



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

CASE OF BUDINOVA AND ISAEV v. BULGARIA

(Application no. 60342/19)

JUDGMENT

Art 14 (+ Art 8) • Discrimination • Positive obligations • Private life • Domestic civil courts' failure to secure compliance with positive obligation to afford redress to Roma applicants 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 engage in a balancing exercise between competing rights at stake

Prepared by the Registry. Does not bind the Court.

STRASBOURG

12 May 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

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In the case of Budinova and Isaev 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. 60342/19) 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 two Bulgarian nationals, Ms Kremena Goshova Budinova and Mr Ognyan Isaev Isaev (“the applicants”), on 8 November 2019;

the decision to (a) give the Bulgarian Government (“the Government”) notice of the complaints (i) under Articles 8 and 14 of the Convention that the courts had dismissed the applicants’ claim under the anti-discrimination legislation against a politician in relation to statements that he had made about Roma in Bulgaria, and (ii) under Articles 6 and 14 of the Convention that the courts had given racist reasons for dismissing that claim; and (b) declare the remainder of the application inadmissible;

the decision to conduct the proceedings in the case simultaneously with those in *Asen Asenov v. Bulgaria* (no. 38741/19);

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

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 two applicants, both Roma rights activists, brought a civil claim under the anti-discrimination legislation against a politician in relation to statements about Roma that he had made in Bulgaria’s Parliament. The first-instance court partly allowed the claim, finding that parts of the politician’s speeches had constituted harassment towards the applicants, but that ruling was overturned by the appellate court, whose judgment was in turn upheld by the Supreme Court of Cassation. The main issue before the Court is whether the way in which Bulgaria’s civil courts dealt with the case was in

line with Bulgaria's positive obligations under Articles 8 and 14 of the Convention.

THE FACTS

2. The two applicants were born in 1970 and 1986 respectively and live, respectively, in Sofia and the village of Varbitsa, the Shumen Region. Both of them were represented by Ms I. Savova, a lawyer practising in Sofia.

3. The Government were represented by their Agent, Ms B. Simeonova of the Ministry of Justice.

I. BACKGROUND

A. The applicants

4. The two applicants are of Roma ethnic origin; both are freelance journalists and Roma rights activists.

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 applicants described as ultra-nationalist; Mr Simeonov was one of the main founders of that party. At 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 – Ataka¹ 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 which the applicants described as conservative-nationalist.²

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 presenter of an eponymous daily television 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

A. Speech on 17 December 2014

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.

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).

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 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 Levski⁴ 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,

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.

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 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 transition⁵!

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.”

B. Speech on 11 March 2015

10. At the beginning of the plenary sitting of the Bulgarian Parliament on 11 March 2015, again before it could proceed with its agenda for the day, Mr Simeonov, speaking from the rostrum, made another speech on behalf of his parliamentary group (see paragraph 5 *in fine* above).

11. Mr Simeonov began by reminding parliament of a terrorist bombing which had occurred in March 1985, when militants from a pro-Turkish separatist movement had detonated a device on a train, killing seven people and injuring nine. He then listed other bombing and sabotage attempts carried out by the same movement between 1983 and 1985, emphasising that the targets had been ordinary civilians and asserting that the attacks had sought to fuel fear and ethnic hostility in Bulgaria. He then recounted how, with private donations, he and his television company (see paragraph 7 above) had helped erect a memorial for the victims of the bombing and noted that at the commemoration of its most recent anniversary in March 2015 almost all political parties, with the notable exception of the Movement for Rights and

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*).

Freedoms, had paid their respects to the victims. By contrast, that party had once celebrated an unlawful monument glorifying the convicted bombers, thus – as Mr Simeonov framed it – continuing the terrorists’ real mission of sowing fear, hatred and ethnic confrontation, and of dividing Bulgarian society in the service of a foreign State. Mr Simeonov’s speech continued with the following:

“Today, the majority of Bulgarian Muslims already see the true colours of [the Movement for Rights and Freedoms]; they experience first-hand the lawlessness, feudalism and mafia-style dependencies it fosters. For this reason, [Movement for Rights and Freedoms] emissaries have turned to influencing and isolating another minority – the Roma – aiming to set them against the State, the laws, society and the rest of Bulgaria’s citizens.

You will recall the stormy reaction caused by the declaration that I read here on 17 December 2014 on behalf of the Patriotic Front. In it, I stated that [the Movement for Rights and Freedoms] had usurped the right of the sole representative of the Gypsy ethnic group, promising them only privileges, without any obligations. A part, I repeat, a part of the people from this ethnic group, a part who 25 years ago were working, were sending their children to school, were contributing to the creation of public good, have now turned into impudent, arrogant and brutalised humanoids, ready to kill in order to rob a few [Bulgarian] levs.

We were accused of xenophobia, racism and all sorts of other drivel because we told the truth and defended a worthy Bulgarian minister. The strong united forces of Sorosoids, Helsinki mafia, third-rate [Movement for Rights and Freedoms] State security informants howled to the high heavens, but I would nevertheless repeat that Bulgaria is facing the abyss of an ethnic crisis – two opposing mutually exclusive worlds are facing each other in our tormented homeland.

Now, two months later, the attacks on medical teams in Gypsy neighbourhoods have not stopped, the robberies and beatings of lonely retired people are commonplace, but Bulgarian society, even though half-asleep from psalms about tolerance, erupted against the brutal murders, committed in recent days, of the 64-year-old [S.I.] from [P.] and the 23-year-old [V.Z.], brutally murdered in [V.T.], in order to have 25 [Bulgarian] levs stolen from her.

At the same time, the defenders of European values were wailing all over the media about a [Movement for Rights and Freedoms] sport-utility vehicle being set on fire, and MPs from that unconstitutional party in [B.] tried to portray a fight between pupils in a school as discrimination and racism.

Why, dear guarantors of the ethnic peace, do you not go to [V.T.] and [P.] to give a lecture against xenophobia and racism against Bulgarians?

In autumn, will you still be explaining to the semi-literate voters that they have rights and only rights in the Bulgarian State, and that everyone is obliged to pay for their electricity, water, taxes, social benefits and child benefits, and support the children that they have given birth to and have irresponsibly abandoned?

Will you still fan the flames of ethnic division and opposition, and enjoy the clashes of protesters with the police, as happened in [K.]?

Do you not understand that the political sabotage that you are carrying out has given rise to mass popular discontent and has led to your complete political isolation? Quit playing the ethnic card! The ethnic groups in the Bulgarian State do not need

intermediaries. Bulgarian society is mature enough to solve its problems without your insidious interference.

I know that the first nonsense that [the Movement for Rights and Freedoms] will spread is that the Patriotic Front is trying to exploit the situation, but, unlike your MPs, who are stirring up hatred out of a simple clash of pupils in [B.], we did not go to [P.] or [V.T.]. We are here, and we do not pretend that we do not see the serious problems in Bulgarian society. On the contrary – that is why we are MPs: to protect the people and find solutions to the problems.

In this regard, the Patriotic Front will insist on a public register of these 700, or I do not know how many more, convicted persons still at large who are wandering around Bulgaria.

We will insist on the tightening of pre-trial detention measures in the Code of Criminal Procedure in the spirit of those proposed by the Chief Prosecutor.

We will insist on the pre-arrangement of the discussion on life imprisonment without parole and, last but not least, in response to the people's demands – we will demand a broad public discussion about the death penalty.

Thank you for your attention. Long live Bulgaria!”

III. PROCEEDINGS UNDER THE PROTECTION FROM DISCRIMINATION ACT 2003

A. Before the Burgas District Court

1. *Course of the proceedings*

12. In April 2016 the applicants brought a claim against Mr Simeonov under section 71(1) of the Protection from Discrimination Act 2003 (see paragraph 71 below). They alleged that parts of his two speeches (see paragraphs 8-11 above) had amounted to racist expression and had been intended to negatively stereotype the Roma community and stir up fear of and hatred towards it. The speeches had thus constituted both harassment and incitement to discrimination – as defined in, respectively, paragraph 1(1) and paragraph 1(5) of the Act's additional provisions (see paragraphs 56-57 below) – towards them as members of that community. They urged the court to enjoin Mr Simeonov to refrain from such statements in the future. In support of their claim, the applicants relied on, *inter alia*, Articles 8 and 14 of the Convention.

13. In response, Mr Simeonov observed that he had never had personal contact with the applicants. He argued, in particular, that, as could be seen from a proper reading of his speeches as a whole (rather than of isolated passages in them), he had not sought to argue that Roma were criminals, or to ascribe certain characteristics to all Roma, but only to specific groups of people who had engaged in crime. Nor had he called for discrimination against Roma. He had simply aired his views on issues of public concern, in his capacity as a member of Parliament, and had not targeted anyone in particular. The applicants had mischaracterised his statements based on their

own skewed and subjective perceptions of them. There was no allegation or evidence that his statements had affected them in a tangible way.

14. The Burgas District Court heard the case in April, May and July 2017.

2. *Judgment of the Burgas District Court*

15. In July 2017 the Burgas District Court partly dismissed and partly allowed the applicants' claim. It found that only parts of Mr Simeonov's speeches had amounted to harassment and thus to discrimination, and enjoined him to refrain from such conduct in the future (see *peeu. № 1151 om 31.07.2017 г. no зп. д. № 7094/2016 г., БРС*).

16. In the court's view, the parts of the speeches which had amounted to harassment under paragraph 1(1) of the additional provisions of the Protection from Discrimination Act 2003 (see paragraph 56 below) were:

(a) in the first speech (see paragraph 8 above), (i) the passage starting with the phrase "It is indisputable that a large part of the Gypsy ethnic group ..." and ending with the phrase "... drunk beyond recognition after receiving monthly child and social benefits", and (ii) the passage starting with the phrase "Why have the people who during the time of socialism ..." and ending with the phrase "... everyone is obliged to feed, clothe and give them medical treatment for free"; and

(b) in the second speech (see paragraph 11 above), the passage starting with the phrase "In it, I stated that [the Movement for Rights and Freedoms] had usurped the right of the sole representative ..." and ending with the phrase "... ready to kill in order to rob a few [Bulgarian] levs".

17. According to the court, those passages had infringed human dignity and had created an intimidating, hostile, degrading, humiliating or offensive environment. Even though they had not concerned the entire Roma community, any person of Roma ethnic origin could have felt affected by them. The preamble to the Bulgarian Constitution (see paragraph 45 below) and many international instruments elevated human dignity to a "supreme principle", and the prohibition against discrimination was one of the means to ensure the protection of that dignity.

18. By contrast, the parts of the speeches in which Mr Simeonov had referred to specific offences had not amounted to harassment or incitement to discrimination. In them, he had just cited facts already reported in the media and had aired his views about them. Seen as a whole, those passages had merely sought to bring to light a serious social problem and express Mr Simeonov's position about it.

3. *Supplementing judgment of the Burgas District Court*

19. In November 2017 the applicants alerted the Burgas District Court that it had not ruled on their assertion that Mr Simeonov's statements had amounted to incitement to discrimination under paragraph 1(5) of the

additional provisions of the Protection from Discrimination Act 2003 (see paragraph 12 above and paragraph 57 below), and asked it to supplement its judgment.

20. In December 2017 the Burgas District Court acknowledged that it had failed to rule on that claim and supplemented its judgment. In its supplementing judgment, it examined again the passages which it had seen as harassment (see paragraph 16 above), and found that they could not additionally be seen as incitement to discrimination, since they had not amounted to direct and wilful encouragement, instructions or pressure to practise discrimination. The fact that they had been made by a member of parliament from the rostrum of Parliament and had been widely covered by the media could not alter that conclusion. On that basis, the court dismissed that claim (see *peu. № 2021 om 11.12.2017 г. no зп. д. № 7094/2016 г., BPC*).

B. Before the Burgas Regional Court

1. Course of the proceedings

21. Both the applicants and Mr Simeonov appealed against the July 2017 judgment of the Burgas District Court (see paragraphs 15-18 above).

22. The applicants argued that the parts of the speeches referring to specific offences could not be seen as a neutral analysis. On the contrary, they had contained many extreme qualifications, and had been meant to manipulate the public and to pit Bulgarians and Roma against one another. The Burgas District Court had artificially isolated those passages from the remainder of the speeches. It had also failed to engage with the applicants' Convention-based arguments, and had erred by not finding that the statements had amounted to incitement to discrimination as well.

23. Mr Simeonov reiterated the points that he had made before the Burgas District Court (see paragraph 13 above). He also argued that that court had failed to properly explain the basis for its conclusions about the passages which it had seen as harassment, and for analysing them differently from the remainder of his speeches, which the court had considered inoffensive. For Mr Simeonov, his speeches as a whole had amounted to a proper exercise of his right to freedom of expression under Article 10 of the Convention. The court had not been decisive about how they had been subjectively perceived by the applicants.

24. When the Burgas District Court gave its supplementing judgment (see paragraph 20 above), the applicants appealed against it as well, referring to the arguments in their initial appeal (see paragraph 22 above).

25. In his response to the applicants' appeal, Mr Simeonov argued that, in particular, this Court's case-law under Article 10 of the Convention made it clear that the applicants' claim should be dismissed.

26. In March 2018 the Burgas Regional Court joined the appeals against the initial judgment and the supplementing one. It heard the case in April 2018.

2. Judgment of the Burgas Regional Court

27. In May 2018 the Burgas Regional Court overturned the lower court's decision to allow part of the applicants' claim and upheld its decision to dismiss the other part (see *peu. № 390 om 18.05.2018 г. no в. зр. д. № 280/2018 г., БОС*).

28. The court held that Mr Simeonov's speeches, taken as a whole and read in their proper context, had not amounted to incitement to discrimination. He had not engaged in such incitement in any shape or form, and emphasised that his remarks had only concerned part of the Roma community – the part suffering from serious social problems. It was true that he had resorted to an overly expressive style to describe those problems. However, he had not ascribed them to some innate criminal proclivity of the Roma community or part of it, but to the governmental policies. He had contrasted the current social situation of that part of the Roma community with its situation in the past, which he had assessed positively. He had analysed certain events and facts, but there was no evidence that he had done so with a view to inciting discrimination against the Roma.

29. The court also analysed in some detail paragraph 1(1) of the additional provisions of the Protection from Discrimination Act 2003 (see paragraph 56 below). It observed that harassment under that provision could take two forms: (a) conduct undertaken with the direct aim and special intention of infringing someone's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment (a form that the court branded "formal harassment"), and (b) conduct which in fact resulted both in such an infringement of dignity and in the creation of such an environment (a form that the court branded "result harassment"). The court emphasised that both of those elements – infringement of dignity and the creation of a negative environment – needed to be present.

30. On that basis, the court agreed with the lower court that the parts of the speeches in which Mr Simeonov had referred to specific offences had not amounted to harassment (see paragraph 18 above). As regards "formal harassment", there was no evidence that he had intended to harass Roma or create a negative environment for them. The content of those passages did not in itself suggest such an intent. He had not linked all Roma to the offences which he had described, or opined that all Roma had criminal proclivities. On the contrary, he had emphasised their social problems and the responsibility of recent governments and certain political parties for those. As for "result harassment", it could be accepted that the applicants' dignity had been infringed by the expressions "brutish mob of Gypsies" and "part of that ethnic group – the part that breaks the law, kills, rapes, steals", which they had, by

their own assertions, seen as humiliating for all Roma and them personally. However, the applicants had not produced evidence, even non-conclusive, that those phrases had created an intimidating, hostile, degrading, humiliating or offensive environment for Roma and them in particular. The media publications to which they had referred had not described negative social views engendered by the speeches.

31. The same, however, applied to the parts of the speeches which the lower court had seen as harassment (see paragraphs 16-17 above), under the form of “result harassment”. It was true that the comparisons and labels used by Mr Simeonov could be viewed as insulting and as thus having infringed the applicants’ dignity. But the applicants had not produced evidence that those statements had caused the environment in which they lived, socialised, worked or rested to turn negative for Roma or them in particular. The media publications to which they had referred had not described negative social views engendered by the statements. The mere content of the statements could not lead to a presumption that that environment had worsened, as incorrectly accepted by the lower court.

32. Those parts of the speeches had not amounted to “formal harassment” either. Despite Mr Simeonov’s style of expression, it could not be accepted that he had intended to harass Roma or create a negative environment for all of them or the applicants in particular. The purpose of his speeches had been different: to outline the deep social and everyday problems of part of the Roma community and point to the reasons for that situation. The content of the speeches did not permit a conclusion that Mr Simeonov had sought to persuade his listeners that all Roma were as described on account of their ethnic origin, or that he had wished to insult or humiliate them, or to provoke a negative social reaction against them. On the contrary, he had attributed the current situation of part of the Roma community solely to the way in which the country had been governed during the past two and a half decades and the faulty influence and practices of certain political parties.

C. Before the Supreme Court of Cassation

1. Course of the proceedings

33. The applicants appealed on points of law.

34. The applicants argued that their appeal ought to be admitted for examination because the way in which the Burgas Regional Court had approached the case had raised two points of law which the Supreme Court of Cassation had not had the opportunity to address: (a) whether, if a court had established that unwanted conduct based on a protected characteristic had infringed someone’s dignity, that person also had to show that the conduct had created an intimidating, hostile, degrading, humiliating or offensive environment for him or her, and (b) if such further evidence was required, what did it have to consist of. The applicants went on to say that the appeal

ought to be admitted for examination because the Burgas Regional Court's judgment was manifestly erroneous.

35. On the merits, the applicants submitted that by expecting them to adduce further evidence about their specific environment in relation to their allegations of harassment, the Burgas Regional Court had disregarded the manner in which hostile speech really worked and had rendered the legal protection against it ineffective. But even if that court's position was to be taken as correct, the applicants had produced such evidence, in the form of anti-Roma internet comments sparked by Mr Simeonov's statements which they had enclosed with their statement of claim. Those comments clearly showed that his statements had created an intimidating, hostile, degrading, humiliating or offensive environment for all Roma and for them in particular. The Burgas Regional Court had disregarded those comments.

36. The Burgas Regional Court had also erred by refusing to accept that Mr Simeonov's comments had amounted to incitement to discrimination. Its ruling had been inconsistent with that of the Supreme Administrative Court in a similar case relating to homophobic statements. It was irrelevant that Mr Simeonov had pointed to the reasons for the difficult social situation of Roma and spoken positively about their past conduct. His extreme choice of words had vilified them, had portrayed them as disgusting and dangerous, and had directly encouraged the existing negative attitudes towards them. That had been evident from the very terms of his statements.

37. In his response to the merits of the applicants' appeal, Mr Simeonov essentially reiterated the points that he had made earlier in the proceedings (see paragraphs 13, 23 and 25 above).

38. In January 2019, the Supreme Court of Cassation admitted the applicants' appeal for examination only in so far as it related to the concept of harassment within the meaning of paragraph 1(1) of the additional provisions of the Protection from Discrimination Act 2003 (see paragraph 56 below). It noted that the applicants had not formulated any questions in relation to the concept of incitement to discrimination (see paragraph 57 below), which meant that that aspect of their appeal could not be admitted for examination (see *onp. № 21 om 09.01.2019 г. no зп. д. № 3203/2018 г., BKC, III г. о.*).

39. The Supreme Court of Cassation heard the case in March 2019. At the hearing, the applicants asked it to make a preliminary reference to the Court of Justice of the European Union (CJEU), and seek an interpretation of some aspects of the term "harassment" 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 74-75 below). The two questions to the CJEU proposed by the applicants were nearly identical to the ones which according to them justified the admission of their appeal on points of law for examination (see paragraph 34 (a) and (b) above). In their view, those questions were relevant

for the resolution of their case, and had so far not been elucidated by the CJEU.

2. *Judgment of the Supreme Court of Cassation*

40. In a final judgment of 19 June 2019 (*peu. № 2 om 19.06.2019 г. no зр. д. № 3203/2018 г., BKC, III г. о.*), the Supreme Court of Cassation turned down the applicants' request to make a preliminary reference to the CJEU and upheld the judgment of the Burgas Regional Court.

41. The court began by holding that the questions to the CJEU proposed by the applicants did not concern an alleged discrepancy between Bulgarian law and EU law or the validity of EU law but an interpretation by the CJEU of points of law which the Burgas Regional Court had, according to the applicants, resolved incorrectly.

42. On the merits of the applicants' appeal, the court first held that harassment under paragraph 1(1) of the additional provisions of the Protection from Discrimination Act 2003 (see paragraph 56 below) required there had to be 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 allegedly affected by it, such as a refusal to employ them, to let accommodation to them, to provide them with goods or services, or the uttering of specific threats against them. The burden to prove that was on the claimant. Since those consequences could vary, the claimant could produce all sorts of evidence to do so.

43. On that basis, and finding no evidence that Mr Simeonov's statements, which had concerned only part of the Roma community, had targeted the applicants – who were both journalists with university educations and long media careers – or had specifically affected them by creating a negative environment for them personally, the court held that the statements had not constituted harassment against the applicants.

44. At Mr Simeonov's request, on 1 October 2019 the Supreme Court of Cassation supplemented its judgment, ordering the applicants to pay the costs that Mr Simeonov had incurred in the proceedings before it.

RELEVANT LEGAL FRAMEWORK

I. BULGARIAN DOMESTIC LAW

A. Constitutional provisions and case-law under those provisions

45. 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 ...”

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

47. 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.”

48. 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.”

49. 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”.

50. 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.”

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

52. 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 *peuu. № 189 om 04.02.2013 г. no в. зп. д. № 2576/2012 г., CAC*, appeal on points of law not admitted for examination by *onp. № 1124 om 09.10.2013 г. no зп. д. № 4805/2013 г., BKC, IV г. о.*, and *peuu. № 8588 om 16.12.2019 г. no зп. д. № 16536/2018 г., CTC*, upheld in its relevant part by *peuu. № 10098 om 26.01.2021 г. no в. зп. д. № 584/2020 г., CAC*, appeal on points of law not admitted for examination by *onp. № 60529 om 22.06.2021 г. no зп. д. № 1424/2021 г., BKC*). The Bulgarian courts have thus allowed claims for damages in respect of statements made by members of Bulgaria’s Parliament from the rostrum (see *peuu. № 1614 om 22.03.2011 г. no зп. д. № 12757/2009 г., CTC*, upheld by *peuu. № 1843 om 22.11.2012 г. no в. зп. д. № 1710/2012 г., CAC*, appeal on points of law not admitted for examination by *onp. № 1081 om 25.09.2013 г. no зп. д. № 2120/2013 г., BKC, IV г. о.*).

B. The Protection from Discrimination Act 2003

53. 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 74 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

54. 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.

55. 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.

56. 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.

57. 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

58. 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 *peu. № 8105 om 08.06.2011 г. no адм. д. № 8708/2010 г., BAC, VII о., upheld by peu. № 156 om 05.01.2012 г. no адм. д. № 13389/2011 г., BAC, немчл. с-в*).

*(ii) In relation to public statements about Roma as a group**(α) Case-law of the Supreme Administrative Court*

59. In a March 2009 judgment, upheld on appeal in December 2009 (*peu. № 3019 om 06.03.2009 г. no адм. д. № 9485/2008 г., BAC, VII о., upheld by peu. № 14472 om 01.12.2009 г. no адм. д. № 11158/2009 г., BAC, nemчл. c-б*), 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.

60. In a July 2009 judgment, upheld on appeal in February 2010 (*peu. № 9983 om 23.07.2009 г. no адм. д. № 2059/2009 г., BAC, VII о., upheld by peu. № 1476 om 04.02.2010 г. no адм. д. № 14286/2009 г., BAC, nemчл. c-б*), 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 55 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.

61. In a final March 2016 judgment (*peu. № 2445 om 02.03.2016 г. no адм. д. № 1248/2015 г., BAC, 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 56 above).

62. In a final December 2016 judgment (*peu. № 13542 om 12.12.2016 г. no адм. д. № 10756/2015 г., BAC, 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 (*peu. № 7269 om 15.05.2019 г. no адм. д. № 11803/2017 г., BAC, V о.*).

63. By contrast, in a final January 2019 judgment (*peu. № 636 om 15.01.2019 г. no адм. д. № 7229/2018 г., BAC, V о.*), the Supreme

Administrative Court held that Mr Simeonov's statement on 17 December 2014 (see paragraph 8 above) had amounted to a legitimate exercise of his right to freedom of expression, and had not amounted to harassment within the meaning of paragraph 1(1) of the Act's additional provisions (see paragraph 56 above) with respect to the person who had complained about it, since he had not been named and since there was no evidence that he had actually been affected by it. For details, see *Asen Asenov v. Bulgaria* (no. 38741/19, §§ 30-34, 12 May 2026).

64. In a final October 2019 judgment concerning statements relating to Roma made by a mayor (*peu. № 14026 om 21.10.2019 г. no адм. д. № 12163/2018 г., BAC, V o.*), the Supreme Administrative Court took an approach similar to the one that it had adopted in the above-mentioned case relating to the first of Mr Simeonov's statements (see paragraph 63 above).

65. The Supreme Administrative Court made a similar ruling in a final October 2020 judgment relating to a statement about Roma by a Deputy Prime Minister (*peu. № 13471 om 29.10.2020 г. no адм. д. № 8595/2020 г., BAC, V o.*).

66. By contrast, in a final June 2021 judgment relating to the same statement by the Deputy Prime Minister (*peu. № 6976 om 09.06.2021 г. no адм. д. № 11591/2020 г., BAC, V o.*), 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 56 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 74-75 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.

67. In a final June 2024 judgment (*peu. № 8085 om 28.06.2024 г. no адм. д. № 2122/2024 г., BAC, V o.*), 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 56 above) *vis-à-vis* the individual Rom who had complained about it.

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

68. 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 *onp. № 972 om 08.08.2012 г. no зп. д. № 1672/2011 г., BKC, 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 *onp. № 1215 om 15.11.2012 г. no зп. д. № 533/2012 г., BKC, IV г. о.*, cited in *Behar and Gutman v. Bulgaria*, no. 29335/13, § 22, 16 February 2021).

2. Remedies for infringements of the Act

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

69. 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)).

70. 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

71. 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)).

72. 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

73. In an interpretative decision given in January 2019 (*тълк. пост. № 1 от 16.01.2019 г. по тълк. д. № 1/2016 г., БКК, ОЧК, и БАС, OCC 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

74. 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.

75. 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.”

76. According to 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

77. The applicants complained that Bulgaria's civil courts had dismissed their claim in relation to the two speeches in issue in the case. They relied on Articles 8 and 14 of the Convention.

78. 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

79. The Government argued that the applicants could not claim to be victims of a violation, as they had not shown that they had been directly or indirectly affected by Mr Simeonov's statements. Nor had they sought damages in the domestic proceedings against him.

80. The applicants submitted that it was not in doubt that they had been personally and directly affected by the judicial decisions dismissing their claim against Mr Simeonov.

(b) The Court's assessment

81. The applicants' 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 civil courts' ultimate refusal to afford redress to the

applicants in respect of those statements. It is not in doubt that they were personally and directly affected by the judgments dismissing their claim in relation to the statements. Whether the statements and the courts' reaction to them engaged their rights under Articles 8 and 14 is a question which concerns the compatibility of their complaint with the provisions of the Convention *ratione materiae* rather than their status as alleged victims in that regard (see *Budinova and Chaprazov*, § 41, and *Behar and Gutman*, § 46, both cited above).

82. 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*

83. The Government argued that the statements in issue had been isolated occurrences, prompted by actual and widely publicised criminal acts. They had constituted political speech, meant chiefly to confront Mr Simeonov's political opponents, as evident in particular from the fact that they had been made in Parliament. They had not amounted to a vehement anti-Roma campaign, but had been intended, as evident from their terms, especially those of the second statement, and from Mr Simeonov's explanations in the ensuing proceedings, to expose the social problems of part of the Roma community rather than stigmatise all Roma. It was true that Mr Simeonov had resorted to comparisons and labels which could be seen as insulting, but an element of exaggeration was permitted in political discourse. Moreover, the statements had not had a significant impact on the applicants' social environment; the applicants had not cited any such effects. That was also shown by the fact that they had brought their claim against Mr Simeonov almost a year and a half after his first speech, without pointing to specific reasons for that delay. They had instead built their case on the statements' impact 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 their own feelings of self-worth and self-confidence. The requisite threshold of severity had therefore not been reached, and the applicants' "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.

84. The applicants submitted that although the case concerned only two speeches, both of those had been widely disseminated by the media, and had related to recent events which had likewise been widely covered by the media. Even though the main purpose of the speeches had been to confront political opponents, that did not detract from their effects. Although Mr Simeonov had stated, in brief asides, that he spoke about part of the Roma community, the overall tenor of his speeches had been to portray all Roma as criminals. His statements could hardly be seen as nuanced, in particular in view of his

rhetorical choices and the place where he had spoken. There was no need to prove that the statements had produced actual pernicious effects for the applicants, in particular in the light of the endemic nature of anti-Roma stereotypes. The timing of the applicants' claim against Mr Simeonov could not in itself suggest that they had not been genuinely affected by his statements.

85. The third-party intervener, the European Roma Rights Centre, drew attention to the pervasiveness of discrimination against Roma in Europe in general and 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 their community as a whole.

(b) The Court's assessment

(i) General principles

86. 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).

87. 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).

88. 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).

89. 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*

90. As borne out by the content of Mr Simeonov's speeches (see paragraphs 8-11 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*

91. Mr Simeonov began his first 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, of social parasitism and of child abuse (“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.

92. In his second speech, which he explicitly linked with the first, Mr Simeonov portrayed Roma as a tool wielded by a hostile and allegedly treasonous political party, repeated verbatim some of the dehumanising terms that he had already used in relation to them (“impudent, arrogant and brutalised humanoids”) and reiterated his allegations of social parasitism and child abuse by them (“everyone is obliged to pay for their electricity, water, taxes, social benefits and child benefits, and support the children that they have given birth to and have irresponsibly abandoned”).

93. There is, then, little to differentiate the content of Mr Simeonov’s two speeches 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.

94. It is true that in his first speech Mr Simeonov made the caveat three times that he was only speaking about part of the Roma community; he did the same, somewhat more emphatically, in his second speech (and he also made assertions to that effect in the ensuing proceedings – see paragraph 13 above). But that does not detract from the above conclusion. Throughout his first 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”). In his second speech, he proceeded in the same manner. 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

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

96. When making the two speeches, 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 applicants lodged their claim against Mr Simeonov when his political career was on the rise (see paragraph 12 above) and his utterances were thus gaining more notoriety.

(δ) Conclusion

97. 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 applicants’ “private life” (compare *Budinova and Chaprazov*, cited above, § 68). Article 8 of the Convention is thus applicable.

98. 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).

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

3. *Exhaustion of domestic remedies*

(a) The parties' submissions

(i) The Government

100. The Government submitted that the applicants had not exhausted domestic remedies. Their objection comprised two lines of argument.

(a) They submitted, firstly, that in view of the nature of the applicants' claim against Mr Simeonov – in particular, that the applicants had not alleged that they had suffered actual negative consequences as a result of his statements – they should have made a complaint against him before the Commission for Protection from Discrimination rather than bringing a civil claim under section 71(1) of the Protection from Discrimination Act 2003 (see paragraph 71 above). In the light of that Commission's earlier decisions in such cases, such a complaint would have had a better prospect of success.

(b) The Government secondly argued that when appealing on points of law the applicants had not formulated questions relating to their allegations of incitement to discrimination, which had led the Supreme Court of Cassation to admit their appeal for examination in part only (see paragraphs 33-34 and 38 above).

(ii) The applicants

101. In regard to the first limb of the objection, the applicants submitted that a complaint to the Commission for Protection from Discrimination under section 50 of the Protection from Discrimination Act 2003 and a civil claim under section 71(1) of the Act (see paragraphs 69 and 71 above) were equivalent remedies pursuing the same objective. It was impermissible for those remedies to offer differing chances of success.

102. With reference to the second limb of the objection, the applicants argued that their choice not to formulate questions in relation to their earlier allegations of incitement to discrimination in their appeal on points of law was without consequence, since the facts of their case were most appropriately subsumed under the Act's anti-harassment provisions.

(b) The Court's assessment

(i) First limb of the Government's objection

103. It is settled that (a) when different domestic remedies are available, applicants who have used an apparently effective and sufficient one cannot also be required to have attempted others that were no more likely to be successful, and that (b) when one remedy has been pursued, the use of another which has essentially the same objective is not required (see, among other authorities, *Budinova and Chaprazov*, § 72, and *Behar and Gutman*, § 77, both cited above). Conversely, applicants who had at their disposal a remedy clearly more suited to their situation must have attempted it instead (see

Zlatanov v. Bulgaria (dec.), no. 53050/21, § 174, 30 January 2024, with further references). This, however, is only the case if the comparative effectiveness of the two remedies was obvious (see, among other authorities, *Budayeva and Others v. Russia*, nos. 15339/02 and 4 others, § 110, ECHR 2008 (extracts); *Balázs v. Hungary*, no. 15529/12, § 30, 20 October 2015; and *M. Özel and Others v. Turkey*, nos. 14350/05 and 2 others, § 162, 17 November 2015).

104. As already noted in *Budinova and Chaprazov* (cited above, § 73) and *Behar and Gutman* (cited above, § 78), the two remedies available under the Protection from Discrimination Act 2003 in respect of discrimination and harassment allegedly perpetrated by private persons – proceedings before a special commission (possibly followed by judicial review proceedings before the administrative courts in respect of the commission’s decision, and by proceedings for damages in the civil courts), and proceedings brought directly in the civil courts – are alternatives between which the individuals concerned can freely choose (as confirmed by the competent judicial formation in relation to such matters in Bulgaria – see paragraph 73 above).

105. In the light of the respective powers of that special commission and the civil courts in such proceedings (see paragraphs 69 and 71 above), it can hardly be said that lodging a complaint with the Commission for Protection from Discrimination would have presented any clear advantages in terms of the remedial options available.

106. Nor can it be said that, as matters stood when the applicants brought their claim against Mr Simeonov in March 2016 (see paragraph 12 above), it was clear that the alternative remedy – proceedings before the special commission – would have offered better chances of success. It is true that at that time the Supreme Administrative Court’s case-law in such cases was relatively favourable to Roma complaining of statements of the sort which is in issue in the present case (see paragraphs 59-62 above); that would have surely enhanced the prospects of such a complaint before the Commission. However, at that point the Supreme Court of Cassation had not yet examined such a case – the first one that it did was that of the applicants (see paragraph 68 above, as well as *Budinova and Chaprazov*, § 30, and *Behar and Gutman*, § 35, both cited above). It was thus hardly obvious that, unlike a complaint before the special commission, a civil claim would be unlikely to succeed. It follows that the applicants cannot be criticised for opting for the former procedure rather than for the latter (compare, *mutatis mutandis*, *Kozacıoğlu v. Turkey* [GC], no. 2334/03, §§ 41-43, 19 February 2009).

107. The first limb of the objection must therefore be dismissed.

(ii) *Second limb of the Government’s objection*

108. Similar considerations apply to the second limb of the objection. Just as they were entitled to choose one feasible remedy over another, the applicants were entitled to opt for one feasible line of argument over another

in their final appeal in those proceedings (compare, *mutatis mutandis*, *O’Keeffe v. Ireland* [GC], no. 35810/09, § 111, ECHR 2014 (extracts)), provided of course that either of those lines of argument would have permitted the national courts to address, at least in substance, the alleged breach of the Convention (see *Azinas v. Cyprus* [GC], no. 56679/00, § 38, ECHR 2004-III).

109. The two lines of argument pursued by the applicants in the domestic proceedings concerned the classification of the impugned statements – as harassment within the meaning of paragraph 1(1) of the additional provisions of the Protection from Discrimination Act 2003, or as incitement to discrimination within the meaning of paragraph 1(5) of those additional provisions (see paragraphs 56-57 above). Acceptance of either of those classifications by the courts could have led them to allow the applicants’ claim, and thus ensure respect for their rights under Articles 8 and 14 of the Convention in issue in the case through the means available to them under Bulgarian law.

110. The applicants’ choice to focus on the question of harassment in the proceedings before the Supreme Court of Cassation (see paragraphs 34-36 above) was not accidental. In their initial claim against Mr Simeonov, they had asserted that his statements had amounted to both harassment and incitement to discrimination (see paragraph 12 above). The way in which the Burgas Regional Court had analysed the claim on appeal had demonstrated that it had seen the first of those assertions as more plausible and requiring a more detailed analysis (see paragraphs 28-32 above). The applicants cannot therefore be faulted for having then likewise focused on that issue in their appeal against that court’s judgment.

111. The second limb of the objection must therefore also be dismissed.

4. Conclusion regarding the admissibility of the complaint

112. It was already found that the applicants have victim status, that their complaint is compatible *ratione materiae* with the provisions of the Convention and that they have exhausted domestic remedies. 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

113. According to the applicants, it was easy to infer hatred or intolerance from the virulent anti-Roma stereotypes in the two statements. The courts had failed to carry out a proper balancing exercise between the rights protected under Articles 8 and 10. In addition, they had failed to properly delve into the Convention aspects of the case. They had instead minimised and rationalised

the language that Mr Simeonov had used, portrayed his statements as a mere discussion on issues of public concern, and disregarded the statements' discriminatory character and their exploitation of habitual anti-Roma imagery. The courts had also focused on whether the applicants had proved that there had been actual negative effects on them personally. They had thus made it unusually difficult to obtain protection from that sort of statement.

114. The Government pointed out that the integration of Roma had been a serious problem in Bulgaria, and a constant subject of debate over the 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 marred 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.

115. 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 Bulgarian courts had established that the statements had not amounted to harassment or incitement to discrimination, and that they had not concerned all Roma people, but only a part of that community. 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 applicants could not be associated. There had therefore been no breach of Bulgaria's positive obligations under Articles 8 and 14 with respect to the applicants.

116. 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

117. 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

118. In the present case, the Burgas Regional Court and the Supreme Court of Cassation refused to accept that Mr Simeonov's statements had affected the applicants, finding that only actual and observable consequences of the statements in their immediate legal situation could demonstrate such an impact (see paragraphs 30-32 and 42-43 above, and compare, *mutatis mutandis*, *Minasyan and Others v. Armenia*, no. 59180/15, § 70, 7 January 2025). They did not therefore have regard to the need to ensure "respect" for the applicants' "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: those of the applicants under Article 8 and that of Mr Simeonov under Article 10 (compare *Nepomnyashchiy and Others*, cited above, § 84).

119. In this specific case, therefore, 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 applicants 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.

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

II. ALLEGED VIOLATION OF ARTICLES 6 AND 14 OF THE CONVENTION

121. The applicants complained that the courts had given racist reasons for dismissing their claim against Mr Simeonov. They relied on Articles 6 and 14 of the Convention.

122. The relevant part of Article 6 reads as follows:

"1. In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an ... impartial tribunal ..."

123. The text of Article 14 has been set out in paragraph 78 above.

124. The parties were not invited to make submissions in relation to this complaint, and did not do so.

125. In the Court's view, the reasons underpinning the finding of a breach of Article 8 read in conjunction with Article 14 of the Convention render the examination of the admissibility and merits of this complaint superfluous (see *Budinova and Chaprazov*, cited above, § 98).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

126. 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. Pecuniary damage

1. *The applicants' claim and the Government's comment on it*

127. The applicants sought, under the head of costs and expenses, reimbursement of EUR 322.11 (BGN 630) paid to Mr Simeonov in respect of his costs in the domestic proceedings. In support of that claim, they produced a bank payment order issued by the Bulgarian Helsinki Committee (“the Committee”) in favour of Mr Simeonov in relation to the costs that he had incurred in the proceedings before the Supreme Court of Cassation.

128. The Government pointed out that Mr Simeonov's costs had been paid not by the applicants but by the Committee.

2. *The Court's assessment*

129. The Court is not bound by the applicant's choice when it comes to deciding under which head a claim or part of a claim is to be considered (see *Zustović v. Croatia*, no. 27903/15, § 127, 22 April 2021). A claim in respect of opposing-party costs awarded against an applicant at domestic level normally falls to be examined under the head of pecuniary damage (see *Ziemiński v. Poland (no. 2)*, no. 1799/07, § 54, 5 July 2016; *Zybertowicz v. Poland*, no. 59138/10, § 53, 17 January 2017; and, specifically in a case under Article 8 of the Convention, *Lewit v. Austria*, no. 4782/18, § 92, 10 October 2019). A proper distinction needs to be made between damage caused by a breach of the Convention and costs incurred by an applicant to prevent, or obtain redress for, that breach (see *Neumeister v. Austria* (Article 50), 7 May 1974, § 43, Series A no. 17; *The Sunday Times v. the United Kingdom (no. 1)* (Article 50), 6 November 1980, § 16, Series A no. 38; and *Le Compte, Van Leuven and De Meyere v. Belgium* (Article 50), 18 October 1982, § 14, Series A no. 54). Although they were spurred by the claim brought by the applicants, the costs incurred by Mr Simeonov were not costs incurred by the applicants, and the order against them to pay those costs

(see paragraph 44 above) was a direct result of the judgment of the Supreme Court of Cassation found to have resulted in a breach of Article 8 taken in conjunction with Article 14 of the Convention (see paragraphs 40-43 and 118 above).

130. That said, in situations such as the one under examination the applicants are, in principle, entitled to recover under Article 41 any sums that they have paid in opposing-party costs at domestic level, since those costs are a direct consequence of the breach found by the Court (compare, *mutatis mutandis*, *Lingens v. Austria*, 8 July 1986, § 50, Series A no. 103; *Bladet Tromsø and Stensaas v. Norway* [GC], no. 21980/93, §§ 75 and 77, ECHR 1999-III; and *Axel Springer AG v. Germany* [GC], no. 39954/08, §§ 113 and 115, 7 February 2012). In this case, however, Mr Simeonov's costs were paid by the Committee, not the applicants, even though it was the applicants who were liable to pay them (see paragraphs 44 and 127 above). There is no evidence that the applicants are legally bound to reimburse that sum to the Committee (compare, *mutatis mutandis*, *Öztürk v. Germany* (Article 50), 23 October 1984, § 8, Series A no. 85; *Metodiev and Others v. Bulgaria*, no. 58088/08, § 59, 15 June 2017, and *G.S. v. Bulgaria*, no. 36538/17, § 110, 4 April 2019). No award can therefore be made in respect of it.

131. The Committee itself is not in a position to make a claim in relation to that sum, even though it arranged for the applicants' legal representation at domestic level. Under the Court's settled case-law, representatives cannot seek just satisfaction on their own account, since they are not an "injured party" within the meaning of Article 41 (see, as recent authorities, *Simonova v. Bulgaria*, no. 30782/16, § 68 *in fine*, 11 April 2023, and *Nina Dimitrova v. Bulgaria*, no. 40669/16, § 197, 16 April 2024).

B. Non-pecuniary damage

132. The applicants also claimed 2,500 euros (EUR) each in respect of the non-pecuniary damage allegedly sustained as a result of the violation of Articles 8 and 14 of the Convention.

133. The Government were of the view that the finding of a violation of Article 8 read in conjunction with Article 14 of the Convention amounted to sufficient just satisfaction for any non-pecuniary damage suffered by the applicants. They pointed out in that connection that the applicants had neither sought compensation at domestic level nor clarified the character of the damage that they had allegedly suffered.

134. The Court finds that the finding of a violation of Article 8 read in conjunction with Article 14 of the Convention affords sufficient just satisfaction for any non-pecuniary damage suffered by the applicants on account of the fact that Bulgaria's civil courts denied them redress with

respect to Mr Simeonov's statements (see *Budinova and Chaprazov*, § 103, and *Behar and Gutman*, § 114, both cited above).

C. Costs and expenses

1. *The applicants' claims*

135. The applicants sought reimbursement of:

(a) a total of EUR 4,900 incurred in fees for 24 hours of work by their lawyer on the domestic proceedings against Mr Simeonov and 25 hours of work by the same lawyer on the proceedings before the Court, both at a rate of EUR 100 per hour; and

(b) EUR 685.49 (the equivalent of 1,340.70 Bulgarian leva (BGN)) incurred in costs and expenses in the domestic proceedings: (i) EUR 56.60 (BGN 110.70) for postage; plus (ii) EUR 306.78 (BGN 600) for lawyer's fees.

136. The applicants asked that any award made under this head be made payable to the Committee.

137. In support of these claims, the applicants produced:

(a) two legal services contracts – between each of the applicants and the Committee – in relation to the proceedings before the Court and “legal actions at national level to exhaust domestic remedies”, under clause 4(1) and (3) of which the applicants owe the Committee (i) remuneration for the work of “its” lawyers and collaborators on the case (in accordance with hourly rates “fixed in accordance with the Court's usual practice at the time when the case comes to an end”); (ii) administrative expenses; (iii) postal and fax expenses; and (iv) travel and *per diem* expenses. Clause 4(1) also specifies that the applicants owe the Committee such sums only if the case before the Court ends in their favour, and only up to the amount that the Court awards in respect of costs and expenses;

(b) eight postal receipts (five for correspondence that the Committee sent to the domestic courts and three for correspondence that it sent to the Court);

(c) a time sheet recording the work by the applicants' lawyer on the domestic proceedings and on those before the Court; and

(d) two retainer agreements between the Committee and the lawyer, in relation to, respectively, the proceedings in the Burgas Regional Court and those in the Supreme Court of Cassation, and two related payment orders, for BGN 600 in total.

2. *The Government's comments on the claims*

138. The Government asserted that the applicants were seeking a double reimbursement of the lawyer's fees referable to the domestic proceedings. They pointed out in that connection that the Committee could not claim just satisfaction; only the applicants could. There was, however, no evidence that

the applicants had paid any lawyer's fees, and it was questionable whether they were bound to do so under the terms of their contracts with the Committee. In the alternative, the fees claimed by the applicants were excessive. Lastly, one of the postal receipts for correspondence to the Court pre-dated the lodging of the present application by about a year, and was thus clearly not related to it.

3. *The Court's assessment*

(a) **General points**

139. It is settled that costs and expenses may be awarded under Article 41 if it is established that they were actually and necessarily incurred and are reasonable as to quantum. Lawyers' fees and related expenses have been actually incurred if the applicants have paid them or are liable to pay them; if they are payable under a conditional-fee agreement, they have been actually incurred if that agreement is enforceable in the respective jurisdiction (see, among other authorities, *Merabishvili v. Georgia* [GC], no. 72508/13, §§ 370-71, 28 November 2017).

140. Conditional-fee agreements are enforceable in Bulgaria (see *Ivanova and Cherkezov v. Bulgaria*, no. 46577/15, § 89, 21 April 2016, and *Krachunova v. Bulgaria*, no. 18269/18, § 211, 28 November 2023), and a fair reading of the terms of the legal services contracts between the applicants and the Committee (see paragraph 137 (a) above) permits a conclusion that those are of such a nature. There is, then, no reason to doubt that the applicants have actually incurred the costs and expenses due under those contracts.

(b) **Domestic costs and expenses**

141. Under their contracts with the Committee, the applicants owe it remuneration for the work of "its" lawyers on "legal actions at national level to exhaust domestic remedies" (see paragraph 137 (a) above). The domestic proceedings against Mr Simeonov clearly constitute such "legal actions".

142. Those contracts further specify that this remuneration is to be determined on the basis of hourly rates fixed "in accordance with the Court's usual practice at the time when the case comes to an end" (see paragraph 137 (a)(i) above). The hourly rate quoted by the Committee, EUR 100 (see paragraph 135 (a) above), is not inconsistent with those accepted as reasonable by the Court in similar cases against Bulgaria (see *Budinova and Chaprazov*, §§ 104 and 108, and *Behar and Gutman*, §§ 115 and 120, both cited above). The time spent by the lawyer retained by the Committee in work on the domestic proceedings – 24 hours (see paragraph 137 (c) above) – also seems reasonable, especially since those proceedings unfolded before three successive levels of jurisdiction. The documents submitted by the Committee show that it has so far paid the equivalent of EUR 306.78 (BGN 600) for the services of that lawyer (see

paragraphs 135 (b)(ii) and 137 (d) above), but it has not been contested that the Committee is liable to pay – and in turn entitled to seek from the applicants under its legal services contracts with them – the full amount of the lawyer’s fees claimed under this head (EUR 2,400). It can therefore be accepted that this sum has been actually incurred by the applicants. Nor is it in doubt that it has been necessarily incurred. It should therefore be awarded to the applicants, plus any tax that may be chargeable to them.

143. It must be accepted that the postage referable to the domestic proceedings (see paragraph 135 (b)(i) above) – which came in total to EUR 14.57 according to the five relevant postal receipts produced by the applicants (see paragraph 137 (b) above) – was actually incurred by the applicants. Under their legal services contracts with the Committee, they are bound to reimburse the postal expenses that it has paid in connection with the case (see paragraph 137 (a)(iii) above). That postage must therefore be awarded in full, again plus any tax that may be chargeable to the applicants.

144. There is, by contrast, no basis on which to award the applicants a second time (as they requested – see paragraph 135 (b)(ii) above) the EUR 306.78 that the Committee itself already paid to the lawyer whom it had retained to represent them in the domestic proceedings (see paragraph 137 (d) above). That was not, as such, a sum incurred by the applicants.

145. As requested by the applicants (see paragraph 136 above), the two sums awarded to them, which come in total to EUR 2,414.57, plus any tax that may be chargeable to them, are to be paid into the bank account of the Committee.

(c) Costs and expenses in the proceedings before the Court

146. It has not been contested that the Committee is liable to pay the lawyer who represented the applicants before the Court – and in turn entitled to seek from the applicants under its legal services contracts with them – the full amount of the lawyer’s fees claimed under this head (EUR 2,500). It can therefore be accepted that this sum has been actually incurred by the applicants. Nor is it in doubt that it has been necessarily incurred. By contrast, it cannot be accepted that it is reasonable as to quantum, seeing that the case before the Court involved the application of already established case-law principles. The applicants are therefore to be awarded EUR 1,800 under this head, plus any tax that may be chargeable to them.

147. As regards the postage referable to the proceedings before the Court (see paragraph 135 (b)(i) above), an examination of the three relevant postal receipts produced by the applicants in support of this head of claim (see paragraph 137 (b) above) shows that, as noted by the Government, only two of them concern parcels relating to the present case. Those two receipts attest a total of EUR 24.70 spent by the Committee on postage. It must be accepted that this sum was actually incurred by the applicants: under their contracts with the Committee, they are bound to reimburse the postal expenses that it

has paid in connection with the case (see paragraph 137 (a)(iii) above). That postage must therefore be awarded in full, again plus any tax that may be chargeable to the applicants.

148. As requested by the applicants (see paragraph 136 above), the two sums awarded to them, which come in total to EUR 1,824.70, plus any tax that may be chargeable to them, are to be paid into the bank account of the Committee.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Articles 8 and 14 of the Convention admissible;
2. *Holds* that there has been a violation of Article 8 taken in conjunction with Article 14 of the Convention;
3. *Holds* that there is no need to examine the admissibility and merits of the complaint under Articles 6 and 14 of the Convention;
4. *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 applicants;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which this judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 4,239.27 (four thousand two hundred and thirty-nine euros and twenty-seven cents), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to be paid into the bank account of the Bulgarian Helsinki Committee;
 - (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;
6. *Dismisses* the remainder of the applicants' claims for just satisfaction.

BUDINOVA AND ISAEV v. BULGARIA JUDGMENT

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