



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

FIRST SECTION

CASE OF KITOV v. BULGARIA

(Application no. 37104/97)

JUDGMENT

STRASBOURG

3 April 2003

FINAL

03/07/2003

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

In the case of Kitov v. Bulgaria,

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

Mr C.L. ROZAKIS, *President*,

Mrs F. TULKENS,

Mr G. BONELLO,

Mrs N. VAJIĆ,

Mrs S. BOTOUCHAROVA,

Mr A. KOVLER,

Mrs E. STEINER, *judges*,

and Mr S. NIELSEN, *Deputy Registrar*,

Having deliberated in private on 13 March 2003,

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

PROCEDURE

1. The case originated in an application (no. 37104/97) against the Republic of Bulgaria lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Bulgarian national, Mr Nikolai Kitov ("the applicant"), on 22 January 1997.

2. The Bulgarian Government ("the Government") were represented by their Agent, Mrs G. Samaras, of the Ministry of Justice.

3. The applicant alleged, *inter alia*, that two sets of criminal proceedings against him were not decided within a reasonable time.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. Following the Fourth Section's partial decision of 9 March 1999 in this case, on 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). The applicant's case was assigned to the newly composed First Section (Rule 52 § 1). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. By a decision of 17 January 2002 the Court (First Section) declared the application partly admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1956 and lives in Samokov. Between 1991 and 1994 he was the mayor of Samokov.

1. The 1993 criminal proceedings against the applicant

8. On 27 May 1993 the District Prosecutor's Office (Районна прокуратура) in Samokov opened criminal proceedings against the applicant. It was alleged that the applicant in his capacity as mayor of Samokov had bestowed unlawfully benefits to individuals by granting tenancy orders and authorising construction works (abuse of office contrary to Article 282 §§ 1 and 2 of the Penal Code), that he had made a false certification in an official document (Article 311 § 1 of the Penal Code), and that he had used offensive language in respect of several persons (Articles 146 and 148 § 1(3)(4)).

9. As a measure to secure the applicant's appearance before the competent authorities, he was required to sign an undertaking that he would not leave Samokov without authorisation. This undertaking apparently remained in force throughout the proceedings.

10. On 16 June 1993 the case was assigned to an investigator. On 14 July 1993 the applicant was questioned. On 27 July 1993 the investigator heard one witness. On 11 August 1993 the investigator concluded his work on the case and drew up a report proposing the termination of the proceedings, as the applicant's acts did not constitute criminal offences.

11. On 24 September 1993 the District Prosecutor's Office referred the case back for further investigation. On an unspecified date the case was assigned to another investigator.

12. On 18 January 1994 the Regional Prosecutor's Office (Окръжна прокуратура) in Sofia, acting under section 154 § 1 of the Code of Criminal Procedure, ordered the suspension of the applicant's term as the mayor of Samokov as there was a danger that he would obstruct the investigation. Upon the applicant's appeal this decision was confirmed by the Chief Public Prosecutor's Office (Главна прокуратура). On 19 October 1994 the municipal council (общински съвет) removed the applicant from the post of mayor of Samokov. The removal was upheld on appeal by the Sofia Regional Court and by the Supreme Court.

13. In the continuing criminal proceedings, on 24 March 1994 the investigator proposed a temporary suspension of the proceedings as an important witness was allegedly in hiding. On 4 April 1994 the case was again referred back for further investigation by decision of the District Prosecutor's Office.

14. On 6 September 1994 the investigator reformulated the charges and, in addition, charged the applicant under Articles 172 §§ 1 and 2 and 282 of the Penal Code in respect of allegedly unlawful payments to dismissed municipal employees and his refusal to comply with a judicial order reinstating an employee.

15. On 31 October 1994 the District Prosecutor's Office terminated the proceedings in so far as they concerned the charges about payments to dismissed employees and in respect of some of the incidents where the applicant had allegedly used offensive language. On the same date the prosecutor drew up an indictment in respect of the alleged crimes under Articles 282 §§ 1, 2 and 3 and 311 § 1 of the Penal Code and also as regards the applicant's alleged failure to comply with a judicial order (Article 172 §§ 1 and 2 of the Penal Code) and the remaining incidents where the applicant allegedly employed offensive language (Articles 146 and 148 § 1(3)(4)).

16. During the preliminary investigation, in the period May 1993 - October 1994, the investigators examined numerous documents and heard ten witnesses. There is a dispute between the parties as to the number of experts' opinions ordered. According to the applicant they were six or seven, whereas the Government mentioned seventy-eight experts' opinions.

17. The indictment was submitted to the Samokov District Court (Районен съд).

18. Between 17 January 1995 and 15 May 1996 the District Court held nineteen hearings. The court heard about one hundred witnesses and many experts and admitted voluminous documentary evidence. The hearings were held at regular intervals and most adjournments were considered necessary to allow for the examination of witnesses that had not appeared or the collection of other evidence requested by the applicant or the prosecution. The District Court imposed fines on witnesses who had failed to appear without good cause and sent urgent requests to the police for assistance in respect of witnesses whose whereabouts were unknown.

19. By judgment of 17 May 1996 the applicant was convicted on some of the charges and was acquitted for the remainder. He was sentenced to one year and three months' imprisonment, suspended.

20. On 29 May 1996 the applicant appealed to the Sofia Regional Court (Окръжен съд). The prosecutor also appealed and requested that the judgement of the District Court be quashed and the case referred back to the investigation authorities. The Regional Court held a hearing on 8 July 1996.

21. By judgement of 23 July 1996 the Regional Court upheld the applicant's conviction under Article 311 § 1 and his acquittal under Article 172 §§ 1 and 2 of the Penal Code, quashed the remainder of the District Court's judgement and referred the latter part of the case back to the investigation authorities.

22. As a result, in respect of the charges of false certification in an official document under Article 311 § 1 of the Penal Code, the proceedings ended on 28 February 1997, when the Supreme Court of Cassation (Върховен касационен съд) dismissed the applicant's petition for review (cassation) against the conviction part of the Regional Court's judgment. As regards the alleged offences under Articles 146 and 148 § 1(3)(4) and Article 282 §§ 1 and 2 of the Penal Code, the criminal proceedings continued at the preliminary investigation stage.

23. The Regional Court remitted this part of the case to the investigation stage as it found a number of discrepancies between the initial charges and the indictment, mainly as regards the references to the legal provisions which the applicant had allegedly breached in abuse of his duties as a mayor. The Regional Court considered that as a result the applicant's defence rights had been curbed.

24. No investigation was carried out between July 1996 and April 1997 since, following the judgment of 23 July 1996, the case file only reached the District Prosecutor's Office in October 1996, but had to be transmitted in November 1996 to the Supreme Court of Cassation in relation to the applicant's petition for review (cassation) of the conviction part of the judgment. After the delivery of that court's judgment on 28 February 1997, the case file reached the competent investigator in April 1997.

25. On each of the dates 7 May, 12 May and 2 June 1997 the investigator heard one witness.

26. By letters of 8 August, 27 August, 23 September and 29 September 1997 the applicant inquired with the District Prosecutor's Office in Samokov about the course of the proceedings and requested the collection of evidence.

27. On 31 October 1997 the investigator reformulated the charges against the applicant. On 7 November 1997 the applicant was informed thereof and was questioned. The applicant had five meetings with the investigator until 25 November 1997. The applicant refused to give explanations. He requested the collection of additional documentary material.

28. On 20 January 1998 the investigator sent requests for documentary material to several institutions.

29. By letters of 26 February and 21 May 1998 the applicant protested against the delays in the proceedings.

30. On 5, 6 and 7 August 1998 the investigator provided access to the case-file to three persons, the alleged victims. On 10 August 1998 the applicant appeared before the investigator, the material in the case was officially communicated to him and he was given the possibility to submit requests or objections. The applicant made a number of requests and remarks.

31. On 21 August 1998 the investigator finalised the case and submitted it to the competent prosecutor proposing indictment. The prosecutor ordered further investigation to which the investigator objected. The ensuing dispute required the interference of the Regional Prosecutor's Office. Having examined the matter, on 11 June 1999 it ordered additional investigation.

32. On 1 October 1999 the applicant was questioned by the investigator. On 5 October 1999 the applicant was provided access to all material in the case and invited to submit his final comments on the investigation. Thereafter, the case was transmitted to the competent prosecutor.

33. By order of 17 November 1999 the District Prosecutor's Office terminated the proceedings in respect of a number of the charges. The applicant appealed stating, *inter alia*, that the order did not clarify the outstanding charges, so as to enable him to organise his defence.

34. On 17 August 2000 the Regional Prosecutor's Office modified the order of 17 November 1999, accepting that it had been unclear and wrongly reasoned. As a result, the charges on three counts of abuse of office under Article 282 of the Penal Code were dropped on the ground that the acts imputed to the applicant did not constitute criminal offences and some other charges were abandoned as unproven. The remaining accusations were modified.

35. As of March 2001 the proceedings were pending at the preliminary investigation stage.

36. On an unspecified date the competent prosecutor drew up an indictment on 137 counts of abuse of office. The indictment ran on 35 pages and relied on seven witnesses, reports of nine experts and voluminous documentary material.

37. The indictment was submitted to the District Court which held a first hearing on 21 February 2002. On that date the case was adjourned until 22 April 2002.

2. The 1995 criminal proceedings against the applicant

38. On 27 March 1995 criminal proceedings were opened against the applicant on suspicion that on 7 July 1992, at the time when he was mayor of Samokov, he had contravened Article 282 § 1 of the Penal Code (abuse of office) by ordering unlawfully the restitution of State property, a plot of land, to a private person, a Mr S.

39. The property in question belonged to Mr S. until 1961 when the State had acquired it for the needs of the local post office. In 1992 Parliament enacted a law providing for the restitution of property nationalised under several pieces of legislation passed in the 1940s and 1950s. The plot of Mr S. had been acquired by the State in 1961 under other legislation and thus did not fall within the scope of the 1992 restitution law. Nevertheless, on 7 July 1992 the applicant had granted Mr S.'s request for restitution, citing as legal ground the 1992 restitution law.

40. According to the charges, the procedure for examination of restitution requests by a commission of experts had not been followed. Furthermore, the order had no valid legal grounds and was issued by the applicant with the intention to bestow a benefit on Mr S.

41. In the meantime, on an unspecified date in 1994 the post office brought a civil action against Mr S. claiming the property back. Several months later, in 1995, the Regional Governor quashed the 1992 restitution order issued by the applicant and, upon the appeal of Mr S., separate civil proceedings commenced between Mr S. and the Regional Governor. In a third set of civil proceedings Mr S. sought to prove against the post office that the 1961 acquisition had been null and void. The proceedings involving the Regional Governor ended in 1997, and those between the post office and Mr S. in 2000. The 1992 restitution order was eventually quashed and the plot of land returned to the local post office.

42. In the criminal investigation against the applicant, between 12 April and 31 July 1995 the investigator heard at least fifteen witnesses, questioned the applicant, commissioned three expert reports, and obtained documentary material from several institutions.

43. On 8 November 1995 the investigator concluded his work on the case and proposed to the competent prosecutor to submit an indictment in court. However, the proceedings remained dormant until August 1997.

44. On 4 August 1997 the prosecutor in charge of the criminal investigation against the applicant transmitted the file back to the investigator considering that the accusation was not supported by sufficient evidence and that, therefore, further investigation was necessary. In particular, it was necessary to establish the applicable rules and practice in the examination of restitution requests so as to clarify whether the applicant had acted in excess of his powers. The prosecutor also mentioned that the investigator should verify the outcome of the civil disputes concerning the ownership of the plot of land in question.

45. On 20 August 1999 the investigator drew up a concluding report and transmitted the file to the prosecutor.

46. On 15 October 1999 the prosecutor terminated the proceedings finding that the applicant's intention to bestow an unlawful benefit had not been proven.

In his decision, in the summary of facts, the prosecutor mentioned one of the two sets of civil proceedings described above, those opposing Mr S. against the local post office. Those proceedings were still pending at that time. The prosecutor's decision did not contain any statement as to the relevance of the civil case to the criminal proceedings against the applicant.

II. RELEVANT DOMESTIC LAW AND PRACTICE

1. The provisions of the Penal Code under which the applicant was charged

47. According to Article 282 §§ 1 and 2 of the Penal Code, the offence of acting in an official capacity in excess of competence in order to obtain a benefit or cause harm (abuse of office), where the acts in question are capable of bringing about damage, carries a term of one to eight years' imprisonment.

48. Article 311 § 1 of the Penal Code provides for a punishment of up to five years' imprisonment for a person convicted of having made a false certification in a document issued in the exercise of this person's official functions, if this is done with the intention to make use of the document.

49. Articles 146 and 148 § 1(3)(4) of the Penal Code, taken together, provide for a punishment of up to two years' imprisonment or a fine for a person convicted of having used offensive language when acting in an official capacity in respect of another person acting in an official capacity.

50. Under Article 172 §§ 1 and 2 a person who, acting in an official capacity, knowingly fails to abide by a judicial order for the reinstatement of an unlawfully dismissed employee shall be punished by up to three years' imprisonment.

2. Grounds for a decision of an appellate court to refer the case back to the prosecutor

51. Under the Code of Criminal Procedure, where an appellate court sets aside a trial court's judgement, it shall refer the case back to the investigation or indictment stage of the proceedings whenever the grounds for setting aside include, *inter alia*, a finding that there have been "substantial procedural violations" at those stages of the proceedings (Article 334 §§ 1(4) and 3 as in force at the relevant time and until 1 April 1998 and, thereafter, Article 333 § 1(1)). The same criterion governs the trial court's power to terminate the trial and refer the case back to the prosecutor (Article 287 § 1(1) and Article 246 § 2 in conjunction with Article 241 § 2(3) of the Code of Criminal Procedure).

52. On the basis of the broad statutory definition of the term "substantial procedural violation" at the relevant time (Article 330 of the Code, in force until 1 April 1998), the judicial practice accepted that a wide range of omissions required remission of cases to the investigation stage.

53. Although the new definition of the term "substantial procedural violation" under Article 352 §§ 3 and 4 of the Code (in force since 1 April 1998, applicable *mutatis mutandis* to all judicial stages of the proceedings) is narrower than that under the former Article 330, in its interpretative decision No. 2 of 7 October 2002, the Supreme Court of Cassation noted

that the courts often remitted cases to the initial stage of the criminal proceedings without justification.

3. Stay of criminal proceedings

54. Under the Code of Criminal Procedure (Articles 22, 22a and 37), criminal proceedings may be suspended on several grounds which do not include pending civil proceedings. The underlying principle is that the criminal courts have jurisdiction to decide on any civil law issue relevant to the outcome of the criminal case.

4. Undertaking not to leave town without authorisation

55. Under Article 146 of the Code of Criminal Procedure, a measure to secure appearance before the competent authority must be imposed in respect of every person accused of having committed a publicly prosecuted offence.

56. The most lenient such measure is a written undertaking by the accused that he would not leave his place of residence without authorisation by the respective authority - the prosecutor or the court, depending on the stage of the proceedings (Article 149 of the Code of Criminal Procedure).

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 6 § 1 OF THE CONVENTION

57. The applicant complained that the two sets of criminal proceedings against him were excessively lengthy. He relied on Article 6 § 1 of the Convention which provides, insofar as relevant:

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

A. The 1993 criminal proceedings against the applicant

1. The parties' submissions

58. The applicant submitted that the accusations against him were in their majority so evidently ill-founded that they did not require complex analysis. As of January 2001 the majority of the initial charges brought in 1993 had been dropped. However, that was only done after many years

during which the proceedings were unnecessarily complicated and delayed by the prosecution authorities.

59. The applicant considered that the prosecutors and the investigators were responsible for the excessive length of the proceedings. The preliminary investigation between May 1993 and October 1994 did not proceed speedily as the case was returned in September 1993 for renewed investigation. The applicant agreed with the Government that no undue delays occurred in the proceedings before the District Court and the Regional Court between January 1995 and July 1996. However, he criticised the conduct of the authorities after July 1996. In particular, the work done by the authorities on his case between July 1996 and September 1999 was so little that it could have been completed within two months. Instead, three years and two months passed.

60. The applicant further protested against the allegation that he had been responsible for certain delays. In particular, most of the ninety-three witnesses cited by him were also called by the prosecution.

61. The applicant added that the work done in the investigation against him between September 1999 and March 2001 did not require more than one month. He finally stressed that the grounds on which the charges against him were being dropped, one after the other, were known already in 1993.

62. The Government submitted that the criminal case was of an exceptional complexity. It concerned accusations relating to several series of events. In particular, there were tens of counts of unlawful granting of tenancy rights. Enormous documentary material had to be collected and analysed, experts had to be appointed and witnesses had to be heard. The case file consisted of sixteen volumes. Furthermore, numerous issues of administrative or civil law nature were of relevance to the determination of the criminal charges.

63. As regards the conduct of the authorities, the Government stressed the exemplary work of the District Court which held nineteen hearings, heard about one hundred witnesses and examined voluminous material within only one year. The Regional Court also decided within a very short time.

64. In contrast, according to the Government, the applicant contributed to the delays. In particular, he did not object against the adjournments, refused to answer certain questions and repeatedly requested the collection of additional evidence. He cited ninety-three witnesses not before the fifth hearing of the District Court. In one case he requested adjournment because his lawyer was ill, although he had two lawyers. Moreover, he submitted appeals against the alleged inactivity of the authorities, thus causing delay, as the examination of the appeals took time.

65. A number of delays were objectively inevitable: after the referral of the case back to the investigator, it was assigned to a new investigator who

had to study the case-file. Also, the failure of witnesses to appear caused adjournments.

2. *The Court's assessment*

66. The proceedings were instituted in May 1993. According to the latest information from the parties, a hearing before the District Court was listed for 22 April 2002 (see paragraphs 8 and 37 above).

67. The period under examination is thus at least eight years and eleven months, the proceedings on part of the charges being still pending at the trial stage.

68. The reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the Court's case-law, in particular, the complexity of the case, the conduct of the applicant and of the authorities dealing with it as well as what was at stake for the applicant (see, among other authorities, *Ziacik v. Slovakia*, no. 43377/98, §§ 37-46, 7 January 2003, unreported, and *Pélissier and Sassi v. France* [GC], no. 25444/94, 25 March 1999, § 67).

69. The Court accepts that the proceedings were factually and legally complex (see paragraphs 8, 14, 16, 18 and 36 above).

70. No major undue delays occurred before July 1996.

Part of the criminal charges were determined within a reasonable time, by final judgment of 28 February 1997 (see paragraph 22 above).

71. However, there were long periods of inactivity after July 1996, in the proceedings concerning the remainder of the charges.

In particular, nothing was done in the investigation between July 1996 and April 1997 as the case file was unavailable. That was to a certain extent the result of delays in the transmission of the case file between different institutions. It is true that during a part of that period, between October 1996 and February 1997, the case file was at the Supreme Court of Cassation for the examination of the applicant's appeal against his partial conviction. However, that appeal did not concern the remainder of the charges, which had been referred for additional investigation (see paragraph 22 above). The State authorities were under an obligation to organise the transmission of documents, or copies thereof, in such a manner so as to ensure that the proceedings be dealt with within a reasonable time.

72. Another undue delay occurred between January and August 1998. Thereafter, eight months were taken up by a dispute between the investigator and the prosecutor as to the need for further investigation. The proceedings were practically dormant between November 1999 and August 2000. Furthermore, no explanation has been provided by the Government for the period after August 2000, when the case was again pending at the preliminary investigation stage (see paragraphs 28-37 above).

73. Finally, the Court observes that the length of the proceedings as a whole was to a large extent the consequence of the fact that after the

quashing the applicant's conviction on part of the charges on 23 July 1996, the case was referred back to the preliminary investigation stage (see paragraphs 22 and 23 above). The Government have not shown convincingly that restarting the proceedings at such an initial phase was indispensable. Insofar as that may have been required by domestic law and practice (see paragraphs 51-53 above), the Court reiterates that the enjoyment of the right of every accused person to a trial within a reasonable time within the meaning of Article 6 § 1 of the Convention must be secured by the authorities through all appropriate means, including change of practice or legislative amendments if necessary.

74. As to the Government's argument that the applicant had been at the origin of certain adjournments, these concerned the period before July 1996, whereas all major delays occurred after that.

75. The Court finds, in the light of the criteria laid down in its case-law and having regard to all the circumstances of the case, that the length of the 1993 criminal proceedings failed to satisfy the reasonable time requirement. There has accordingly been a violation of Article 6 § 1 of the Convention in this respect.

B. The 1995 criminal proceedings against the applicant

1. The parties' submissions

76. The applicant noted that nothing had been done in the case for several years. He disputed the Government's statement that related civil proceedings required a stay of the criminal proceedings.

77. The Government submitted that the delay in the 1995 proceedings was due to the fact that the prosecutors needed to await the outcome of the civil proceedings concerning the ownership of the plot of land that had been returned to Mr S. by order of the applicant, acting as mayor of Samokov.

2. The Court's assessment

78. The Court observes that the criminal proceedings under examination lasted approximately four years and five months (March 1995 - August 1999) and never moved beyond the preliminary investigation stage.

79. It is undisputed that the proceedings were practically dormant after November 1995. The disputed question is whether or not that was justified by the fact that civil proceedings on related matters were pending during that period.

80. The subject matter of those civil proceedings was limited to the question whether Mr S. or the post office was the owner of the disputed plot of land and whether or not the Regional Governor's order of 1995, quashing the 1992 restitution order issued by the applicant, was lawful. Despite the

obvious factual link with the criminal proceedings against the applicant, it has not been shown that the outcome of such civil proceedings could be decisive to the issue of the applicant's criminal responsibility for abuse of office.

81. In any event, the Government have not referred to legal provisions or practice of the national courts demonstrating that pending civil proceedings could serve as grounds for the suspension of criminal proceedings. The Court notes that the applicable underlying principle in Bulgarian law is that the criminal courts have jurisdiction to decide on any civil law issue relevant to the outcome of the criminal case.

82. Furthermore, the Court notes that there was no formal decision to stay the criminal investigation against the applicant. If they considered it necessary to await the outcome of the civil cases in question, the authorities should have ordered a stay of the criminal proceedings. That would have enabled the applicant to appeal and argue that there was no relevant link between his case and the civil proceedings involving Mr S.

83. Finally, it is noteworthy that the criminal proceedings against the applicant remained dormant for another two years after the 1997 final judgment in the civil case concerning the validity of the Regional Governor's order and were eventually terminated, on grounds unrelated to the civil proceedings, without awaiting the outcome of the case brought by the post office against Mr S.

84. It follows that the civil proceedings referred to by the Government cannot justify the inactivity in the criminal case against the applicant.

85. In the light of the criteria laid down in its case-law and having regard to all the circumstances of the case, the Courts finds that the length of the 1995 criminal proceedings failed to satisfy the reasonable time requirement. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

86. Article 41 of the Convention provides:

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

A. Damage

1. *Pecuniary damage*

87. The applicant claimed the following amounts:

(i) 5,250 Euros (EUR) in respect of lost salary for the period between January 1994, when he was suspended from office as mayor, and November 1995, when his term of office would have ended (see paragraph 12 above);

(ii) EUR 299 per month for a period of 46 months (between November 1995 and August 1999) in respect of lost opportunities to do private business; and

(iii) EUR 33,000 in respect of alleged lost opportunities to study for a Master's degree.

The total amount claimed in respect of pecuniary damage was thus EUR 47,450.

88. The applicant submitted that he was unable to seek possibilities for employment or business outside the small town of Samokov as throughout the criminal proceedings he was bound by the order to remain in town (see paragraph 9 above). In support of his claims the applicant submitted copies of documents concerning his salary as a mayor before his removal and preliminary correspondence with research institutes where the applicant intended to apply for graduate studies.

89. The Government replied that there was no causal link between the length of the proceedings and the alleged pecuniary damage claimed. In the alternative, they stated that the claims were unproven and in any event excessive.

In particular, the applicant's removal from the post of mayor was necessary in view of the fact that the accusations concerned abuse of office. Further, he had not proved that he would have earned an amount in salary or other income but for the length of the criminal proceedings.

90. The Court notes that the applicant's complaints that his suspension and removal from office violated the Convention were declared inadmissible in the partial decision of 9 March 1999.

91. Nevertheless, insofar as the applicant's suspension from office and the restrictions on his freedom of movement imposed in the framework of the criminal proceedings (see paragraphs 9, 55 and 56 above) would have been brought to an end earlier had the criminal proceedings been completed earlier, the Court must examine the applicant's claim for just satisfaction in this respect.

92. The Court's finding of a violation of the right to trial within a reasonable time as regards the 1993 criminal proceedings, which are relevant here, was based primarily on the delays in the proceedings after July 1996 (see paragraphs 71-75 above). It follows that the claims for

pecuniary damages on account of lost opportunity before July 1996 cannot be granted.

93. As regards the alleged loss of business or education opportunities after that time, the claim is unproven. The applicant has not shown that he had lost money as a direct consequence of the length of the criminal proceedings. He has not shown that he was refused authorisation to leave Samokov (see paragraph 56 above) for purposes of undertaking a lucrative activity.

The claims for pecuniary damages are therefore dismissed.

2. Non-pecuniary damage

94. The applicant claimed non-pecuniary damages on account of the fact that his reputation was harmed and that for many years he could not move forward with his life projects. The applicant left to the Court the determination of the amount to be awarded in this respect.

95. The Government replied that the alleged non-pecuniary damage was unrelated to the issue in the present case

96. Insofar as the applicant claims that his reputation was harmed as a result of the accusations against him, the Court notes that the violation of his rights found in the present case concerns solely the excessive length of the criminal proceedings.

97. The Court accepts that the applicant has suffered non-pecuniary damage, such as distress and frustration relating to the length of the proceedings, which is not sufficiently compensated by the findings of violation of the Convention. Making its assessment on an equitable basis, the Court awards the applicant EUR 3,000 under this head.

B. Costs and expenses

98. The applicant, who was not legally represented, did not claim costs.

C. Default interest

99. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the length of the 1993 criminal proceedings against the applicant;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention on account of the length of the 1995 criminal proceedings against the applicant;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 3 April 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President