harassment based on any of the grounds listed in section 4(1) – as well as sexual harassment, or incitement to discrimination, persecution and racial segregation – is deemed to constitute discrimination.

49. Paragraph 1(1) of the Act's additional provisions defines "harassment" as any unwanted conduct motivated by the grounds listed in section 4(1) – whether expressed through physical gestures, words or otherwise – that either is intended to infringe or results in the infringement of the dignity of the people concerned and the creation of an intimidating, hostile, degrading, humiliating or offensive environment.

50. Paragraph 1(5) defines "incitement to discrimination" as direct and wilful encouragement, instructions or pressure to practise (or coaxing into practising) discrimination.

(b) Case-law under those provisions

(i) On the relation between the concepts of direct discrimination and harassment

51. The Supreme Administrative Court has stated that direct discrimination and harassment are related but nevertheless distinct concepts: when it comes to harassment, any difference in treatment is irrelevant – rather, harassment is characterised by its special aim or result, as set out in paragraph 1(1) of the additional provisions of the Act (see *реш. № 8105 от 08.06.2011 г. по адм. д. № 8708/2010 г., ВАС, VII о.*, upheld by *реш. № 156 от 05.01.2012 г. по адм. д. № 13389/2011 г., ВАС, петчл. с-в*).

(ii) In relation to public statements about Roma as a group

(α) Case-law of the Supreme Administrative Court

52. In a March 2009 judgment, upheld on appeal in December 2009 (*реш. № 3019 от 06.03.2009 г. по адм. д. № 9485/2008 г., ВАС, VII о.*,

upheld by *реш. № 14472 от 01.12.2009 г. по адм. д. № 11158/2009 г., ВАС, петчл. с-в*), the Supreme Administrative Court found that statements by a mayor in a radio interview that "even cows in [his municipality] would cause less obstruction than a Gypsy neighbourhood" and that "such a Roma neighbourhood would be 10 times more dangerous than a rubbish dump [located] in the proximity of living quarters" had amounted to harassment within the meaning of the Act, as they had infringed the dignity of a large number of people and had created an insulting environment based on ethnicity. The fact that the mayor had expressed his opinion in relation to a public-policy issue could not justify his comparing a minority ethnic group to "cows" and a "rubbish dump". Nor was it a defence that the mayor had not intended to offend the people concerned; it was enough that his words, which had been widely publicised in the Roma community, had led to that result.

53. In a July 2009 judgment, upheld on appeal in February 2010 (*реш. № 9983 от 23.07.2009 г. по адм. д. № 2059/2009 г., ВАС, VII о.*, upheld by *реш. № 1476 от 04.02.2010 г. по адм. д. № 14286/2009 г., ВАС, петчл. с-в*), the Supreme Administrative Court held that a television programme portraying Roma as being prone to anti-social behaviour could lead to negative stereotypes, and thus fell under the prohibition provided by section 5 of the Act (see paragraph 48 above), given that it could not be justified on grounds of freedom of expression. That was particularly so owing to the special duties and responsibilities of journalists and the widespread prejudice against Roma.

54. In a final March 2016 judgment (*реш. № 2445 от 02.03.2016 г. по адм. д. № 1248/2015 г., ВАС, V о.*), the Supreme Administrative Court held that by using a derogatory term for Roma in the name that he had given to a computer file, an IT expert employed by the presidential administration had engaged in harassment within the meaning of paragraph 1(1) of the Act's additional provisions (see paragraph 49 above).

55. In a final December 2016 judgment (*реш. № 13542 от 12.12.2016 г. по адм. д. № 10756/2015 г., ВАС, V о.*), the Supreme Administrative Court held that virulently anti-Roma user comments posted under an article about the murder of three Roma published on the website of a television channel had amounted to such harassment. It held the same in a final May 2019 judgment relating to virulently anti-Roma user comments posted under an article published on the website of an online media outlet (*реш. № 7269 от 15.05.2019 г. по адм. д. № 11803/2017 г., ВАС, V о.*).

56. By contrast, in a final October 2019 judgment concerning statements relating to Roma made by a mayor (*реш. № 14026 от 21.10.2019 г. по адм. д. № 12163/2018 г., ВАС, V о.*), the Supreme Administrative Court took an approach similar to the one that it adopted in the present case (see paragraphs 34-37 above).

57. The Supreme Administrative Court made a similar ruling in a final October 2020 judgment relating to a statement about Roma made by a Deputy

Prime Minister (*реш. № 13471 от 29.10.2020 г. по адм. д. № 8595/2020 г., ВАС, V о.*).

58. By contrast, in a final June 2021 judgment relating to the same statements by the Deputy Prime Minister (*реш. № 6976 от 09.06.2021 г. по адм. д. № 11591/2020 г., ВАС, V о.*), given in a different case, the Supreme Administrative Court held, with reference to, *inter alia*, this Court's judgment in *Budinova and Chaprazov v. Bulgaria* (no. 12567/13, 16 February 2021), that the test for assessing whether a public statement had constituted harassment within the meaning of paragraph 1(1) of the Act's additional provisions (see paragraph 49 above) was whether the statement could cause a reasonable and reasonably sensitive person put in the same conditions as the complainant to feel placed in an intimidating, hostile, degrading, humiliating or offensive environment, and that the statement's precise content and the question whether it had been broadcast by the media outlet carried particular weight in that regard. The court went on to note the link between the definition of "harassment" in paragraph 1(1) and the definition of the same term in Article 2 § 3 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (see paragraphs 67-68 below). On that basis, and finding that in his statement the Deputy Prime Minister had unequivocally ascribed criminal conduct to all Roma in Bulgaria and had stigmatised them, the court found that his statement had amounted to harassment. The fact that it had been a one-off could not detract from that. Nor did it matter whether the Deputy Prime Minister had intended to harass specific individuals of the Roma community. Lastly, the court found that the statement had not amounted to constitutionally protected speech.

59. In a final June 2024 judgment (*реш. № 8085 от 28.06.2024 г. по адм. д. № 2122/2024 г., ВАС, V о.*), again given in the case mentioned in the above paragraph – which went back before the administrative courts because the Commission for Protection from Discrimination had failed to heed the Supreme Administrative Court's earlier judgment – the same court agreed with the lower court that the Deputy Prime Minister's statement had been capable of constituting harassment within the meaning of paragraph 1(1) of the Act's additional provisions (see paragraph 49 above) *vis-à-vis* the individual Rom who had complained about it.

(β) Case-law of the Supreme Court of Cassation

60. In August 2012 the Supreme Court of Cassation refused to examine a case relating to negative public statements about Roma which the claimants had lost before courts at lower levels (see *опр. № 972 от 08.08.2012 г. по гр. д. № 1672/2011 г., ВКС, IV г. о.*, cited in *Budinova and Chaprazov*, cited above, § 17). In November 2021 that court refused to examine a case relating to negative public statements about people of Jewish ethnic origin which the claimants had likewise lost before courts at lower levels (*see опр. № 1215*

от 15.11.2012 г. по гр. д. № 533/2012 г., ВКС, IV г. о., cited in *Behar and Gutman v. Bulgaria*, no. 29335/13, § 22, 16 February 2021).

61. Having, apparently for the first time, examined such a case in January 2019, in a final June 2019 judgment (*реш. № 2 от 19.06.2019 г. по гр. д. № 3203/2018 г., ВКС, III г. о.*) – the first judgment that it appears to have given in proceedings conducted under section 71(1) of the Act (see paragraph 64 below) – the Supreme Court of Cassation held, in relation to Mr Simeonov's statements in issue in the present case and similar ones that he had made in March 2015, that, for there to be harassment within the meaning of paragraph 1(1) of the Act's additional provisions (see paragraph 49 above), there had to have been both "unwanted conduct" (for instance in the form of a public statement) and specific negative consequences of that conduct in the personal sphere of the people complaining of it, such as a refusal to employ them or lease accommodation to them, or the uttering of specific threats against them. On that basis, the court dismissed the claim, finding no evidence that Mr Simeonov's statements had targeted the claimants or had somehow specifically affected them. For details, see *Budinova and Isaev v. Bulgaria* (no. 60342/19, §§ 41-42, 12 May 2026).

2. Remedies for infringements of the Act

(a) Proceedings before the Commission for Protection from Discrimination and follow-up claims for damages

62. The authority chiefly responsible for ensuring compliance with the Act is the Commission for Protection from Discrimination (section 40). It can act on its own initiative, or pursuant to complaints by the aggrieved parties or to reports by concerned persons or authorities (section 50). If the Commission finds that there has been a breach of the Act, it can order that that breach be averted or stopped, or that the *status quo ante* be restored (section 47(2)). It can also impose sanctions (such as fines), order coercive measures or give binding directions (section 47(3) and (4)). Its decisions are amenable to judicial review (section 68(1) and section 84(2)).

63. People who have obtained a favourable decision delivered by the Commission and who wish to obtain compensation for damage suffered as a result of the breach established by it can bring a claim against the persons or authorities which have caused that damage in the civil courts (section 74(1)).

(b) Proceedings before the civil courts

64. Those complaining of discrimination can, alternatively, bring a claim in a civil court seeking (a) a judicial declaration that there has been a breach of the Act; (b) an injunction against the party engaging in such discrimination requiring him or her to cease committing the breach, to restore the *status quo*

ante and to refrain from committing any such breach in the future; and (c) damages (section 71(1)(1) to (1)(3)).

65. Such a claim can also be brought on behalf of the aggrieved person by a non-governmental organisation (section 71(2)). If the alleged discrimination has affected many people, the non-governmental organisation may even bring the claim in its own name, in which case those directly affected can join the proceedings as third parties (section 71(3)).

(c) Possibility of choosing between proceedings before the Commission and proceedings in the civil courts

66. In an interpretative decision given in January 2019 (*тълк. пост. № 1 от 16.01.2019 г. по тълк. д. № 1/2016 г., ВКС, ОСГК, и ВАС, ОСС на I и II к.*), a joint formation of the plenary meeting of the Supreme Court of Cassation's civil chambers and of all the judges of the Supreme Administrative Court held, *inter alia*, that the two possible avenues of redress under the Act – bringing a claim under section 71(1) in the civil courts and complaining to the Commission – were alternatives between which the people concerned were entitled to choose freely.

II. EUROPEAN UNION LAW

67. Article 2 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22) deals with and defines the concept of discrimination.

68. The third paragraph of Article 2 defines "harassment" in the following way:

> "Harassment shall be deemed to be discrimination ... when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States."

69. Under the fourth paragraph of Article 2, "[a]n instruction to discriminate against persons on grounds of racial or ethnic origin shall be deemed to be discrimination ...".

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 8 AND 14 OF THE CONVENTION

70. The applicant complained that by quashing the decision of the Commission for Protection from Discrimination with respect to the statements in issue in the case, the Supreme Administrative Court had

deprived his private life of protection from hostile speech, and that the reasons given by that court had demonstrated disregard towards the protection of the rights of minorities. He relied on Articles 8 and 14 of the Convention.

71. These provisions read, in so far as relevant, as follows:

Article 8 (right to respect for private and family life)

"1. Everyone has the right to respect for his private ... life ..."

Article 14 (prohibition of discrimination)

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. Admissibility

1. Victim status

(a) The parties' submissions

72. The Government argued that the applicant could not claim to be a victim of a violation, as he had not shown that he had been directly or indirectly affected by Mr Simeonov's statements.

73. The applicant submitted that the Supreme Administrative Court's judgment had directly affected him. He could therefore claim to be a victim of a violation.

(b) The Court's assessment

74. The applicant's complaint does not concern Mr Simeonov's statements as such. Indeed, there is no basis on which to find that they are attributable to the Bulgarian State, and any complaints about the statements themselves would therefore be incompatible *ratione personae* with the provisions of the Convention (see *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, § 41, 16 February 2021, and *Behar and Gutman v. Bulgaria*, no. 29335/13, § 46, 16 February 2021, as well as, *mutatis mutandis*, in relation specifically to acts by members of parliament, *Scientology Kirche Deutschland e.V. v. Germany*, no. 34614/97, Commission decision of 7 April 1997, Decisions and Reports 89-B, p. 163, at p. 171). The complaint solely concerns the Bulgarian courts' ultimate refusal to afford redress to the applicant in respect of those statements. It is not in doubt that he was personally and directly affected by the judgment dismissing his complaint in relation to the statements. Whether the statements and the Supreme Administrative Court's reaction to it engaged his rights under Articles 8 and 14 is a question which concerns the compatibility of his complaint with the provisions of the Convention *ratione materiae* rather than his status as an

alleged victim in that regard (see *Budinova and Chaprazov*, § 41, and *Behar and Gutman*, § 46, both cited above).

75. The Government's objection must therefore be dismissed.

2. Applicability of Articles 8 and 14 of the Convention

(a) The parties' and the third-party intervener's submissions

76. The Government argued that the statements in issue had been an isolated occurrence, prompted by actual and widely publicised criminal acts. They had constituted political speech, meant chiefly to confront Mr Simeonov's political opponents. They had not amounted to a vehement anti-Roma campaign, but had been intended, as evident from their terms and from Mr Simeonov's explanations in the ensuing proceedings, to expose the social problems in part of the Roma community rather than stigmatise all Roma. Moreover, the statements had not had a significant impact on the applicant's social environment; he had not cited any such effects. The applicant had instead built his case on the statements' effect on the general public perception of the Roma community in Bulgaria, but had failed to prove that the statements had been capable of having a sufficient impact on that community and on his own feelings of self-worth and self-confidence. The requisite threshold had therefore not been reached, and the applicant's "private life" had thus not been affected. Accordingly, the facts of the case fell outside the ambit of Article 8, and Article 14 thus did not apply either.

77. The applicant pointed out that according to various reports Roma were the primary target of hate speech in Bulgaria. There was also a strong public prejudice against them. Mr Simeonov's statements had built on that prejudice. He had aggressively conveyed negative stereotypes about Roma, using insults which had served no purpose other than to hurt, humiliate, offend, incite hostility towards and alienate a group which he had painted as marginal, dangerous and worthless. Calling that group "humanoids" could not lead to the discussion of any issue, let alone to a proposal to solve one; it could only exacerbate social divisions based on prejudice. Mr Simeonov, who was a political leader, had used his statement, made from the rostrum of Parliament, to increase his electorate and acquire more power. The criminal incidents that he had arbitrarily cited had been meant solely to convey a manipulative generalisation about the criminal mind of a whole ethnic group rather than supply a proper context. The only context to his statements had been the growing power of ethnic prejudice and its political exploitation by parties portraying themselves as patriotic.

78. The third-party intervener, the European Roma Rights Centre, drew attention to the pervasiveness of discrimination against Roma in Europe in general and in Bulgaria in particular, their disadvantaged social position, and the widespread use of racist rhetoric against them, in particular by politicians, which it described as "anti-Gypsyism". It cited a number of examples of such

conduct by Bulgarian politicians, and urged the Court to start using that term in its case-law. The third-party intervener then referred extensively to the 2012 Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (A/HRC/22/17/Add.4) and to the Court's case-law in relation to such issues. In its view, the prevalence of anti-Gypsyism in Europe meant that the Court had to accept that individual Roma should be able to bring legal challenges against hate speech directed against the community as a whole.

(b) The Court's assessment

(i) General principles

79. To be seen as capable of impacting on the sense of identity of an ethnic or social group and on the feelings of self-worth and self-confidence of its members to the point of affecting their "private life" and thus triggering the application of Article 8 in relation to them, the negative stereotyping of the group must reach a certain level. Whether that level has been reached can only be decided on the basis of all the circumstances of the case (see *Budinova and Chaprazov*, § 61, and *Behar and Gutman*, § 65, both cited above).

80. The relevant factors include but are not necessarily limited to:

(a) the characteristics of the group (for instance, its size, its degree of homogeneity, its particular vulnerability or history of stigmatisation, and its position *vis-à-vis* society as a whole);

(b) the precise content of the negative statements regarding the group (for instance, the degree to which they could convey a negative stereotype about the group as a whole, and the specific content of that stereotype); and

(c) the statements' form and context, their reach (which may depend on where and how they have been made), the position and status of their author, and the extent to which they could be considered to have affected a core aspect of the group's identity and dignity (see *Budinova and Chaprazov*, § 63, and *Behar and Gutman*, § 67, both cited above).

81. It cannot be said that one of those factors invariably takes precedence; it is the interplay of all of them that leads to the ultimate conclusion as to whether Article 8 applies. The overall context of each case – in particular the social and political climate prevalent at the time when the statements were made – may also be an important consideration (see *Budinova and Chaprazov*, § 63, and *Behar and Gutman*, § 67, both cited above).

82. Those principles were recently reiterated in *Nepomnyashchiy and Others v. Russia* (nos. 39954/09 and 3465/17, § 58, 30 May 2023) and *Yevstifeyev and Others v. Russia* (nos. 226/18 and 2 others, § 52, 3 December 2024). It was also clarified that the applicant's subjective perceptions of the above points are not decisive (see *Yevstifeyev and Others*, cited above, § 58).

(ii) Application of those principles

(α) Characteristics of the group

83. As borne out by the content of Mr Simeonov's speech (see paragraphs 8-9 above), the group targeted by it were members of the Roma community in Bulgaria. The Court has long acknowledged the disadvantaged and vulnerable position of Roma and the need for their special protection, and has specifically emphasised the need to combat their negative stereotyping (see *Budinova and Chaprazov*, cited above, § 64, with further references, and, more recently, *Paketova and Others v. Bulgaria*, nos. 17808/19 and 36972/19, § 161, 4 October 2022).

(β) Content of the statements

84. Mr Simeonov began his speech with lurid references to three recent violent crimes – the rape of a disabled child, an assault on an emergency doctor, and a riot of "Gypsies" – which served as an emotive hook. From those, he leapt to a sweeping statement that "a large part of the Gypsy ethnic group" habitually engaged in lawbreaking ("live outside of any laws, rules and human norms of conduct"; "[f]or them, the laws do not apply, taxes and fees are incomprehensible concepts"; and "[f]or them, theft and robbery have become a way of life, lawbreaking – a norm of conduct"; "destroyer of statehood and the laws"). He then wove in allegations of systematic abuse by them of the social and legal order and of social parasitism ("bills for electricity, water, [and] social and health insurance have been replaced by the belief that they have only rights, but no duties or responsibilities"; "giving birth to children – a profitable business at the expense of the State, caring for the next generation – the educating of minors in begging, prostitution, theft and drug trafficking"; "demanding the right to wages without working, demanding sickness benefits without being sick, child benefits for children who play with pigs in the street"; "our dark-skinned compatriots to believe ... that everyone is obliged to feed, clothe and give them medical treatment for free"), and layered moral condemnation with dehumanisation, branding Roma as "brazen, arrogant and brutalised humanoids", and female Roma as "women with the instincts of street bitches". He moved on to an us-versus-them dichotomy, describing the "world of the poor pensioners who nevertheless pay their bills" as facing extinction at the hands of "brutalised thieves and rapists, drunk beyond recognition after receiving monthly child and social benefits", attributed the supposed Roma menace to a political conspiracy serving nefarious foreign interests, and depicted Roma as pawns of a project aimed at destabilising Bulgaria.

85. There is, then, little to differentiate the content of Mr Simeonov's speech from the content of the statements in issue in *Budinova and Chaprazov* (cited above, § 65). He likewise used deliberately inflammatory language to portray Roma in Bulgaria as prone to crime and depravity, and the overall

thrust of his message was that they are immoral social parasites who abuse their rights, live off the Bulgarian majority and subject that majority to systematic violence and crime without hindrance. It is beyond doubt that this amounted to extreme negative stereotyping meant to vilify Roma in Bulgaria and stir up prejudice and hatred towards them.

86. It is true that Mr Simeonov made the caveat three times that he was only speaking about part of the Roma community (he also made assertions to that effect in the ensuing proceedings – see paragraph 11 above). However, that does not detract from the above conclusion. Throughout his speech he shifted fluidly from a vaguely defined subset of that community ("a large part") to extreme stereotypes and generic labels, and used depictions that allowed for no clear exceptions ("our dark-skinned compatriots"). It should also be emphasised in this connection that Mr Simeonov's statements, which singled out lawbreaking in one specific community – Roma in Bulgaria – need to be viewed as a whole and in the context in which they were made. In the light of the manner and the circumstances in which those statements were made, it is unlikely that the general public would have paused to dissect them and subject them to close textual analysis, but could instead be expected to have been impressed by their overall tenor and the hostile impression that they conveyed.

(γ) Form, context and reach of the statements, and position and status of their author

87. In view of the place where Mr Simeonov spoke – the rostrum of Bulgaria's Parliament – it can be accepted that his statements reached a wide audience and had a high visibility. Moreover, his speech was made on behalf of his entire parliamentary group, which amplified its weight. Even if it is accepted that the speech was not part of a sustained anti-Roma campaign (contrast *Budinova and Chaprazov*, cited above, § 65), that does not necessarily detract from its impact (compare, *mutatis mutandis*, *Nepomnyashchiy and Others*, cited above, §§ 60-62).

88. When making the speech, Mr Simeonov was a well-known figure in Bulgarian society, and the chairman of a then ascendant political party, who not too long after that became Deputy Prime Minister (see paragraphs 5-7 above, and compare *Budinova and Chaprazov*, § 67, and, *mutatis mutandis*, *Nepomnyashchiy and Others*, § 61, both cited above). The degree of representativeness of national figures – as opposed to local politicians or private individuals – necessarily lends more weight and authority to their words. With their position in society, such politicians are more likely to influence voters, or even to incite them, directly or indirectly, to take up positions and engage in conduct that may prove unlawful (see *Sanchez v. France* [GC], no. 45581/15, §§ 187 and 201, 15 May 2023, and *Zhablyanov v. Bulgaria*, no. 36658/18, § 125 *in fine*, 27 June 2023). Indeed, the applicant lodged his complaint against Mr Simeonov when his political career was on

the rise (see paragraph 10 above) and his utterances were thus gaining more notoriety.

(δ) Conclusion

89. In view of the interplay of the above factors, which in this case point in the same direction and reinforce each other, it can be accepted that the impugned statements were capable of having a sufficient impact on the sense of identity of Roma in Bulgaria and on their feelings of self-worth and self-confidence to have reached the level required to affect the applicant's "private life" (compare *Budinova and Chaprazov*, cited above, § 68). Article 8 of the Convention is thus applicable.

90. Since the facts of the present case fall within the ambit of Article 8, Article 14 is also applicable (see *Budinova and Chaprazov*, § 69, and *Behar and Gutman*, § 74, both cited above).

91. It follows that the complaint is compatible *ratione materiae* with the provisions of the Convention.

3. Conclusion regarding the admissibility of the complaint

92. It was already found that the applicant has victim status, and that his complaint is compatible *ratione materiae* with the provisions of the Convention. It cannot be said that the complaint is manifestly ill-founded or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' and the third-party intervener's submissions

93. The applicant argued that the Supreme Administrative Court's judgment had been in breach of Bulgaria's positive obligations under Articles 8 and 14. It had demonstrated clear prejudice and had engaged in emotionally charged musings about the approach taken by the Commission for Protection from Discrimination, in particular that the Commission had been culpable of "aggressive moralising". The court's view that no form of expression could be restricted had led to the denial of any legal protection from hate speech directed against minority groups. It had disrupted the democratic balance and undermined its core values, such as tolerance, under the pretence of unlimited protection of free speech. It could not be reconciled with the protection of the right to respect for "private life" under Article 8, and did not reflect a proper balance between the various rights involved.

94. The Government pointed out that the integration of Roma had been a serious problem in Bulgaria, and a constant subject of debate over past decades. During that time, that community had become isolated, with the resultant creation of ghettos in some towns and villages, which had turned into areas marked by poverty, unemployment, crime, and low levels of

community services and public hygiene. Roma had also experienced difficulties integrating into social and economic life. The concentration of people from the criminal contingent in those areas had led to isolated incidents, which had in turn triggered public discontent and led to ethnic tensions. Mr Simeonov's statements had to be seen against that backdrop, and as a part of the public debate on those issues.

95. The Government went on to submit that the case concerned two competing Convention rights – the right to freedom of expression under Article 10 and the right to respect for private life under Article 8 – and thus required a balancing exercise. They pointed out in that connection that the Supreme Administrative Court had found that Mr Simeonov's statements had not amounted to harassment and had had no specific addressee, and that the Commission for Protection from Discrimination had already found that the statements had not amounted to incitement to discrimination. The statements could not be seen as hate speech either. It was true that they had contained comparisons and labels which could be viewed as insulting, but it had to be recognised that those had included an element of exaggeration as Mr Simeonov had sought to attract attention. Although his speeches had been strongly worded, his statements had been the expression of a political message. He had spoken in his capacity as a politician on matters of public interest, and speech in Parliament enjoyed a high level of protection. His statements had not been made against a tense political or social backdrop such as to justify an interference with his rights under Article 10; nor had they been capable of leading to harmful consequences. The Bulgarian courts had been correct to find that they had not meant to convey negative views about all Roma, but to criticise the authorities and a political party for problems in a segment of the Roma community with which the applicant could not be associated. There had therefore been no breach of Bulgaria's positive obligations under Articles 8 and 14 with respect to the applicant.

96. The third-party intervener, the European Roma Rights Centre, submitted that when dealing with such cases, the national authorities had a duty under Articles 8 and 14 to identify and name stereotypes common to anti-Gypsyism and to protect Roma from public figures spreading such stereotypes, via criminal measures or civil and administrative sanctions, as appropriate.

2. The Court's assessment

(a) General principles

97. The relevant principles were set out, with reference to numerous earlier authorities, in *Budinova and Chaprazov* (cited above, §§ 87-91) and *Behar and Gutman* (cited above, §§ 98-102).

(b) Application of those principles

98. In the present case, Bulgaria's Supreme Administrative Court refused to accept that Mr Simeonov's statements had affected the applicant, finding that only actual and observable consequences of the statements in the applicant's immediate legal situation could demonstrate such an impact (see paragraphs 34-35 above, and compare, *mutatis mutandis*, *Minasyan and Others v. Armenia*, no. 59180/15, § 70, 7 January 2025). It did not therefore have regard to the need to ensure "respect" for the applicant's "private life" under Article 8 of the Convention, and consequently did not even reach the stage of conducting a balancing exercise between the two competing Convention rights at issue in the case: that of the applicant under Article 8 and that of Mr Simeonov under Article 10 (compare *Nepomnyashchiy and Others*, cited above, § 84).

99. To the extent that the Supreme Administrative Court engaged with the question whether Mr Simeonov's statements should be protected as an exercise of his right to freedom of expression (see paragraphs 36-37 above), it failed to adequately assess those statements.

100. The court saw the statements as a vehement but acceptable expression of an opinion on a matter of public concern (see paragraph 36 above). That, however, ignored the point that while a statement can touch upon a matter of public concern – such as the relations between ethnic groups in a country – it can at the same time promote or justify hatred and intolerance towards one of those groups, and thus be entitled to very limited or even no protection under Article 10 of the Convention (see *Budinova and Chaprazov*, cited above, § 93). There is a difference between fiery criticism of a political opponent, an official policy or a social phenomenon, even when couched in intemperate and profane language, and the vilification of a whole ethnic or social group.

101. In view of the content of Mr Simeonov's speech, as analysed in paragraphs 84-86 above, his statements in relation to Roma went beyond being a legitimate, yet pointed, part of a public debate about ethnic relations, crime and politics in Bulgaria – even if it is recognised that they included an element of exaggeration calculated to attract attention. As noted in paragraph 85 *in fine* above, they amounted to extreme negative stereotyping meant to vilify Roma in Bulgaria and stir up prejudice and hatred towards them. By ascribing considerable weight to Mr Simeonov's freedom of expression in relation to those statements, and by refusing to acknowledge their effect on the applicant as a Roma living in Bulgaria, the Supreme Administrative Court failed to carry out the requisite balancing exercise in line with the criteria laid down in the Court's case-law.

102. It is true that, as stated in *Handyside v. the United Kingdom* (7 December 1976, § 49, Series A no. 24), and repeated many times since then in the Court's case-law (see, most recently, *Ukraine and the Netherlands v. Russia* [GC], nos. 8019/16 and 3 others, § 1339, 9 July 2025), Article 10

protects not only "information" and "ideas" which are received favourably or are seen as inoffensive or as a matter of indifference, but also those that offend, shock or disturb. However, as noted in that very same judgment (see *Handyside*, cited above, § 49), this is subject to the second paragraph of Article 10, under the express terms of which the exercise of the right to freedom of expression may be "subject to ... formalities, conditions, restrictions or penalties" which are "necessary in a democratic society ... for the protection of the ... rights of others". Such "formalities, conditions, restrictions or penalties" have almost invariably been found justified under Article 10 § 2, read in the light of Articles 14 and 17, in relation to sweeping statements – in particular by well-known politicians – attacking or casting in a negative light entire ethnic, religious or other groups (see the examples cited in *Budinova and Chaprazov*, cited above, § 94). Expression on matters of public concern, even if controversial and virulent, is entitled to strong protection under Article 10, but only on the condition that it does not cross the line and turn into a call for violence, hatred or intolerance (see *Perinçek v. Switzerland* [GC], no. 27510/08, §§ 230-31, ECHR 2015 (extracts)).

103. It is also true that Mr Simeonov spoke in Parliament. But that does not detract from the above conclusion either. Although the right to freedom of expression of members of parliament normally enjoys heightened protection – freedom of parliamentary debate being of fundamental importance in a democratic society – that right is not absolute and its exercise carries with it, as stated in the second paragraph of Article 10, "duties and responsibilities" (see *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 139, 17 May 2016, and *Ikotity and Others v. Hungary*, no. 50012/17, § 39, 5 October 2023). In particular, statements by members of parliament which are at odds with the democratic values of the Convention system deserve little, if any, protection (see *Pastörs v. Germany*, no. 55225/14, § 47, 3 October 2019; *Budinova and Chaprazov*, cited above, § 90 *in fine*; *Behar and Gutman*, cited above, § 101 *in fine*; and *Zhablyanov*, cited above, § 125). Naturally, these "duties and responsibilities" do not rule out the discussion of sensitive topics. It is nonetheless crucial for politicians, when expressing themselves in public, to avoid comments that might foster hatred or intolerance. As noted in paragraph 88 above, with their position in society, politicians – especially national politicians – are more likely to influence voters, or even incite them, directly or indirectly, to take up positions and engage in conduct that may prove unlawful.

104. It should also be noted in this connection that while under Article 69 of the Bulgarian Constitution members of the Bulgarian parliament bear no criminal liability for opinions expressed by them, in Bulgaria, there is – contrary to the position in many other Contracting States – no immunity from civil liability for statements made in Parliament (see paragraphs 44-45 above). The present case does not therefore throw up issues such as those arising in cases relating to the impossibility of obtaining redress in respect of

statements made in Parliament owing to parliamentary privilege (see, for instance, *Zollmann v. the United Kingdom* (dec.), no. 62902/00, ECHR 2003-XII, and *Green v. the United Kingdom*, no. 22077/19, § 46, 8 April 2025).

105. In sum, in this specific case the proceedings under the Protection from Discrimination Act 2003 failed to secure compliance with Bulgaria's positive obligation under Article 8 taken in conjunction with Article 14 of the Convention to enable the applicant to obtain redress with respect to Mr Simeonov's statements. It has not been suggested that another legal avenue available in Bulgaria would have permitted such compliance.

106. There has therefore been a breach of Article 8 taken in conjunction with Article 14 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

107. 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

108. The applicant claimed an unspecified amount of compensation in respect of non-pecuniary damage, inviting the Court to make an award on an equitable basis.

109. The Government were of the view that a finding of a violation would constitute sufficient just satisfaction for any non-pecuniary damage suffered by the applicant. They pointed out in that connection that he had neither sought compensation at domestic level nor clarified the character of the damage that he had allegedly suffered.

110. The Court finds that the finding of a violation of Article 8 taken in conjunction with Article 14 of the Convention affords sufficient just satisfaction for any non-pecuniary damage suffered by the applicant on account of the fact that the Supreme Administrative Court denied him redress with respect to Mr Simeonov's statements (see *Budinova and Chaprazov*, § 103, and *Behar and Gutman*, § 114, both cited above).

B. Costs and expenses

1. The applicant's claim and the Government's comments on it

111. The applicant sought reimbursement of (a) 2,160 euros (EUR) incurred in fees for 24 hours of work by his lawyer on the proceedings before the Court, at a rate of EUR 90 per hour, plus (b) EUR 900 incurred for the

translation of his submissions into English. He asked that any award under this head be made payable to his lawyer.

112. In support of those claims, the applicant produced:

(a) a retainer agreement under whose terms his lawyer's fees would fall due when the Court's judgment in the case became final;

(b) a bill for EUR 2,160 in lawyer's fees;

(c) a report and a time sheet recording work by the lawyer on the case in July 2018 and May 2024, and the translation costs incurred by him; and

(d) a contract between the lawyer and a translator.

113. The Government submitted that the number of hours allegedly spent by the lawyer working on the case and the hourly rate he had charged were excessive. In their view, the Court had to be guided in that regard by national rules and practices. They also contested the claim in respect of translation costs, on the grounds that no payment order or invoice had been provided in support of it. They added that the apparent price per page was higher than those usually practised in Bulgaria in respect of translations of that sort.

2. The Court's assessment

114. It is settled that costs and expenses may be awarded under Article 41 of the Convention if it is established that they were actually and necessarily incurred and are reasonable as to quantum.

(a) Lawyer's fees

115. The only point of contention with respect to the lawyer's fees claimed by the applicant was whether they were reasonable as to quantum. The Court is not bound by domestic scales or standards in that assessment (see, among many other authorities, *Budinova and Chaprazov*, § 108, and *Behar and Gutman*, § 120, both cited above). It considers that the hourly rate charged by the applicant's lawyer (EUR 90) is reasonable. By contrast, the number of hours claimed is excessive, given that the case before the Court involved the application of already established case-law principles. The applicant is therefore to be awarded EUR 1,600 under this head, plus any tax that may be chargeable to him. As he requested, that sum is to be paid into the bank account of his lawyer, Mr A. Kashamov.

(b) Translation costs

116. The EUR 900 in translation costs for which the applicant sought reimbursement is also in principle recoverable under Article 41 (see, as a recent authority, *Girginova v. Bulgaria*, no. 4326/18, § 128, 4 March 2025). Nothing suggests that the applicant's lawyer has not actually incurred those costs. They are covered by the contract for translation services between him and the translator (see paragraph 112 (d) above). The mere fact that no payment documents have been produced is not decisive, since costs are

actually incurred both if they have been already paid or they are still due (see *Merabishvili v. Georgia* [GC], no. 72508/13, § 371, 28 November 2017). It can also be accepted that those costs were in turn actually incurred by the applicant. It is true that the retainer agreement between him and his lawyer did not stipulate that he had to cover translation or other costs incurred by the lawyer in connection with the proceedings before the Court. However, the report made by the lawyer, and accepted by the applicant (see paragraph 112 (c) above), concerned the translation costs as well. It can therefore be accepted that the applicant is legally bound to reimburse his lawyer for those costs (compare *Girginova*, cited above, § 128).

117. The Government also queried the reasonableness of those translation costs. In the light of the volume of the submissions made on behalf of the applicant in comparison with recent cases in which submissions were made by the same lawyer and translated into English by the same translator (see *Borislav Tonchev v. Bulgaria*, no. 40519/15, §§ 151, 152 (c), 16 April 2024, and *Girginova*, cited above, §§ 121 (b) and 122 (e)), the Court considers it appropriate to award EUR 500 in respect of them, plus any tax that may be chargeable to the applicant. As he requested, that sum is likewise to be paid directly into the bank account of his lawyer, Mr A. Kashamov.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 8 taken in conjunction with Article 14 of the Convention;

3. *Holds* that the finding of a violation of Article 8 taken in conjunction with Article 14 of the Convention constitutes sufficient just satisfaction for any non-pecuniary damage suffered by the applicant;

4. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which this judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,100 (two thousand one hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid into the bank account of his lawyer;
   (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 claim for just satisfaction.

Done in English, and notified in writing on 12 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško Registrar	Ioannis Ktistakis President