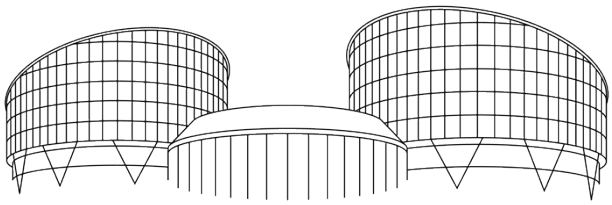

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF FINGER v. BULGARIA

(Application no. 37346/05)

JUDGMENT

STRASBOURG

10 May 2011

FINAL

10/08/2011

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

In the case of Finger v. Bulgaria**,**

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

Nicolas Bratza, *President*,
Lech Garlicki,
Ljiljana Mijović,
Päivi Hirvelä,
Ledi Bianku,
Zdravka Kalaydjieva,
Nebojša Vučinić, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 3 May 2011,

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

PROCEDURE

1. The case originated in an application (no. 37346/05) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Bulgarian national, Ms Maria Vasileva Finger ("the applicant"), on 6 October 2005.

2. The applicant was represented by Mr M. Ekimdzhiev and Ms G. Chernicherska, lawyers practising in Plovdiv. The Bulgarian Government ("the Government") were represented by their Agents, Ms N. Nikolova and Ms M. Dimova, of the Ministry of Justice.

3. The applicant alleged, in particular, that a set of division-of-property proceedings to which she had been party had been unreasonably long. She further alleged that she had not had effective remedies in that regard.

4. On 23 February 2010 the Court (Fifth Section) decided to grant priority to the application under Rule 41 of its Rules. It declared the application partly inadmissible and decided to give the Government notice of the complaints concerning the length of the proceedings and the alleged lack of remedies in that regard. It also invited the parties to comment on whether the case was suitable for a pilot judgment procedure (see *Broniowski v. Poland* [GC], 31443/96, §§ 189-94 and points 3 and 4 of the operative provisions, ECHR 2004-V, and *Hutten-Czapska v. Poland* [GC] no. 35014/97, §§ 231-39 and points 3 and 4 of the operative provisions, ECHR 2006-VIII, as well as the newly adopted Rule 61 of the Rules of Court, which was inserted by the Court on 21 February 2011 and came into force on 1 April 2011).

5. The application was later transferred to the Fourth Section of the Court, following the re-composition of the Court's sections on 1 February 2011.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicant was born in 1946 and lives predominantly in Germany.

7. Upon the death of her parents, the applicant, together with her brother, B.R., inherited a house and plot of land in Sofia, a plot of land in the village of Dolni Pasarel, and two fields.

8. On 9 July 1996 B.R. brought a claim against the applicant with the Sofia District Court (*Софийски районен съд*), seeking the division of the house and of the two plots.

9. At the first hearing, held on 10 December 1996, the applicant requested that the two fields be included in the division as well. The court allowed the request and adjourned the case, instructing the parties to submit evidence, including plans of the two plots.

10. A hearing listed for 6 March 1997 was adjourned because the plans, which had to be provided by the municipal authorities, were not ready, and another hearing, scheduled for 6 May 1997, failed to take place because counsel for B.R. was absent.

11. On 23 September 1997 the court asked an expert to determine the value of the properties and say whether it was possible to divide them up. A hearing listed for 20 January 1998 did not take place because the expert report was not ready. The report was apparently never drawn up.

12. On 19 March 1998 the court, on a request by the parties, stayed the proceedings to allow them to settle the case. However, as they could not reach an agreement, the proceedings resumed on an unspecified later date in 1998.

13. Two hearings, fixed for 29 October 1998 and 2 February 1999, did not take place because the applicant was not duly summoned and was absent. A hearing was held despite the applicant's absence on 16 March 1999.

14. In a judgment of 15 April 1999 the Sofia District Court allowed the division of the properties into two equal shares. As neither party appealed, the judgment became final and the court proceeded with the second phase of the proceedings.

15. At a hearing held on 19 October 1999 the applicant requested that the house be allotted exclusively to her. B.R. requested the appointment of

an expert to answer the same questions as the one appointed during the first phase of the proceedings.

16. A hearing listed for 18 November 1999 was adjourned because the expert report was not ready.

17. At a hearing held on 16 December 1999 the court admitted the report in evidence. Its conclusion was that none of the properties was divisible. The parties did not contest that conclusion.

18. In a judgment of 10 January 2000 the Sofia District Court allotted the house and plot of land in Sofia to the applicant, and the plot in Dolni Pasarel and the two fields to B.R.

19. B.R. appealed, requesting, among other things, an expert report on the value of the properties and on the possibilities of their being divided up.

20. The first hearing before the Sofia City Court (*Софийски градски съд*) was held on 6 July 2000. The court refused to order the expert report requested by B.R., and adjourned the case to allow the parties to call witnesses and present additional evidence.

21. At the next hearing, held on 25 October 2000, the court heard two witnesses. It agreed to order the expert report sought by B.R.

22. Two hearings, listed for 31 January and 3 May 2001, were adjourned because the report had not been drawn up.

23. The report, which concluded that the house in Sofia was divisible but that the plot in Dolni Pasarel was indivisible, was ready on 23 October 2001. It was admitted in evidence at a hearing held on 31 October 2001. The applicant objected to the report's conclusions, and requested a second expert report, to be drawn up by three experts. B.R. requested an expert report on the possibility of dividing up one of the fields.

24. At the next hearing, held on 20 March 2002, B.R. presented a blueprint, approved by the technical services of the municipality, for the division of the house. The court admitted in evidence the expert report on the divisibility of the field, and, on a request by the applicant, ordered an expert report on the current value of the plot in Dolni Pasarel.

25. A hearing listed for 6 November 2002 was adjourned because the expert reports were not ready. The court asked the expert assessing the value of the plot in Dolni Pasarel to determine the value of the two fields as well.

26. At a hearing held on 29 May 2003 the court admitted in evidence the additional expert report relating to the house, which also concluded that it was divisible, and the expert report concerning the value of the plot in Dolni Pasarel and the two fields. The applicant disputed the conclusions of the former, and requested a fresh expert report on the divisibility of the house. The court allowed her request, notwithstanding the objection of B.R.

27. At a hearing held on 12 February 2004 counsel for the applicant stated, without further explanation, that she wished to withdraw the request for an expert report on the divisibility of the house. It seems that the

withdrawal was based on the fact that the applicant had failed to pay the required fees for the report to be drawn up.

28. The last hearing was held on 29 April 2004. The court presented to the parties a draft division proposal. The applicant objected to it, arguing, among other things, that the house was indivisible. She requested a further expert report on that point. The court refused the request, observing that the applicant had earlier been allowed to seek such a report, but had failed to pay the required deposit. Evidentiary requests at such a late stage were possible only if truly indispensable for the proper determination of the case.

29. In a judgment of 10 May 2004 the Sofia City Court set the lower court's judgment aside. It decided, among other things, to disregard the initial expert reports on the divisibility of the house and to rely on the last one, observing that it was objective and that the three experts who had drawn it up were unanimous. It rejected the applicant's objections against that report, noting, among other things, that she had been allowed to request a further expert report but had failed to pursue that possibility. It found that the house was divisible, because it was technically possible to do so and there was a blueprint approved by the municipal administration. It further found that the division could be effected by drawing lots without great inconvenience. Accordingly, the court divided the properties into two lots, the first comprising the first storey of the house in Sofia and the plot in Dolni Pasarel, and the second comprising the second storey of the house and the two fields.

30. On 20 July 2004 the applicant appealed on points of law. On 22 July 2004 the Sofia City Court instructed her to specify her grievances. She did so on 21 September 2004, arguing that the court had erred in finding that the house could be divided. The expert report on which it had relied had not taken into account the applicable construction rules. The court had also erred in refusing the applicant's request for a further expert report; she had failed to pay the required deposit because she had been out of the country at the time.

31. The Supreme Court of Cassation (*Върховен касационен съд*) held a hearing on 21 February 2005, and in a final judgment of 7 April 2005 upheld the lower court's judgment. It noted that counsel for the applicant had withdrawn the request for a further expert report. The applicant could not therefore validly complain that she had been denied the opportunity to adduce evidence concerning the divisibility of the house. Her objections concerning the plan for the division had been discussed and rejected by the lower court. The court went on to observe that the experts and the municipal administration had found that the division could be effected without too much inconvenience and without infringing the applicable construction regulations. Therefore, the lower court's conclusion that the house was divisible was not contrary to the substantive law.

32. The proceedings then resumed before the Sofia District Court. At a hearing held on 21 June 2005 the applicant and B.R. drew lots to determine which of the divided properties should go to whom. B.R. received the first storey of the house in Sofia and the plot in Dolni Pasarel, and the applicant received the second storey of the house and the two fields. The court confirmed the division, ordered the applicant to pay B.R. a small sum to equalise their respective shares, and terminated the proceedings.

33. On 29 June 2005 the applicant appealed against the proposed division. On 4 July 2005 the Sofia District Court instructed her to specify her grievances and pay the requisite fee. The court's instructions were served on the applicant's counsel on 7 September 2005. On 14 September 2005 he requested an extension of time, citing the applicant's being abroad. On 13 October 2005 the court granted an extension until 15 October 2005.

34. As the applicant did not comply with the court's instructions, on 25 January 2006 the court refused to forward the appeal to the higher court for examination. Despite visits to the applicant's home on 3, 8 and 17 February, 1 March, 16, 20 and 27 April, and 1 May 2006, the court's process servers were not able to find the applicant to notify her of the court's ruling. On 22 May 2006 they served notice of the ruling on the applicant's counsel. As he did not seek to appeal against the ruling, it became final on 30 May 2006.

II. RELEVANT DOMESTIC LAW

A. The 1991 Constitution

35. Under Article 130 of the Constitution, the Supreme Judicial Council is the principal body concerned with the administration of the judiciary (which, in Bulgaria, comprises the courts, the prosecutor's offices and the investigation services). It has the power to, *inter alia*, appoint, promote, demote and dismiss judges, prosecutors and investigators (Article 129 § 1 and Article 130 § 6 (1)) and impose the harshest disciplinary punishments (Article 130 § 6 (2)).

36. A 2007 amendment to the Constitution added a new Article 132a, which envisaged the creation of an Inspectorate attached to the Supreme Judicial Council. The Inspectorate, which consists of a chief inspector and ten inspectors, is tasked with checking the work of the judiciary without infringing the independence of judges, prosecutors or investigators (Article 132a § 6). It can act either of its own motion or pursuant to reports by private individuals, legal persons or State authorities (Article 132a § 7). It has the power to refer matters to the appropriate authorities, or make suggestions or reports to them (Article 132a § 9).

A. The 2007 Judiciary Act

37. Section 7(1) of the 2007 Judiciary Act provides that "[e]veryone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal".

38. Sections 40-60 of the Act govern the structure, powers and operations of the Inspectorate attached to the Supreme Judicial Council (see paragraph 36 above). One of the Inspectorate's tasks is to check the processing of cases and their completion within the prescribed time-limits (section 54(1)(2)). It carries out planned annual checks or unplanned checks prompted by reports (section 56(1)). After carrying out a check of the work of an individual judge, prosecutor or investigator, the Inspectorate draws up a report containing its findings and recommendations, if any (section 58(2)). That report is presented to the judge, prosecutor or investigator concerned and to his or her hierarchical superior (section 58(3)). The hierarchical superior must then, within the time set in the report, inform the chief inspector about the implementation of the recommendations (section 58(4)).

B. The 1952 Code of Civil Procedure

39. At the relevant time division-of-property proceedings were governed by Articles 278-93a of the 1952 Code of Civil Procedure. They consisted of two phases.

40. During the first phase the court had to ascertain the number and the identity of the co-owners and of the items of common property, as well as the share to which each co-owner was entitled (Article 282 § 1).

41. During the second phase the court carried out the division, which could be done either by specifying which item of property went to which co-owner (Articles 287 and 289), or by auctioning an undividable item of property and distributing the proceeds among the co-owners (Article 288 § 1). If one of the divided properties was a flat inhabited by a co-owner who did not have another dwelling, he or she could request the flat to be allotted exclusively to him or her in return for reimbursing the other co-owners their shares in it (Article 288 § 3).

42. In property division proceedings the court could also have cognisance of certain ancillary matters, such as determination of parentage and validity of wills (Article 281 § 1), reimbursement of expenses incurred in relation to the divided property and indemnity for improvements to the property by one of the co-owners (Article 286 § 1), use of the property during the proceedings and indemnity for such use (Article 282 § 2).

43. Article 217a of the Code was added in July 1999. It provided as follows:

"1. Each party may file a complaint about delays at every stage of the proceedings, including after oral argument, when the examination of the case, the delivery of judgment or the transmitting of an appeal against judgment is unduly delayed.

2. The complaint about delays shall be filed directly with the higher court. No copies shall be served on the other party, and no State fee shall be due. The filing of a complaint about delays shall not be limited in time.

3. The president of the court with which the complaint has been filed shall request the case file and shall immediately examine the complaint in private. His instructions as to the steps to be carried out by the court shall be mandatory. His order shall not be subject to appeal and shall be sent immediately, together with the case file, to the court against which the complaint has been filed.

4. Should he determine that there has been [undue delay], the president of the higher court may propose that the disciplinary panel of the Supreme Judicial Council take disciplinary action."

C. The 2007 Code of Civil Procedure

44. The 2007 Code of Civil Procedure came into force on 1 March 2008, superseding the 1952 Code of Civil Procedure.

45. Article 13 of the new Code, entitled "Examination and disposal of cases within a reasonable time", provides as follows:

"The court shall examine and decide cases within a reasonable time."

46. The new Code contains more detailed provisions in relation to the admission of evidence. It provides that the claimant must set out his or her evidence in the statement of claim, and enclose the written evidence with it (Article 127 § 2). The defendant must do the same in his or her reply to the statement of claim (Article 131 § 3). He or she cannot do so at a later stage, unless his or her failure was due to special circumstances (Article 133). As a rule, the court should rule on the evidential requests when setting the case down for hearing (Article 140 § 1). At the first hearing, the parties may supplement their evidential requests if that has been made necessary by the other party's assertions (Article 143 § 2). The court must provide them with guidance (Article 145 §§ 1 and 2 and Article 146 § 2). After that, fresh evidence may be admitted only if the party had no means of adducing it earlier, or if it relates to newly arisen circumstances (Article 147 §§ 1 and 2). Evidential requests in relation to facts which are irrelevant for the outcome of the case and untimely evidential requests are to be rejected (Article 159 § 1).

47. In their evidential requests, the parties must specify the facts that they are seeking to prove and the manner in which they intend to do so (Article 156 § 1). Thus, when calling a witness, a party must say in relation to which facts he or she will be heard (Article 156 § 2). If it calls several

witnesses in relation to one fact, the court may admit only some of them, and hear the rest only if the initial ones fail to establish the fact in issue (Article 159 § 2). When requesting the ordering of an expert report, a party must specify the area in which the expert(s) should possess special knowledge, as well as the subject matter and the task of the expert report (Article 156 § 4).

48. In appeal proceedings, the parties may not rely on fresh facts or adduce evidence that they could have adduced during the first-instance proceedings (Article 266 § 1). Again in appeal proceedings, fresh evidence may be admitted only if the party had no means of adducing it earlier (Article 266 § 2 (1)), if it relates to newly arisen circumstances (Article 266 § 2 (2)), or if it has not been admitted by the first-instance court in breach of the rules of procedure (Article 266 § 3).

49. Articles 255-57 of the new Code, which superseded Article 217a of the 1952 Code, were inspired by Austrian law (Иванова, Р., Пунев, Б., Чернев, С., *Коментар на новия Граждански процесуален кодекс*, София, 2008 г., стр. 375) and provide as follows:

Article 255 – Request for fixing of time-limit in the event of delay

"1. Where the court does not take a procedural step in due time, a party may, at any stage of the proceedings, make a request for an appropriate time-limit to be fixed for that procedural step to be taken.

2. The request shall be filed with that court for onward transmission to the higher court. The court examining the case shall immediately forward the request to the higher court together with its opinion."

Article 256 – Satisfaction of request

"1. If the court immediately takes all steps mentioned in the request, and notifies the party accordingly, the request shall be considered as withdrawn.

2. If within one week of receiving the notification mentioned in the previous subparagraph the party states that it maintains its request, the request shall be forwarded to the higher court for examination."

Article 257 – Examination and determination of request for fixing of time-limit

"1. The request for fixing of a time-limit shall be examined by a judge of the higher court within one week of its receipt.

2. If that court finds that there has been undue delay, it shall fix a time-limit for the procedural step in question to be taken. Should the court find otherwise, it shall refuse the request. No appeal shall lie against its decision."

50. These provisions seem to apply to the administrative courts as well, by virtue of Article 144 of the 2006 Code of Administrative Procedure,

which provides that all matters not specifically dealt with are governed by the Code of Civil Procedure. In practice, the Supreme Administrative Court does examine requests to fix time-limits (опр. № 6710 от 22 май 2009 г. по адм. д. № 4561/2009 г., ВАС, петчленен с-в).

51. The Government provided eight decisions given by the Supreme Court of Cassation, the Supreme Administrative Court and the Veliko Tarnovo Court of Appeal in connection with such requests. Only two of those decisions fixed time-limits in which the lower courts were instructed to take certain procedural steps.

52. According to statistical information provided by the Government, in 2009 the regional courts received 145 requests to fix time-limits because of delays. All but ten of them were dealt with in less than three months. In 2009 the courts of appeal received 78 such requests. All of them were dealt with in less than three months (the statutory time-limit is one week – see paragraph 49 above). The Government did not provide information about the impact the examination of those requests had had on the speed of the proceedings in connection with which they had been made.

D. The 1988 State Responsibility for Damage Act

53. Section 1 of the 1988 State Responsibility for Damage Caused to Citizens Act (which was renamed "State and Municipalities Responsibility for Damage Act" on 12 July 2006 – "the 1988 Act"), as in force since July 2006, provides as follows:

> "The State and the municipalities shall be liable for damage caused to individuals and legal persons by unlawful decisions, actions or omissions by their organs and officials, committed in the course of or in connection with the performance of administrative action."

54. Section 2(1) of the Act, as originally enacted, provided for liability of the investigating and the prosecuting authorities and the courts in six situations: unlawful detention; bringing of charges or conviction, if the proceedings were later abandoned or if the conviction was overturned; coercive medical treatment or coercive measures imposed by a court, if its decision was later quashed as being unlawful; and serving of a sentence over and above its prescribed duration. A new point, added in March 2009, provides that the State is liable for any damage the investigating and prosecuting authorities or the courts cause to individuals through the unlawful use of special surveillance means.

E. Legal doctrine

55. According to some legal commentators, the remedies under Article 217a of the 1952 Code and under Articles 255-57 of the 2007 Code

were/are not available in respect of proceedings before the Supreme Court of Cassation, because there is no "higher court" (Сталев, Ж., *Българско гражданско процесуално право*, София, 2006 г., стр. 106, Корнезов, Л., *Гражданско съдопроизводство*, Том първи, София, 2009 г., стр. 682). Other commentators maintain that the remedy under Articles 255-57 of the 2007 Code, could, in view of its specificities, be applied to cases pending before the Supreme Court of Cassation because its essential purpose is not to apprise the higher court of delays by the lower court but to prompt the latter to expedite the examination of the case (Иванова, Р., Пунев, Б., Чернев, С., *Коментар на новия Граждански процесуален кодекс*, София, 2008 г., стр. 379).

III. RELEVANT COUNCIL OF EUROPE MATERIAL

A. Committee of Ministers

56. On 2 December 2010, during its 1100th meeting, the Committee of Ministers of the Council of Europe adopted an Interim Resolution on the execution of the judgments of the European Court of Human Rights concerning the excessive length of judicial proceedings in eighty-four cases against Bulgaria (CM/ResDH (2010) 223). The resolution reads:

> "The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter "the Convention"),
>
> Having regard to the number of judgments of the European Court of Human Rights ("the Court") finding Bulgaria in violation of Article 6, paragraph 1 and Article 13 of the Convention on account of the excessive length of judicial proceedings and the absence of an effective remedy in this regard (see Appendix III to this resolution);
>
> Recalling that excessive delays in the administration of justice constitute a serious danger, in particular to respect for the rule of law and access to justice;
>
> Recalling also its Recommendation Rec(2010)3 to member states on the need to improve the effectiveness of domestic remedies for excessive length of proceedings, and emphasising the importance of this question where judgments reveal structural problems likely to give rise to a large number of further similar violations of the Convention;
>
> Having examined the information supplied by the Bulgarian authorities concerning the measures taken or envisaged in response to those judgments (see Appendix I), including the statistical data on the length of judicial procedures (see Appendix II);

Assessment of the Committee of Ministers

I. Individual measures

Having noted the individual measures taken by the authorities to provide the applicants redress for the violations found (restitutio in integrum), in particular the acceleration, as far as possible, of proceedings which were still pending after the findings of violations by the Court;

Noting however with concern that the domestic proceedings in seven cases are still pending before the domestic courts and that the authorities have been unable to provide information about two other cases (see Appendix I);

CALLED UPON the Bulgarian authorities to provide for acceleration as much as possible of the proceedings pending in these cases, in order to bring them to an end as soon as possible, and to inform it of the progress of proceedings in the two aforementioned cases;

II. General measures

1) Measures aimed at reducing the length of judicial proceedings

Noting the numerous violations found by the Court on account of the excessive length of civil and criminal proceedings in Bulgaria, revealing certain structural problems in the administration of justice at the time of the relevant facts;

Welcoming the numerous legislative reforms adopted by the authorities in order to remedy these structural problems and in particular the adoption of the new codes of criminal and civil procedure (see Appendix I);

Welcoming likewise the other measures taken by the authorities to increase the efficiency of the judicial system, and in particular the establishment of assessment and monitoring mechanisms, including the collection and analysis of statistical data;

Noting that the 2009 statistics show a reduction in the backlog in the Bulgarian courts as a whole, and an increase in the number of cases dealt with in the space of 3 months (see Appendix II);

Noting however that, according to the statistics, the backlog in the district courts located in regional centres has increased slightly by reason of the substantial rise in the number of cases registered, and that those courts were responsible for examining half the cases pending in the country in 2009 (see Appendix II);

Noting also that the legislative reforms introduced between 2006 and 2010 have not yet produced their full impact on the length of proceedings and that a longer period of time is needed before the effectiveness of all the measures taken can be fully and completely assessed;

ENCOURAGED the Bulgarian authorities to pursue their efforts in following up the reforms introduced, in order to consolidate their positive effects, in particular as regards the situation in the district courts located in regional centres;

CALLED ON the authorities to continue to monitor the effects of these reforms as it proceeds, with a view to adopting, if appropriate, any further measure necessary to ensure its effectiveness, and to keep the Committee informed of the developments in this regard;

2) Measures relating to the effectiveness of remedies

Recalling that the Court has found numerous violations of the right to an effective remedy in contesting the excessive length of proceedings in Bulgaria, revealing certain structural problems in this field;

Recalling its Recommendation Rec(2010)3 encouraging states to introduce remedies making it possible both to expedite proceedings and to grant compensation to interested parties for damage suffered;

Noting with interest that Articles 255-57 of the Code of Civil Procedure provide that, if a court does not take a procedural step in due time, the parties may at any time apply to the superior court for a time-limit to be set for the taking of the procedural step in question, thus affording a remedy designed to speed up the civil proceedings (see Appendix I);

Noting also that there exist in criminal law certain forms of non-pecuniary redress, such as the possibility of reducing the sanction, where there is a finding of excessive length of proceedings;

Noting however that at the present time no domestic remedy is available for expediting excessively lengthy criminal proceedings or obtaining pecuniary compensation if appropriate (see Appendix I);

Welcoming in this context the reform undertaken by the authorities aimed at introducing into Bulgarian law a compensatory remedy where excessive length of judicial proceedings is alleged (see Appendix I);

INVITED the Bulgarian authorities to complete as soon as possible the reform undertaken in order to introduce a remedy whereby compensation may be granted for prejudice caused by excessive length of judicial proceedings, and to keep the Committee informed of its progress and of any other measure that may be envisaged in this field;

Having regard to the foregoing, the Committee of Ministers

DECIDED to resume its examination of progress made at the latest:

– by the end of 2011, with regard to the question of effective remedy;

– by mid-2012, with regard to the question of the excessive length of judicial proceedings."

57. An appendix to the resolution summarised the information provided by the Bulgarian Government on the measures taken by the Bulgarian authorities in that domain. It reads:

"**I. Individual measures**

The proceedings which were still pending before the domestic courts at the time when the Court gave its judgments have been terminated in most of the cases. At the present time, the proceedings have not yet been terminated in the Belchev, Hamanov, Nedyalkov, Valkov, Kamburov, Kavalovi and Merdzhanov cases. Information is still awaited also on the state of progress in the proceedings in the Kolev and Sidjimov cases.

II. General measures

1) Measures aimed at reducing the length of proceedings

– Legislative measures

In 2007 a new Code of Civil Procedure ("CCvP") was adopted. The adoption of that code, which came into force on 1 March 2008, forms part of the overall reform of the civil justice system in Bulgaria designed in particular to speed up judicial proceedings. The new code seeks inter alia to concentrate decisions relating to the judicial investigation in the proceedings at first instance and to limit appeal and cassation proceedings.

The most important provisions of the new CCvP provide for:

– the express obligation on civil courts to examine cases within a reasonable time (Article 13);

– the "concentration principle" whereby evidence is brought together in the first instance proceedings; according to this principle, the parties may submit evidence or ask for evidence to be taken no later than the first hearing (Articles 127, 133, 143 and 146); after the first hearing, the parties may only request the taking of evidence which could not be adduced earlier; by way of comparison, the 1952 [C]ode allowed evidence to be submitted throughout the judicial investigation, including elements which could have been submitted earlier, subject to payment of procedural costs;

– the change of second instance from a "second first instance" to an appeal instance, examining only the points raised in the appeal (Article 269), at which the parties may no longer submit evidence and arguments which they could have raised in the court of first instance (Article 266);

– limitation of the grounds for lodging an appeal in cassation to the Supreme Court; henceforth, there are only three categories of judgments handed down by the second-instance courts which can be subject to appeal in cassation (those which are at variance with the case-law of the Supreme Court of Cassation, those relating to a question on which courts deciding on the merits have handed down contradictory judgments, and those relating to a question considered important for the development of law or for the precise application of the law); under the previous cassation system, the Supreme Court of Cassation was competent to judge the lawfulness and validity of the great majority of judicial decisions taken at second instance;

– simplification of summons arrangements, with the possibility of serving a summons by delivering it to the letter-box of the person concerned or affixing it to his/her front door.

The authorities consider that a longer period of time will be needed for the real impact of the new CCvP on length of proceedings to be assessed.

...

– Administrative measures designed to improve the organisation and management of the courts

Among other reforms designed to improve the efficiency of the Bulgarian judicial system, should be mentioned the creation in 2007 of an electronic commercial register managed by an administrative agency (see the commercial register law in force since 1 July 2007). Thus the regional courts which were responsible for registering commercial companies in the past have been absolved of that responsibility.

Furthermore, following the adoption of the new Code of Administrative Procedure in 2006, 28 administrative courts were set up in 2007. These new administrative courts have powers previously exercised by the regional courts. In addition, as an ad hoc measure aimed at lightening the workload of the Supreme Court of Cassation, labour disputes pending before it when the 2007 CCvP came into force have been transferred to the appeal courts.

It should also be pointed out that the judicial authorities now have access to the national database containing the population register, which should overcome certain delays arising from requests for information needed to take judicial proceedings forward.

Finally, Bulgaria has achieved a high level of computerisation designed to assist both judges and other personnel (for further details, see the 2010 report of the European Commission for the Efficiency of Justice – CEPEJ). Moreover, the courts are continuing their efforts to improve their IT equipment in order to communicate with parties. Those efforts were recently rewarded by the award of the 2010 "Crystal Scales of Justice" prize to the Yambol administrative court for the work it has done to improve users' understanding of judicial procedure.

– Mechanisms for periodic assessment and monitoring of the work of the courts

Two bodies – the Supreme Judicial Council Inspectorate and the Ministry of Justice Inspectorate – have the main responsibility for monitoring and assessing the work of the courts, prosecution services and investigating magistrates.

The Supreme Judicial Council Inspectorate, established in 2007, comprises an inspector-general and ten inspectors elected by Parliament for terms of five and four years respectively (Article 132a of the Constitution). It oversees the administrative organisation of the courts, prosecution services and bodies in charge of preliminary investigations, together with the proper organisation of preliminary investigations and cases pending before prosecutors and courts. In particular, the inspectorate oversees compliance with the time-limits laid down by law for dealing with cases. It carries out its tasks (a) through planned regional inspections and (b) through inspections

focussing on particular questions. It may also conduct inspections in response to reported irregularities ([sections] 54 and 56 of the [2007 Judiciary Act]).

Following inspections, it makes recommendations, particularly concerning compliance with the time-limits laid down by law for dealing with cases. Implementation of its recommendations is monitored in the course of follow-up inspections. The inspectorate may also make proposals to courts' administrative authorities and to the Judicial Service Commission for the imposition of disciplinary penalties on judges, prosecutors and investigating magistrates (see "Disciplinary measures" below). The work of the inspectorate is covered in the progress report of the Supreme Judicial Council.

The Ministry of Justice Inspectorate oversees, among other things, the manner in which case registration and handling are managed, as well as closure of cases within the legal time-limits. This inspectorate organises thematic controls in accordance with a programme approved by the Ministry of Justice. It may make recommendations and supervises their implementation in the course of subsequent inspections.

The Ministry of Justice Inspectorate is also responsible for overseeing application of the new CCvP and CCrP. During inspections already carried out, it has observed some of the causes of procedural delays and made recommendations in this regard.

Furthermore, the presidents of the Supreme Court of Cassation and the Supreme Administrative Court are required to present annual reports on the functioning of trial and appeal courts, in addition to annual reports on their own activities ([sections 114(1) and (2) and 122(1) and (2)] of the [2007 Judiciary Act]). Lastly, each year the Supreme Judicial Council centralises and analyses the statistics on the work of all the country's courts (cf. Appendix II).

– Disciplinary measures

Under the [2007 Judiciary Act], systematic failure to comply with the time-limits laid down in procedural laws, and action or inaction such as to delay proceedings in an unjustified manner, are disciplinary offences ([section] 307 § 4). The Judicial Service Commission has the power to impose disciplinary penalties (other than comment and reprimand, which are imposed by the hierarchical superior) on judges, prosecutors and investigating judges. The public bodies responsible for enforcing judicial decisions and the bodies responsible for entries in the land registry may be sanctioned by the Ministry of Justice ([section] 311).

The authorities have stated that during the period 2007-2009 the number of disciplinary proceedings before the Supreme Judicial Council rose steadily (13 in 2007, 28 in 2008 and 83 in 2009). By way of example, in 2009 seven judges and one head of administration were sanctioned, mainly for systematic failure to comply with the time-limits laid down by law. Among them, three judges were dismissed and three others had their salaries reduced by 10 to 25% for periods of up to a year.

– Long-term strategies

The Bulgarian authorities have adopted several strategies on judicial reforms. For example, a criminal policy strategy for the period 2010-2014 has been adopted, the principal objective being to further reduce the excessive formalism of criminal

procedure. It should be noted that the amendments to the 2010 CCrP were decided on the basis of this strategy (see above).

Further, in 2009 the government adopted a plan to eradicate the causes of violations of the Convention found by the European Court in its judgments concerning Bulgaria. That plan was drawn up by a working party which included representatives of the Ministry of Justice as well as human rights activists. Among the tangible results obtained on the basis of this plan, should be mentioned the working party set up to introduce an application for compensation in cases of excessive length of judicial proceedings (see below). In June 2010 the government adopted the strategy on continued judicial reforms in Bulgaria following its accession to the European Union.

2) Measures relating to the effectiveness of remedies

– Remedy concerning speeding up of civil proceedings

A remedy allowing to question the length of civil proceedings was introduced into Bulgarian law as long ago as 1999 (Article 217a of the former CCvP). The provisions governing this remedy were maintained to a great extent in the new CCvP of 2007. Articles 255 to 257 thereof stipulate that, if a court fails to take a procedural step in time, the parties may at any time request the superior court to set a deadline for taking the procedural step in question. The request is lodged through the court seized of the case, which must send it to the superior court together with its own opinion. If the court seized of the case takes the requested steps immediately, the request is deemed to be withdrawn unless the party concerned states that it wishes to maintain the request. In cases where the request is transmitted to the superior court, it must be examined within one week by a judge of that court. If he finds that there has been unjustified delay, the superior court sets a deadline by which the procedural step must be taken. The order of the superior court is final.

According to the data supplied by the authorities, the regional courts examined 242 applications for speeding up of civil proceedings in 2007. 110 applications were examined in 2008 and 142 in 2009. Also in 2009, the appeal courts examined 78 applications for the speeding up of proceedings.

The European Court has accepted that the remedy provided for in Article 217a of the former CCvP is effective in principle (see *Simizov against Bulgaria*, No. 59523/00, § 56, 18 October 2007, *Jeliazkov and others against Bulgaria*, No. 9143/02, § 48, 3 April 2008, and *Stefanova against Bulgaria*, No. 58828/00, § 69, 11 January 2007). It has however stated that account must be taken of the circumstances of each case (*Stefanova*, cited above, § 69) and of the effect which such application might have on the overall length of the proceedings in question (*Simizov*, cited above, §§ 54-56). In several cases the Court has found that the application in question has not or could not have prevented certain delays by reason of their specific causes, such as for example inactivity on the part of the prosecution, inability of the domestic authorities to ensure that one party to the proceedings is properly summonsed, or errors in the application of the law (*Stefanova*, cited above, §§ 70 and 71, *Mincheva against Bulgaria*, No. 21558/03, § 105, 2 September 2010, *Maria Ivanova against Bulgaria*, No. 10905/04, § 35, 18 March 2010).

Furthermore, the European Court observed that it was unclear whether this remedy was available before the Supreme Court of Cassation, in so far as there was no higher court.

The authorities have indicated that these shortcomings will be taken into account when defining a new application for compensation in cases of excessive length of judicial proceedings (see below).

...

– Compensatory remedy

The European Court has consistently pointed to the absence in Bulgarian law of a remedy enabling compensation to be obtained for excessive length of judicial proceedings (see, for example, the *Mincheva against Bulgaria* judgment cited above, § 107).

In this connection the Government has indicated that, in the context of implementing a plan to eradicate the causes of the violations found by the European Court in judgments concerning Bulgaria, it has set up a working party to prepare a bill amending the law on the responsibility of the state and municipalities for prejudice caused to individuals. This bill envisages, in particular, the introduction of an application for compensation in cases of unjustified delay in the proceedings. This working party has drafted a bill providing that the state may be held responsible, in addition to the cases already settled, where unjustified delay in civil, criminal and administrative proceedings are attributable to the judicial authorities.

As regards criminal proceedings, it should also be noted that certain forms of non-pecuniary redress exist in cases of excessive length of proceedings, such as the possibility of reducing the penalties. This form of redress has been recognised by the European Court as an effective remedy in certain circumstances (*Bochev against Bulgaria* judgment of 13 November 2008, § 83)."

58. A second appendix to the resolution contained statistical data on the processing of cases in the Bulgarian courts. It reads (footnotes omitted):

"**I. Statistics on length of judicial proceedings before the Bulgarian courts**

1) Data for Bulgarian courts as a whole

The general trend which emerges from the data available shows that, despite a resurgence in the number of cases registered, the number of cases terminated for all courts is on the increase (in 2009 it was 4.59% higher than in 2007, and 15.46% higher than in 2008). Similarly, the backlog facing the courts as a whole decreased for the second year running. Thus the decrease in the number of cases pending at the end of 2009 is of 10.26% as compared with 2007 and of 2.35% as compared with 2008.

The number of judges, taking all courts together, was 2,162 in 2009, 1.45% more than in 2007 and 1.74% more than in 2008.

2) Supreme Court of Cassation

...

– *Civil bench*

Despite an increase in the number of new cases registered in 2009 (2,191 more than in 2008 and 513 more than in 2007), the backlog before the civil bench decreased at the end of the same year (4,706 cases pending at the end of 2009 as compared with 5,361 in 2008 and 8,555 in 2007).

– *Commercial bench*

The backlog before the commercial bench at the end of 2009 was on the increase (1,385 cases pending at the end of 2009 as compared with 634 at the end of 2008). That increase was the result of the higher number of cases registered (55.46% more than in 2008), notwithstanding the increase in the number of cases terminated in 2009 (21.31% more than in 2008).

3) Supreme Administrative Court

Despite a constant increase in the number of cases terminated by this court between 2007 and 2009 (13,777 cases in 2007, 15,095 cases in 2008 and 16,263 cases in 2009), its backlog slightly increased during that period due to the increase in the number of cases registered (13,659 cases in 2007, 16,402 cases in 2008 and 17,190 in 2009). In 2009, 7% of cases terminated were concluded within one month and 66% within three months, while 27% took over three months.

4) Appeal courts

The backlog in the appeal courts is constantly decreasing. The number of cases pending at the end of 2009 (1,713) decreased by 45.89% as compared with 2007 and by 22.28% as compared with 2008.

...

6) Regional courts and the Sofia City [C]ourt

The creation in 2007 of 28 administrative courts, as well as an agency responsible for entries in the commercial register, led to a significant decrease in the number of cases registered by regional courts in 2009 (42.73% fewer than in 2007 and 2.64% fewer than in 2008). Cases pending at the end of 2009 numbered 23,392, a figure 31.76% lower than in 2007 and 15.99% lower than in 2008.

7) District courts located in regional centres

The backlog in these courts at the end of 2009 had grown by 1.05% as compared with 2007 and by 7.03% as compared with 2008. This increase is due to the rise in the number of cases they had to deal with in 2009 (23.05% more than in 2007 and 18.29% more than in 2008), and despite a larger number of cases terminated during that year (28.36% more than in 2007 and 20.70% more than in 2008).

In 2009 the district courts located in regional centres registered 285,547 cases; 94,317 cases were registered by the Sofia district court, i.e. 33% of all cases newly registered with the courts in this category.

8) District courts located outside regional centres

The backlog in these courts at the end of 2009 had fallen (by 12.64% as compared with 2007 and by 7.54% as compared with 2008) notwithstanding an increase in the number of cases they had to deal with (11.30% more than in 2007 and 15% more than in 2008).

This trend was due to the increase in the number of cases terminated in 2009 (16.47% more than in 2007 and 19.72% more than in 2008). It is also to be noted that in 2009, 92,541 cases were concluded within three months, a figure 22.88% higher than for 2007 and 25.71% higher than for 2008.

9) Administrative courts

These courts began sitting in 2008. In 2009 they dealt with 45,164 cases, a figure 8.81% higher than in 2008. The number of cases terminated in 2009 was 10.09% higher than in 2008. Despite that increase, the number of cases pending at the end of 2009 was 4.23% higher than for 2008.

..."

B. Parliamentary Assembly

59. In its Resolution 1787 (2011) on the implementation of the Court's judgments, adopted on 26 January 2011, the Parliamentary Assembly of the Council of Europe noted "with grave concern" the continuing existence of "major systemic deficiencies which cause large numbers of repetitive findings of violations of the Convention and which seriously undermine the rule of law" in some Member States of the Council of Europe. One of those was the "excessive length of judicial proceedings" (paragraph 5.1). The Assembly, in particular, urged Bulgaria to, *inter alia*, "pursue its efforts to solve the problem of excessive length of court proceedings" (paragraph 7.1 *in fine*).

THE LAW

I. ADMISSIBILITY

A. The parties' submissions

60. The Government submitted that the applicant had failed to exhaust domestic remedies in relation to her complaint under Article 6 § 1 of the Convention, because she had not availed herself of the procedure under

Article 217a of the 1952 Code of Civil Procedure to prevent specific instances of delay in the proceedings. They pointed out that that avenue of redress had been further improved by the 2007 Code of Civil Procedure. In that respect, they referred to their submissions in relation to the suitability of applying the pilot judgment procedure in the present case (see paragraphs 106-110 below).

61. The Government additionally submitted that the applicant could not claim to be a victim of a violation, because her interests had not been affected to a sufficient degree. Throughout the proceedings she had lived in Germany and had been able to use the divided property. She had thus not suffered a "significant disadvantage" within the meaning of the new subparagraph (b) of Article 35 § 3 of the Convention.

62. The applicant replied that the "complaint about delays" under Article 217a of the 1952 Code of Civil Procedure was not an effective remedy because it could not lead to compensation for excessive length of proceedings, but merely trigger disciplinary sanctions against a judge who had caused unjustified delay. The remedy's shortcomings had been exposed in a number of judgments of the Court. Its successor, the "request for fixing of time-limit in the event of delay" under Articles 255-57 of the 2007 Code of Civil Procedure, was irrelevant because it had been introduced after the end of the proceedings at issue in the present case and because it reproduced the shortcomings of the "complaint about delays". As evident from examples provided by the Government, the national courts routinely failed to deal with such complaints or requests within the statutory time-limits. The failure of a lower court to comply with a time-limit fixed by the higher court pursuant to such a request could not have any consequences. Moreover, in contrast to previous cases against Portugal and Austria, the statistics supplied by the Government did not show in how many cases the complaints or requests had been allowed, whether any instructions given as a result of them had been complied with, and whether that had in fact led to the acceleration of the proceedings in connection with which they had been made.

63. The applicant further argued that the mere fact that the litigation in issue concerned her inheritance showed that the stakes for her were quite serious. That she had been able to use the house during the proceedings was not a decisive factor, because the issue to be determined in those proceedings concerned title to the property. The Government's suggestion that she had not suffered a "significant disadvantage" was groundless because the litigation concerned not a trifling amount of money, but ownership of immovable property of significant value.

B. The Court's assessment

1. Exhaustion of domestic remedies

64. The Court considers that the question of exhaustion of domestic remedies is closely linked with the substance of the applicant's complaint under Article 13 of the Convention (see paragraph 79 below). It should therefore be joined to the merits (see *Sürmeli v. Germany* (dec.), no. 75529/01, 29 April 2004, and *McFarlane v. Ireland* [GC], no. 31333/06, § 75, ECHR 2010-...).

2. Victim status

65. According to the Court's settled case-law, the word "victim", as used in Article 34 of the Convention, denotes the person directly affected by the act or omission in issue, the existence of a violation being conceivable even in the absence of prejudice, which is relevant only in the context of just satisfaction (see, among many other authorities, *Marckx v. Belgium*, 13 June 1979, § 27, Series A no. 31, and *Corigliano v. Italy*, 10 December 1982, § 31, Series A no. 57). Even if the proceedings did not constitute one of the applicant's major sources of concern, it is undeniable that their duration directly affected her (see *Corigliano*, cited above, § 31 *in fine*).

66. It follows that the Government's objection concerning the applicant's victim status must be rejected.

3. Significant disadvantage

(a) General principles

67. Protocol No. 14 to the Convention, which came into force on 1 June 2010, added a new admissibility requirement to Article 35 § 3 of the Convention. That provision now reads, in so far as relevant:

> "The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:
>
> ...
>
> (b) the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal."

68. In accordance with Article 20 of the Protocol, the new provision applies from the date of its entry into force to all applications pending before the Court, except those declared admissible.

69. The purpose of the new admissibility criterion is to enable more rapid disposal of unmeritorious cases and thus to allow the Court to

concentrate on its central mission of providing legal protection of human rights at the European level (see the Explanatory Report to Protocol No. 14, CETS No. 194, §§ 39 and 77-79). The High Contracting Parties clearly wished the Court to devote more time to cases which warrant consideration on the merits, whether seen from the perspective of the legal interest of the individual applicant or considered from the broader perspective of the law of the Convention and the European public order to which it contributes (ibid., § 77).

70. The main element contained in the new admissibility criterion is the question of whether the applicant has suffered a "significant disadvantage". It hinges on the idea that a violation of a right, however real from a purely legal point of view, should attain a minimum level of severity to warrant consideration by an international court. The assessment of this minimum level is relative and depends on all the circumstances of the case. The severity of a violation should be assessed by taking into account both the applicant's subjective perceptions and what is objectively at stake in a particular case (see *Korolev v. Russia* (dec.), no. 25551/05, ECHR 2010-...).

71. The Court has thus far found a lack of "significant disadvantage" in a case concerning proceedings in which the amount in controversy was ninety euros (see *Adrian Mihai Ionescu v. Romania* (dec.), no. 36659/04, § 35, 1 June 2010), in a case concerning a failure by the authorities to pay to the applicant a sum equivalent to less than one euro (see *Korolev*, cited above), in a case concerning a failure by the authorities to pay to the applicant a sum roughly equal to twelve euros (see *Vasilchenko v. Russia*, no. 34784/02, § 49, 23 September 2010) and in a case concerning a traffic fine of one hundred and fifty euros and the endorsement of the applicant's driving licence with one penalty point (see *Rinck v. France* (dec.), no. 18774/09, 19 October 2010). The Court has, on the other hand, found that the applicants in a case concerning delays in the payment of compensation for expropriated property and amounts running in the tens of thousands of euros had suffered a "significant disadvantage" (see *Sancho Cruz and 14 other "Agrarian Reform" cases v. Portugal*, nos. 8851/07, 8854/07, 8856/07, 8865/07, 10142/07, 10144/07, 24622/07, 32733/07, 32744/07, 41645/07, 19150/08, 22885/08, 22887/08, 26612/08 and 202/09, §§ 32-35, 18 January 2011).

72. The second element contained in the new criterion is intended as a safeguard clause (see the Explanatory Report, § 81) compelling the Court to continue the examination of the application, even in the absence of any significant disadvantage suffered by the applicant, if respect for human rights as defined in the Convention and the Protocols thereto so requires. That wording is drawn from the second sentence of Article 37 § 1 of the Convention, where it fulfils a similar function in the context of decisions to strike applications out of the Court's list of cases. It is also used in Article 38 § 1 as a basis for securing a friendly settlement between the

parties. The Court and the former Commission have consistently interpreted those provisions as compelling them to continue the examination of a case when that is necessary because the case raises questions of a general character affecting the observance of the Convention. Such questions would arise, for example, where there is a need to induce the respondent State to resolve a structural deficiency affecting other persons in the same position as the applicant (see *Korolev*, cited above). As noted in paragraph 39 of the Explanatory Report (cited above), the application of the new admissibility requirement should ensure avoiding the rejection of cases which, notwithstanding their trivial nature, raise serious questions affecting the application or the interpretation of the Convention or important questions concerning national law.

73. Lastly, Article 35 § 3 (b) does not allow the rejection of an application under the new admissibility requirement if the case has not been duly considered by a domestic tribunal. The purpose of that rule, qualified by the drafters as a "second safeguard clause" (see the Explanatory report, § 82), is to ensure that every case receives a judicial examination, either at the national or at the European level, so as to avoid a denial of justice (see *Korolev*, cited above).

(b) Application in the present case

74. The proceedings about whose length the applicant complained concerned the division of several properties – a house and plot of land in Sofia, a plot of land in the village of Dolni Pasarel, and two fields – inherited by the applicant and her brother from their parents (see paragraph 7 above and contrast *Hadjibakalov v. Bulgaria*, no. 58497/00, § 5, 8 June 2006, which concerned the length of proceedings for the division of three gold coins). However, the Court does not consider it necessary to determine whether she suffered a "significant disadvantage" on account of their allegedly unreasonable duration, because it considers, for the reasons that follow, that the second and the third elements of the new admissibility criterion are not in place.

75. With regard to the second element, the Court observes that when giving notice of the application to the Government, it gave consideration to applying the pilot judgment procedure to the case with a view to addressing the potential systemic problem of unreasonable length of civil proceedings in Bulgaria and the alleged lack of effective remedies in that regard. In their observations, the Government stated that they would welcome any recommendations made by the Court with a view to overcoming the issues raised by the case (see paragraph 110 below). The Court is therefore satisfied – without prejudice to its ruling on the question whether the present case is or is not suitable for a pilot judgment procedure – that respect for human rights, as defined in the Convention and the Protocols thereto, requires an examination of the application on the merits (see,

mutatis mutandis, *Karner v. Austria*, no. 40016/98, §§ 25-28, ECHR 2003-IX, and contrast *Korolev*, cited above, which made reference to a previous pilot judgment procedure against the Russian Federation).

76. The Court also observes that the chief point raised by the present case is precisely whether the applicant's grievance concerning the alleged unreasonable length of the proceedings could be duly considered at the domestic level, as required by the principle of subsidiarity. The case cannot therefore be regarded as complying with the third element of the new admissibility requirement.

77. It follows that the Government's objection must be rejected.

4. The Court's decision on admissibility

78. The Court further considers that the remainder of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

79. The applicant complained that she had not had effective remedies in respect of the excessive length of the proceedings. She relied on Article 13 of the Convention, which provides as follows:

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

A. The parties' submissions

80. The Government made no submissions in relation to that complaint.

81. The applicant submitted that she had not had effective remedies in respect of her complaint about the excessive length of the proceedings. The "complaint about delays" was not such a remedy, as found by the Court in a number of cases and as evident from the points made by the applicant in reply to the Government's non-exhaustion objection. Nor was there a remedy allowing her to obtain compensation for any damage suffered as a result of the excessive length of the proceedings. The 1988 Act was clearly not applicable to such situations. Its section 2 provided for State liability in relation to the workings of the courts only in certain very limited circumstances, a position fully confirmed in the Supreme Court of Cassation's case-law.

B. The Court's assessment

1. General principles

82. Under Article 35 § 1 of the Convention, the Court may only deal with a matter after all domestic remedies have been exhausted. Applicants must have provided the domestic courts or authorities with the opportunity, in principle intended to be afforded to Contracting States, of preventing or putting right the violations alleged against them. That rule is based on the assumption, reflected in Article 13 of the Convention – with which it has close affinity – that there is an effective remedy available in the domestic system in respect of the alleged breach. The only remedies which Article 35 § 1 requires to be exhausted are those that relate to the breach alleged and are available and sufficient. The existence of such remedies must be sufficiently certain not only in theory but also in practice, failing which they will lack the requisite accessibility and effectiveness; it falls to the respondent State to establish that these conditions are satisfied (see *McFarlane*, cited above, § 107, with further references).

83. The application of Article 13 of the Convention in this context began with the Court's judgment in *Kudła v. Poland* ([GC], no. 30210/96, §§ 146-60, ECHR 2000-XI). A comprehensive restatement of the relevant principles, as established in *Kudła* and its progeny, may be found in the Court's judgment in the case of *Sürmeli v. Germany* ([GC], no. 75529/01, §§ 97-101, ECHR 2006-VII, with further references):

(a) Under Article 1 of the Convention, which provides that "[t]he High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention", the primary responsibility for implementing and enforcing the rights and freedoms guaranteed by the Convention is laid on the national authorities. The machinery of complaint to the Court is thus subsidiary to national systems safeguarding human rights. This subsidiary character is articulated in Article 13 and Article 35 § 1 of the Convention;

(b) Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief. The effectiveness of a remedy within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant. Also, even if a single remedy does not by itself entirely satisfy the requirements of Article 13, the aggregate of remedies provided for under domestic law may do so. It is therefore necessary to determine in each case whether the means available to litigants in domestic law are "effective" in the sense either of preventing the alleged

violation or its continuation, or of providing adequate redress for any violation that has already occurred;

(c) Remedies available to a litigant at domestic level for raising a complaint about the length of proceedings are "effective" within the meaning of Article 13 of the Convention if they prevent the alleged violation or its continuation, or provide adequate redress for any violation that has already occurred. A remedy is therefore effective if it can be used either to expedite a decision by the courts dealing with the case, or to provide the litigant with adequate redress for delays that have already occurred (on that point, see also *Mifsud v. France* (dec.) [GC], no. 57220/00, ECHR 2002-VIII);

(d) The best solution in absolute terms is indisputably, as in many spheres, prevention. Where the judicial system is deficient with regard to the reasonable-time requirement in Article 6 § 1 of the Convention, a remedy designed to expedite the proceedings in order to prevent them from becoming excessively lengthy is the most effective solution. Such a remedy offers an undeniable advantage over a remedy affording only compensation since it also prevents a finding of successive violations in respect of the same set of proceedings and does not merely repair the breach *a posteriori*, as does a compensatory remedy. Some States have understood the situation perfectly by choosing to combine two types of remedy, one designed to expedite the proceedings and the other to afford compensation (on that point, see also *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 186, ECHR 2006-V);

(e) Where a domestic legal system has made provision for bringing a claim against the State, such a claim must remain an effective, sufficient and accessible remedy in respect of the excessive length of judicial proceedings, and its sufficiency may be affected by excessive delays and depend on the level of compensation.

2. Application of those principles to the present case

84. The Court considers, without anticipating the examination of whether the reasonable-time requirement in Article 6 § 1 of the Convention was complied with, that the applicant's complaint concerning the length of the proceedings in the Regional Court is prima facie "arguable". She was therefore entitled to an effective domestic remedy in that regard.

85. The only acceleratory remedy in Bulgaria, introduced in July 1999, was the "complaint about delays" under Article 217a of the 1952 Code of Civil Procedure. On 1 March 2008 that remedy was superseded by a "request for fixing of time-limit in the event of delay" under Articles 255-57 of the 2007 Code of Civil Procedure (see paragraphs 43-49 above). However, since that second remedy was introduced after the end of the proceedings at issue in the present case, the Court does not need to examine its effectiveness in the present context. Therefore, for present purposes its

analysis will be confined to the effectiveness of the "complaint about delays".

86. In cases concerning chiefly delays occurring prior to July 1999 the Court did not find it necessary to determine whether the "complaint about delays" was an effective remedy on the basis that even if it was, it had been introduced too late to make up for the delay which had already accrued (see *Djangozov v. Bulgaria*, no. 45950/99, § 52, 8 July 2004; *Dimitrov v. Bulgaria*, no. 47829/99, § 78, 23 September 2004; *Rachevi v. Bulgaria*, no. 47877/99, §§ 66, 67 and 100, 23 September 2004; *Todorov v. Bulgaria*, no. 39832/98, § 60, 18 January 2005; *Hadjibakalov*, cited above, § 61; *Babichkin v. Bulgaria*, no. 56793/00, § 41, 10 August 2006; *Karcheva and Shtarbova v. Bulgaria*, no. 60939/00, § 54, 28 September 2006; *Kuyumdzhiyan v. Bulgaria*, no. 77147/01, § 47 *in fine*, 24 May 2007; *Simizov v. Bulgaria*, no. 59523/00, §§ 53 and 54, 18 October 2007; *Kambourov*, cited above, § 80; *Jeliazkov and Others v. Bulgaria*, no. 9143/02, § 49, 3 April 2008; *Givezov v. Bulgaria*, no. 15154/02, § 38, 22 May 2008; *Kuncheva v. Bulgaria*, no. 9161/02, § 40, 3 July 2008; *Marinova and Radeva v. Bulgaria*, no. 20568/02, § 31, 2 July 2009; *Kabakchievi v. Bulgaria*, no. 8812/07, § 38, 6 May 2010; *Kotseva-Dencheva v. Bulgaria*, no. 12499/05, § 28, 10 June 2010; and *Rosen Petkov v. Bulgaria*, no. 65417/01, § 35, 2 September 2010). However, in one of those cases the Court noted that the applicants had successfully used a "complaint about delays" to prompt a court to give its judgment faster, which indicated that the remedy could be effective in certain circumstances (see *Jeliazkov and Others*, cited above, §§ 17, 19, 27, 28 and 48).

87. The first case in which the Court addressed the effectiveness of the "complaint about delays" was *Stefanova v. Bulgaria*. After examining the wording of Article 217a of the 1952 Code, it found that the complaint could in principle be an effective remedy, but that regard had to be had to the particular circumstances (see *Stefanova v. Bulgaria*, no. 58828/00, §§ 68 and 69, 11 January 2007). On the facts of *Stefanova* it was found ineffective, because the delays there had occurred as a result of the prosecuting authorities' failure to provide relevant documents and the courts' failure duly to notify a party about the delivery of judgment – issues that could not be resolved through a "complaint about delays" (ibid., §§ 70 and 71). In later judgments the Court identified further situations in which that remedy was unlikely to accelerate proceedings. It could not speed up civil proceedings stayed to await the outcome of criminal ones (see *Djangozov*, § 53, and *Todorov*, § 61, both cited above). It could not reduce delays due to problems with the service of summons on the defendant (see *Simizov*, cited above, § 55), or delays due to unjustified remittals of cases to the lower courts (see *Givezov*, cited above, § 38; *Tzvyatkov v. Bulgaria*, no. 2380/03, § 31, 22 October 2009; *Kabakchievi*, cited above, § 42;

Kotseva-Dencheva, cited above, § 28 *in fine*; and *Rosen Petkov*, cited above, §§ 34-36). It did not seem to apply to proceedings before the Supreme Court of Cassation (see *Pavlova v. Bulgaria*, no. 39855/03, § 31, 14 January 2010; *Maria Ivanova v. Bulgaria*, no. 10905/04, § 35, 18 March 2010; *Kabakchievi*, cited above, § 41; and *Kotseva-Dencheva*, cited above, § 28). It could not provide effective redress in respect of delays due to the failure of the courts to organise the proper examination of the case, or in situations in which the proceedings had lasted too long without there being identifiable periods of inactivity (see *Deyanov v. Bulgaria*, no. 2930/04, §§ 69-70, 30 September 2010). Lastly, it cannot reduce delays due to factors extraneous to the judicial system, such as the failure of the local authorities to provide to the parties documents needed as evidence in the case.

88. The Court is not persuaded that a "complaint about delays" would have been effective in the present case either, for two reasons. First, the proceedings had already lasted three years at the time when it was introduced (see *Holzinger v. Austria (no. 2)*, no. 28898/95, §§ 21 and 22, 30 January 2001). Secondly, the major source of delay was not so much the courts' failure to schedule hearings at reasonable intervals, but the fact that they did not organise the examination of the case properly, dealt with it over a considerable number of hearings, and failed to gather evidence in a more efficient manner. It does not seem that that state of affairs could have been remedied through a "complaint about delays".

89. It is not disputed that Bulgarian law does not provide any other remedies, whether acceleratory or compensatory, in respect of the excessive length of civil proceedings (see *Djangozov*, § 58; *Dimitrov*, § 82; *Rachevi*, § 103; *Todorov*, § 65; *Hadjibakalov*, § 61 *in fine*; *Babichkin*, § 41; *Karcheva and Shtarbova*, § 54; *Stefanova*, § 73 *in fine*; *Kuyumdzhiyan*, § 47 *in fine*; *Simizov*, § 56; *Kambourov*, § 82; *Jeliazkov and Others*, § 50; *Givezov*, § 39, all cited above; *Ilievi v. Bulgaria*, no. 7254/02, § 40, 28 May 2009; *Demirevi v. Bulgaria*, no. 27918/02, § 31, 28 May 2009; as well as *Kuncheva*, § 41; *Marinova and Radeva*, § 31; *Pavlova*, § 32; *Maria Ivanova*, § 35; *Kabakchievi*, § 52; *Kotseva-Dencheva*, § 30; *Rosen Petkov*, § 36; and *Deyanov*, § 85, all cited above).

90. Naturally, it should be mentioned – and welcomed – that the 2007 Judiciary Act expressly recognises, in its section 7(1), the right to a "hearing within a reasonable time" (see paragraph 37 above), and that the 2007 Code of Civil Procedure lays down, in its Article 13, an obligation for the courts to "examine and decide cases within a reasonable time" (see paragraph 45 above). However, it does not seem that there exists a mechanism whereby the individuals concerned may vindicate that right or obtain redress for a failure to comply with that obligation.

91. The Court therefore dismisses the Government's objection that the applicant failed to exhaust domestic remedies and finds that there has been a violation of Article 13 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

92. The applicant complained that the proceedings had been unreasonably long. The Court considers that this complaint falls to be examined under Article 6 § 1 of the Convention, which provides, in so far as relevant:

> "In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

1. General principles

93. The "reasonable time" guarantee of Article 6 § 1 serves to ensure public trust in the administration of justice. The other purpose of the guarantee is to protect all parties to court proceedings against excessive procedural delays; in criminal matters, especially, it is designed to avoid that a person charged with a criminal offence should remain too long in a state of uncertainty about his or her fate (see *Stögmüller v. Austria*, 10 November 1969, p. 40, § 5, Series A no. 9). It underlines the importance of administering justice without delays which might jeopardise its effectiveness and credibility (see *Guincho v. Portugal*, 10 July 1984, § 38 *in fine*, Series A no. 81; *H. v. France*, 24 October 1989, § 58, Series A no. 162-A; *Moreira de Azevedo v. Portugal*, 23 October 1990, § 74, Series A no. 189; *Katte Klitsche de la Grange v. Italy*, 27 October 1994, § 61, Series A no. 293-B; *Bottazzi v. Italy* [GC], no. 34884/97, § 22, ECHR 1999-V; *Niederböster v. Germany*, no. 39547/98, § 44, ECHR 2003-IV (extracts); and *Scordino (no. 1)*, cited above, § 224).

94. The reasonableness of the duration of proceedings must be assessed in the light of the particular circumstances of each case and with reference to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities, and what was at stake for the applicant in the litigation (see, among many other authorities, *Scordino (no. 1)*, cited above, § 177).

95. The States have the duty to organise their judicial systems in such a way that their courts can meet each of the requirements of Article 6 § 1 of the Convention, including the obligation to hear cases within a reasonable time (see, among many other authorities, *Bottazzi*, § 22, and *Scordino (no. 1)*, § 183, both cited above). They are responsible for delays attributable to the conduct of their judicial or other authorities (see, by way of example, *Foley v. the United Kingdom*, no. 39197/98, §§ 38-39, 22 October 2002). They are also responsible for delays in the presentation of the opinions of court-appointed experts (see *Capuano v. Italy*, 25 June 1988, § 32, Series A no. 119, and *Nibbio v. Italy*, 26 February 1992, § 18, Series A no. 228 A). A State may thus be found liable not only for delay in

the handling of a particular case, but also for a failure to increase resources in response to a backlog of cases, or for structural deficiencies in its judicial system that cause delays (see *Zimmermann and Steiner v. Switzerland*, 13 July 1983, §§ 29-32, Series A no. 66; *Guincho*, cited above, §§ 39-41; and *Pammel v. Germany*, 1 July 1997, §§ 69-72, *Reports of Judgments and Decisions* 1997-IV). Tackling the problem of unreasonable delay in judicial proceedings may thus require the State to take a range of legislative, organisational, budgetary and other measures.

96. In that connection, it should be emphasised that a failure to deal with a particular case within a reasonable time is not necessarily the result of omissions on the part of individual judges, prosecutors or investigators. For instance, while in some cases delays may result from the lack of diligence on the part of the investigator, prosecutor or judge in charge of a particular case (see, by way of example, *B. v. Austria*, cited above, §§ 52-54, and *Reinhardt and Slimane-Kaïd v. France*, 31 March 1998, § 100, *Reports* 1998-II), in others the delays may stem from the State's failure to place sufficient resources at the disposal of its judicial system (see, by way of example, *Zimmermann and Steiner*, cited above, §§ 30-32), or allocate cases in an efficient manner (see, by way of example, *Georgiadis v. Cyprus*, no. 50516/99, § 46, 14 May 2002).

2. Period to be taken into consideration

97. The Government considered that the period following the drawing of lots on 21 June 2005 should not be taken into account, because the applicant's appeal against the division of the properties had manifestly failed to conform to the statutory requirements and because she had failed to bring it into line with those requirements for several months. The applicant did not object to that assertion, and considered that the period to be taken into consideration had come to an end on 21 June 2005.

98. The Court observes that the proceedings started on 9 July 1996 (see paragraph 8 above). As to their end point, the Court observes that they came to a conclusion on 30 May 2006, when the Sofia District Court's ruling of 25 January 2006, whereby it refused to forward an appeal by the applicant against an earlier ruling to the higher court, became final (see paragraphs 33 and 34 above). The fact that the applicant did not perfect her appeal is not an issue affecting the end point of the period to be considered but a factor to be taken into account when determining the reasonableness of the length of the proceedings. The period to be considered therefore lasted about nine years and ten months.

3. Reasonableness of that period

99. The criteria for assessing the reasonableness of that period have been set out in paragraph 94 above.

100. The parties presented a number of arguments as to the way in which these criteria should apply in the present case.

101. The Court has already noted that division-of-property proceedings in Bulgaria consist of two phases that sometimes involve more issues than an ordinary civil action, and are thus apt to consume more time. However, it went on to say that this is just one factor to be taken into account when assessing the reasonableness of their length (see *Hadjibakalov*, cited above, § 50; *Vatevi v. Bulgaria*, no. 55956/00, § 40, 28 September 2006; and *Kambourov v. Bulgaria*, no. 55350/00, § 57, 14 February 2008). In the instant case, there were just four properties to be divided, and just two co-owners (see paragraph 7 above). There were no other disputed points – such as kinship, unjust enrichment, invalidation of will clauses – as is the case in many proceedings relating to the division of the estates of deceased persons (see *Hadjibakalov*, cited above, § 51). It seems that the only truly contentious point was the divisibility of one of those properties – the house in Sofia. The case could not therefore be regarded as particularly complex.

102. Although the parties' conduct was at the source of the adjournment of certain hearings and some other delays (see paragraphs 10, 12, 26, 27, 30, 33 and 34 above), the Court considers that the bulk of the delay occurred as a result of the manner in which the domestic courts handled the case. During the first phase of the proceedings, which did not involve any complex issues, the Sofia District Court held no fewer than nine hearings. Four of those were adjourned for reasons attributable to the authorities: a failure of the local authorities to provide the parties with plans of the properties, delay in the drawing up of the report of a court-appointed expert, and a failure duly to summon the applicant. As a result, the proceedings before that court lasted more than two and a half years (see paragraphs 9-13 above). During the second phase the Sofia City Court held ten hearings. Three of those were adjourned for reasons attributable to the authorities – delays in the drawing up of the reports of court-appointed experts. As a result, the proceedings before that court lasted about four years (see paragraphs 20-28 above). It is true that at that stage the issues to be resolved were more complex. However, it does not seem that the delay could be explained by that factor alone. It was due chiefly to the courts' manner of proceeding. Much of it could have been avoided if the courts had, from the outset, tried to identify the controversial points and gather evidence in relation to them in a more efficient manner (see, *mutatis mutandis*, *Kiurkchian v. Bulgaria*, no. 44626/98, § 69, 24 March 2005, and *Vasilev v. Bulgaria*, no. 59913/00, § 94, 2 February 2006). Instead, they spread out the examination of the case over a large number of hearings and gathered evidence in a somewhat haphazard manner, acceding indiscriminately to all evidentiary requests of the parties and ordering additional expert reports without a reasonable need to do so. Moreover, some of the intervals between hearings were indeed excessive: more than seven months between those on 20 March and

6 November 2002, more than six months between those on 6 November 2002 and 29 May 2003, and more than eight months between those on 29 May 2003 and 12 February 2004 (see paragraphs 24-27 above). The combination of a large number of hearings and excessive intervals between some of those hearings resulted in unreasonably lengthy proceedings.

103. There has therefore been a violation of Article 6 § 1 of the Convention.

IV. APPLICATION OF ARTICLE 46 OF THE CONVENTION

104. The Court finds it appropriate to consider the present case under Article 46 of the Convention, which reads as follows:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution."

A. The parties' submissions

1. The Government

105. The Government submitted that the assessment whether the judgments in which the Court had found breaches of the reasonable-time requirement of Article 6 § 1 of the Convention were indicative of a systemic problem called for the consideration of several factors, such as the reform of the Bulgarian judiciary, the setting up of new monitoring bodies, and the adoption in 2007 of a new Code of Civil Procedure, which had entered into force on 1 March 2008, and its subsequent implementation. The bulk of the breaches found by the Court related to the period preceding the adoption of that Code, and were due to a number of legal, organisational and logistic problems causing delay in the examination of civil cases. Some of those had been addressed in the new Code. The principal novelties in the Code were improvements in the rules governing service of process; increased focus on first-instance proceedings and written submissions; limitations on the ability of parties to adduce evidence at later stages of the proceedings; the introduction of judgments by default; the scrapping of the possibility of full rehearing of cases on appeal; the introduction of limitations on the possibilities of appeal on points of law to the Supreme Court of Cassation; the introduction of simplified procedures for dealing with some categories of straightforward cases; and improvements to the acceleratory remedy existing in the old Code. All those novelties had helped to improve the way

the judicial system functioned and considerably diminished the incidence of excessively lengthy proceedings.

106. The Government went on to describe the manner in which the "request for fixing of time-limit in the event of delay" operated, and emphasised that, unlike the "complaint about delays" envisaged by the old Code, such requests were not to be filed directly with the higher court, but with the court dealing with the case. This was a pragmatic solution, aiming to avert delays in the quickest possible way rather than discrediting the judge dealing with the case before his or her hierarchical superiors. In the Government's view, that remedy fully complied with the Convention requirements. In 2007 the regional courts had dealt with 242 such requests, in 2008 with 110, and in 2009 with 142. In 2009 the courts of appeal had dealt with 78 such requests.

107. In support of their averments the Government produced statistics compiled by the Supreme Judicial Council for 2009. According to those statistics, in 2009 the number of new cases in the judicial system had increased by 12.04% compared with 2008, even though 71,000 company registration cases had been taken out of the system following the reform of the register of companies. The number of cases completed in 2009 had increased by 15.46% in relation to those completed in 2008; that figure was chiefly due to the number coming from the district courts, where the increase had been upwards of 20%. The number of cases processed in less than three months had also increased in 2009, being 22.62% higher than in 2008. In 2009, the number of cases resulting in a judicial decision had increased by 19%. In spite of the huge increase in the incoming cases, the number of unfinished cases at the end of 2009 had diminished by 2,500 compared with the previous year.

108. According to the Government, several other legislative changes had also contributed to an improvement in the way the judicial system functioned. They included amendments to the 2007 Judiciary Act and the adoption of fresh regulations on the administrative operations of the courts. Other factors were the comprehensive monitoring carried out by a special working party tasked with assessing the impact of the 2007 Code of Civil Procedure, the monitoring carried out by the inspectorate of the Ministry of Justice and by the newly created inspectorate of the Supreme Judicial Council, the increased use of disciplinary sanctions against judges, and the improved continuing legal training provided to judges.

109. The Government further submitted that consideration had been given to a draft bill for the amendment of the 1988 Act. The intended amendment would provide for State liability in the event of undue delay in the examination of civil and administrative cases. Work on that bill was still under way.

110. In the Government's view, all of the above showed that the Bulgarian authorities were taking effective measures to prevent repetitive

breaches of the right to a hearing within a reasonable time. The Government nonetheless stated that they would welcome any recommendations made by the Court with a view to overcoming the issues raised by the case.

2. The applicant

111. The applicant submitted that the excessive length of proceedings in Bulgaria was a systemic problem requiring an appropriate response from the Court. She pointed out that the Court had found breaches of the reasonable-time requirement of Article 6 § 1 in a number of cases relating to proceedings which had taken place between 1992 and 2009. Despite that, the Bulgarian State had not done enough to tackle the problem. Legislative reforms had been somewhat chaotic, as evidenced by the changes in policy in that domain from one government to the next. The statistics provided by the Government were incomplete, did not show whether undue delays had occurred, and could not serve as a basis to conclude that the problem had been resolved. The reform of the rules of civil procedure was not sufficient because it could not remedy past delays. Moreover, it was too early to say whether that reform would indeed have a positive effect on the length of civil proceedings. Nor could it be accepted that the inspectorates of the Ministry of Justice and of the Supreme Judicial Council would provide a solution to the problem. The Government had not pointed to specific examples of cases in which interventions by those bodies had led to an acceleration of the proceedings. Those bodies were only competent to analyse the work of the courts and make suggestions for disciplinary action, not to give binding instructions for the faster processing of individual cases.

112. The applicant further submitted that it was clear that Bulgarian law did not provide any compensatory remedies in respect of the excessive length of civil proceedings. There was no possibility to claim compensation in respect of such matters under the 1988 Act. As for the existing acceleratory remedy, the "request for fixing of time-limit in the event of delay", it was too similar to its predecessor to be considered effective. That was fully confirmed by the analysis of the eight examples provided by the Government. In addition, it was unclear what the consequences of the lower court's failure to heed instructions given by the higher court in such a procedure would be. The higher court did not have the power to order the completion of the entire proceedings within a certain time. The statistics provided by the Government showed neither how many of the requests had been granted by the national courts nor whether the requests had actually led to an acceleration of the proceedings. In those circumstances, the remedy under Articles 255-57 of the 2007 Code of Civil Procedure could not be regarded as effective, and there was a clear need for the Court to address the issue in a pilot judgment.

B. The Court's assessment

1. Applicable principles

113. A summary of the principles applicable to pilot judgments may be found in the Court's judgments in the cases of *Broniowski* (cited above, §§ 188-94), *Burdov v. Russia (no. 2)* (no. 33509/04, §§ 125-28, ECHR 2009-...), *Olaru and Others v. Moldova* (nos. 476/07, 22539/05, 17911/08 and 13136/07, §§ 49-49, 28 July 2009), *Rumpf v. Germany* (no. 46344/06, §§ 59-61, 2 September 2010) and *Vassilios Athanasiou and Others v. Greece* (no. 50973/08, §§ 39-42, 21 December 2010), as well as in the newly adopted Rule 61 of the Rules of Court (which was inserted by the Court on 21 February 2011 and came into force on 1 April 2011).

2. Application of those principles to the present case

(a) Suitability of the pilot procedure in the present context

114. The present case is similar to other cases, such as *Scordino (no. 1)*, *Vassilios Athanasiou* and *Rumpf* (all cited above), which also concerned the unreasonable length of proceedings and the lack of effective remedies in that regard. Moreover, the recurrent and persistent nature of the underlying problem, the large number of persons in Bulgaria who are liable to be affected by it, and the need to grant those persons appropriate redress at the domestic level are all factors militating in favour of applying the pilot judgment procedure in this case.

(b) Existence of a practice incompatible with the Convention

115. Since its first judgment concerning the length of civil proceedings in Bulgaria (see *Djangozov*, cited above), the Court has found breaches of the reasonable-time requirement of Article 6 § 1 of the Convention in relation to civil proceedings (including administrative and civil claims in criminal proceedings) in almost fifty cases (see Annex 1). Forty-three cases concerning such complaints have resulted in friendly settlements or have been struck out of the Court's list on the basis of unilateral declarations by the Government (see Annex 2). According to the information in the Court's case management database, there are at present approximately five hundred cases against Bulgaria awaiting first examination which contain a complaint concerning the length of civil proceedings. The above numbers show the existence of a systemic problem (see, among other authorities, *Bottazzi v. Italy* [GC], no. 34884/97, § 22, ECHR 1999-V; *Lukenda v. Slovenia*, no. 23032/02, §§ 90-93, ECHR 2005-X; and *Rumpf*, cited above, §§ 64-70). Indeed, as recently as 26 January 2011 the issue was noted "with grave concern" by the Parliamentary Assembly of the Council of Europe, which

urged Bulgaria to "pursue its efforts to solve the problem of excessive length of court proceedings" (see paragraph 59 above).

116. The Government did not deny this. The thrust of their argument was that the problem had recently been overcome, as a result of the adoption of new legislation and a range of organisational measures. The Court welcomes all measures – such as the new rules of evidence contained in the 2007 Code of Civil Procedure (see paragraphs 46-48 above) – capable of preventing delays in future proceedings, but must also make two points in connection with that assertion.

117. First, in its recent Interim Resolution of 2 December 2010 the Committee of Ministers, having examined the information – including statistics – supplied by the Bulgarian authorities, noted that the legislative reforms introduced between 2006 and 2010 had not yet produced their full impact on the length of proceedings and that a longer period was needed before the effectiveness of the measures taken could be fully assessed (see paragraph 56 above). Since the statistics on which the Government relied before the Court to prove that the problem of the excessive length of proceedings in Bulgaria has been resolved are largely identical to those that they provided to the Committee of Ministers, the Court sees no reason to come to a conclusion that differs from that of the Committee. It also considers that it is too early to find that the measures taken by the Bulgarian State to prevent unreasonably lengthy proceedings, while certainly to be encouraged, have produced tangible results. Indeed, the statistics supplied by the Government contain no data about the average duration of civil proceedings in Bulgaria (see paragraphs 58 and 107 above).

118. Secondly, in view of the nature of the problem, the introduction of measures designed to ensure that the examination of civil cases will not be unduly delayed in the future cannot remedy the problems engendered by delays accrued before the introduction of such measures.

119. For those reasons, the Court, while welcoming the Bulgarian State's continued efforts to improve the speed with which civil cases are dealt with and the Government's willingness to conclude friendly settlements in respect of such complaints, finds that the problem of the excessive length of civil proceedings in Bulgaria cannot at this stage be regarded as having been fully resolved.

120. It is not the Court's function to express an opinion on the Bulgarian system of procedure before the civil or the administrative courts. The Contracting States enjoy considerable freedom in the choice of the means calculated to ensure that their judicial systems are in compliance with the requirements of Article 6 of the Convention (see *König v. Germany*, 28 June 1978, § 100, Series A no. 27, and, more recently, *Taxquet v. Belgium* [GC], no. 926/05, §§ 83 and 84, 16 November 2010). Moreover, the unreasonable length of proceedings is a multifaceted problem which may be due to a large number of factors, of both legal and logistical character. Some of those –

such as an insufficient number of judges or administrative staff, inadequate court premises, overly complex procedures, procedural loopholes allowing unjustified adjournments, or poor case management – may be internal to the judicial system, whereas others – such as the belated submission of expert reports and failures by the authorities to provide in a timely manner documents needed as evidence – may be extrinsic to that system. The Court will therefore abstain from indicating any specific measures to be taken by the respondent State to tackle the problem. The Committee of Ministers is better placed and equipped to monitor the measures that need to be adopted by Bulgaria in that respect (see, *mutatis mutandis*, *Burdov (no. 2)*, §§ 136 and 137, and *Olaru and Others*, § 57, both cited above, as well as *Yuriy Nikolayevich Ivanov v. Ukraine*, no. 40450/04, §§ 90-92, ECHR 2009-... (extracts)). Indeed, as evident from its Interim Resolution of 2 December 2010 and the first Appendix to it, the Committee is already doing so and will continue, in cooperation with the national authorities (see paragraphs 56 and 57 above). By way of example, the Court would point to the recent adoption of statutory provisions proclaiming the right to a "hearing within a reasonable time" (see paragraph 37 above) and the obligation for the courts to "examine and decide cases within a reasonable time" (see paragraph 45 above).

121. However, there remains the question of the existence – or lack – of effective remedies in that respect (see, *mutatis mutandis*, *Burdov (no. 2)*, § 138, and *Olaru and Others*, § 58, both cited above). In its Interim Resolution the Committee of Ministers gave consideration to the point and found that there existed "certain structural problems in this field" (see paragraph 56 above). Indeed, less than full application of the guarantees of Article 13 in this context would undermine the operation of the subsidiary character of the Court in the Convention system and weaken the effective functioning, on the national and international level, of the scheme of human rights protection set up by the Convention (see *McFarlane*, cited above, § 112, with further references).

122. The Court has already noted in many cases that in Bulgaria there is no remedy whereby litigants aggrieved by the excessive length of civil proceedings may obtain compensation (see paragraph 89 above).

123. Concerning the possibility for checks by the Inspectorate attached to the Supreme Judicial Council pursuant to reports by private individuals (see paragraphs 36 and 38 above), the Court welcomes the introduction of such machinery – in particular, the Inspectorate's capacity to check whether judges have processed the cases assigned to them within the statutory time-limits. However, according to the Court's established case-law, such mechanisms cannot be regarded as an effective remedy because they do not give the individuals concerned a personal right to compel the State to exercise its supervisory powers (see *Gibas v. Poland*, no. 24559/94, Commission decision of 6 September 1995, DR 82, p. 76, at p. 82; *Kuchař*

and Štis v. the Czech Republic (dec.), no. 37527/97, 23 May 2000; *Horvat v. Croatia*, no. 51585/99, § 47, ECHR 2001-VIII; *Hartman v. the Czech Republic*, no. 53341/99, § 66, ECHR 2003-VIII (extracts); *Djangozov*, cited above, § 56; *Osmanov and Yuseinov*, cited above, § 39; *Rachevi v. Bulgaria*, no. 47877/99, § 101, 23 September 2004; *Sidjimov*, cited above, § 41; and *Sürmeli*, cited above, § 109).

124. The Court has also found that the "complaint about delays" under Article 217a of the 1952 Code of Civil Procedure was not an effective remedy in a number of situations (see paragraph 87 above). On 1 March 2008 that remedy was superseded by a "request for fixing of time-limit in the event of delay" under Articles 255-57 of the 2007 Code of Civil Procedure (see paragraphs 43-49 above).

125. The Court has not yet had occasion to rule on the effectiveness of that new remedy. Most of its features appear similar to those of the "complaint about delays", and it was apparently modelled on the acceleratory remedy existing in Austria, found by the Court to be effective (see paragraph 49 above, and *Holzinger v. Austria (no. 1)*, no. 23459/94, §§ 16 and 20-25, ECHR 2001-I). However, in subsequent Austrian cases the Court found that the "Holzinger" remedy was not effective in respect of delays caused by the Supreme Court (see *Meischberger v. Austria* (dec.), no. 51941/99, 15 September 2003, and *Potzmader v. Austria* (dec.), no. 8416/05, 27 November 2008). It also found that its effectiveness was unclear where the overall duration of proceedings was unreasonable without there being specific delays attributable to a particular authority or officer (see *Maier v. Austria* (dec.), no. 70579/01, 15 September 2003). The new Bulgarian remedy seems to suffer from the same shortcomings. According to the prevailing legal opinion, it is – like its predecessor – not applicable to delays in proceedings before the two supreme courts (see paragraph 55 above), and there are no reported examples of its being used in relation to such proceedings. It is moreover sufficiently similar to its predecessor to raise issues as to its capability of leading to the acceleration of proceedings in a number of other situations (see paragraph 87 above).

126. The Government provided eight examples of how the remedy operates in practice. However, in only two of those had the higher courts actually fixed time-limits for the taking of procedural steps (see paragraph 51 above). Moreover, none of the examples contained information as to whether the use of the remedy had in fact sped up the proceedings. The same goes for the statistics provided by the Government (see paragraphs 52 and 106 above). While those statistics show that more and more people have resorted to that remedy (in 2009 it was used on more than two hundred and twenty occasions), there is no information showing in how many of those cases the higher courts have actually fixed time-limits for the lower courts to take certain procedural steps, and in how many cases the remedy has led to the actual acceleration of the proceedings (contrast *Tomé Mota*

v. Portugal (dec.), no. 32082/96, ECHR 1999-IX, and *Bašić v. Austria*, no. 29800/96, §§ 28, 29, 37, ECHR 2001-I).

127. More importantly, even if it is accepted that the remedy operates effectively, it cannot, by itself and in the absence of a concurrent remedy providing compensation for undue delays in proceedings that have already been completed, solve the problem of unreasonably lengthy proceedings. Indeed, in *Scordino (no. 1)* (cited above, § 186) the Court observed that "some States, such as Austria, Croatia, Spain, Poland and Slovakia, have understood the situation perfectly by choosing to combine two types of remedy, one designed to expedite the proceedings and the other to afford compensation". It also stated that it is clear that for countries where length-of-proceedings problems already exist, a remedy designed to expedite the proceedings – although desirable for the future – may not be adequate to redress a situation in which proceedings have clearly already been excessively long (ibid., § 185). It confirmed this position in three subsequent cases against Slovenia (see *Žunič v. Slovenia* (dec.), no. 24342/04, 18 October 2007; *Tomažič v. Slovenia*, no. 38350/02, § 37 *in fine*, 13 December 2007; and *Robert Lesjak v. Slovenia*, no. 33946/03, § 36, 21 July 2009). In view of what has been said above, Bulgaria can be considered as a country in which length-of-proceedings problems already exist. The present case – where the proceedings had lasted three years by the time the "complaint for delays" became available and came to a close before the introduction of the "request for fixing of time-limit in the event of delay" (see paragraphs 8, 34, 43 and 49 above) – is a good illustration of that. There is thus a clear need for the introduction of a remedy allowing redress to be made available for past delays. Indeed, the Committee of Ministers very recently invited the Bulgarian authorities "to complete as soon as possible the reform undertaken in order to introduce a remedy whereby compensation may be granted for prejudice caused by excessive length of judicial proceedings" (see paragraph 56 above), and the Bulgarian authorities are now working on a draft bill in that domain (see paragraphs 57 and 109 above). The Court would add that the introduction of effective domestic remedies in this domain would be particularly important in view of the subsidiarity principle, so that individuals are not systematically forced to refer to the Court in Strasbourg complaints that could otherwise, and in the Court's opinion more appropriately, have been addressed in the first place within the national legal system (see *Kudła*, § 155, and *Scordino (no. 1)*, § 188, both cited above).

128. That makes it appropriate for the Court to provide guidance to the Government, in order to assist them in the performance of their duty under Article 46 § 1 of the Convention.

(c) General measures to be adopted

129. The Court observes at the outset that, subject to monitoring by the Committee of Ministers, the respondent State is free to choose the means by which it will discharge its duty under Article 46 § 1 of the Convention. However, those means must be compatible with the conclusions set out in the Court's judgment (see, among other authorities, *Burdov (no. 2)*, § 136; *Rumpf*, § 71; and *Vassilios Athanasiou and Others*, § 54, all cited above).

130. In view of the similarity of the situations obtaining in the present case and in *Vassilios Athanasiou and Others* (cited above, § 55, with further references), the Court would refer to the description it gave in that judgment of the key features of an effective compensatory remedy:

– the procedural rules governing the examination of such a claim must conform to the principle of fairness enshrined in Article 6 of the Convention;

– the rules governing costs must not place an excessive burden on litigants where their claim is justified;

– a claim for compensation must be heard within a reasonable time. In that connection, consideration may be given to subjecting the examination of such claims to special rules that differ from those governing ordinary claims for damages, to avert the risk that, if examined under the general rules of civil procedure, the remedy may not be sufficiently swift (see *Scordino (no. 1)*, cited above, § 200; *Vidas v. Croatia*, no. 40383/04, §§ 36-37, 3 July 2008; and *McFarlane*, cited above, § 123);

– the level of compensation must not be unreasonable in comparison with the awards made by the Court in similar cases (on this point, see also *Magura v. Slovakia*, no. 44068/02, § 34, 13 June 2006; *Rišková v. Slovakia*, no. 58174/00, § 89, 22 August 2006; *Šidlová v. Slovakia*, no. 50224/99, § 58, 26 September 2006; and *Simaldone*, cited above, § 30). In relation to this criterion, it should be noted that the domestic authorities or courts are clearly in a better position than the Court to determine the existence and quantum of pecuniary damage. In relation to non-pecuniary damage, there exists a strong but rebuttable presumption that excessively lengthy proceedings will cause such damage. Although in some cases the length of proceedings may result in only minimal non-pecuniary damage or no non-pecuniary damage at all, the domestic authority or court dealing with the matter will have to justify its decision to award lower or no compensation by giving sufficient reasons, in line with the criteria set out in this Court's case-law. In this context, it should additionally be pointed out that the presumption that excessively lengthy proceedings will cause non-pecuniary damage applies to both individuals and legal persons (on this last point, see *Provide S.r.l. v. Italy*, no. 62155/00, §§ 10, 12, 18 and 24, ECHR 2007-VIII (extracts));

– the compensation must be paid promptly and generally no later than six months from the date on which the decision that awards it becomes

enforceable (on that point, see, as a recent authority, *Gaglione and Others v. Italy*, no. 45867/07, §§ 34-44, 21 December 2010).

131. The Court would further emphasise that, to be truly effective and compliant with the principle of subsidiarity, a compensatory remedy needs to operate retrospectively and provide redress in respect of delays which predate its introduction, both in proceedings which are still pending and in proceedings which have been concluded but in which the litigants have already applied to the Court or may do so (see *Brusco v. Italy* (dec.), no. 69789/01, ECHR 2001-IX; *Nogolica v. Croatia* (dec.), no. 77784/01, ECHR 2002-VIII; *Charzyński v. Poland* (dec.), no. 15212/03, §§ 20, 23, 36 and 40, ECHR 2005-V; *Michalak v. Poland* (dec.), no. 24549/03, §§ 20, 23, 37 and 41, 1 March 2005; *Vokurka v. the Czech Republic* (dec.), no. 40552/02, §§ 11 *in fine* and 62, 16 October 2007; *Grzinčič v. Slovenia*, no. 26867/02, § 48 and 57-68, ECHR 2007-V (extracts); and *Korenjak v. Slovenia* (dec.), no. 463/03, § 39 and 63-71, 15 May 2007).

132. By way of example, the Court would point to remedies introduced in recent years in Poland (see *Charzyński*, cited above, §§ 12-23), the Czech Republic (see *Vokurka*, cited above, § 11), Slovenia (see *Grzinčič*, cited above, §§ 36-48), and Croatia (see *Nogolica*, cited above).

133. The Court concludes that Bulgaria must introduce a compensatory remedy in respect of the unreasonable length of civil proceedings. That remedy must conform to the principles set out above and become available within twelve months from the date on which the present judgment becomes final.

(d) Procedure to be followed in similar cases

134. One of the goals of the pilot judgment procedure is to allow the speediest possible redress to be given at the domestic level to persons affected by the structural problem identified in the pilot judgment. Therefore, in a pilot judgment the Court is in a position to decide on the procedure to be followed in cases stemming from the same systemic problem (see *Burdov (no. 2)*, § 142; *Olaru and Others*, § 59; *Yuriy Nikolayevich Ivanov*, § 95; and *Rumpf*, § 74, all cited above).

135. In the present case, the Court does not consider it appropriate to adjourn the examination of similar cases pending the implementation of the relevant measures by the respondent State. Continuing to process all length of proceedings cases in the usual manner will not interfere with the respondent State's duty to comply with its obligations under the Convention and in particular those resulting from this judgment (see *Rumpf*, § 75, and *Vassilios Athanasiou and Others*, § 58, both cited above).

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

136. 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

137. The applicant claimed 10,000 euros (EUR) in respect of the non-pecuniary damage occasioned by the violation of Article 6 § 1 of the Convention, and EUR 3,000 in respect of the non-pecuniary damage caused by the violation of Article 13 of the Convention. She submitted that the excessive length of the proceedings had placed her in a position of considerable uncertainty and had prevented her from using, enjoying and maintaining the properties in issue in the proceedings. That state of affairs, coupled with the lack of effective remedies, had caused her considerable frustration and feelings of helplessness.

138. The Government considered that the claims were exorbitant.

139. The Court considers that the applicant must have suffered certain non-pecuniary damage as a result of the excessive length of the proceedings in which she was involved and the lack of an effective remedy in that respect. Taking into account the particular circumstances of the case and the awards made in similar cases, and ruling on an equitable basis, as required under Article 41, the Court awards her EUR 1,200, plus any tax that may be chargeable.

B. Costs and expenses

140. The applicant sought reimbursement of EUR 3,205.32 incurred in lawyers' fees for forty hours of work on the proceedings before the Court, billed at EUR 80 per hour, and EUR 156.49 for other expenses, such as translation of documents, postage, office consumables, photocopying and telephone conversations. She submitted a fees agreement between her and her legal representatives, a time sheet, and a contract for translation services. She requested that EUR 750 of any award made under this head be paid directly to her (since she had already paid that sum to her lawyers), and the remainder to one of her legal representatives, Mr M. Ekimdzhiev.

141. The Government submitted that the number of hours billed and the rate charged by the applicant's lawyers were inflated. They also submitted that the other expenses should be allowed only in so far as supported by documents.

142. According to the Court's case-law, costs and expenses claimed under Article 41 must have been actually and necessarily incurred and be reasonable as to quantum. In the present case, the Court notes that the hourly rate charged by the applicants' lawyers is comparable to those charged in recent cases against Bulgaria having a similar complexity (see *Velikovi and Others v. Bulgaria*, nos. 43278/98, 45437/99, 48014/99, 48380/99, 51362/99, 53367/99, 60036/00, 73465/01 and 194/02, §§ 268 and 274, 15 March 2007; *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria*, nos. 412/03 and 35677/04, § 183, 22 January 2009; *Bulves AD v. Bulgaria*, no. 3991/03, § 85, 22 January 2009; *Kolevi v. Bulgaria*, no. 1108/02, § 221, 5 November 2009; and *Mutishev and Others v. Bulgaria*, no. 18967/03, § 160, 3 December 2009). It can thus be regarded as reasonable. In view of that and bearing in mind that the case, due to its pilot character, raised a range of issues which surpass the complexity of those usually raised by a normal length-of-proceedings case, the Court considers it reasonable to award the full amount claimed by the applicant in respect of lawyers' fees (EUR 3,205.32). EUR 750 of that amount is to be paid to the applicant herself, and the remainder to her legal representative, Mr M. Ekimdzhiev.

143. As for the claim for other expenses, the Court observes that the applicant has provided supporting documents only for the sum that she paid for translation services (EUR 101.49). It therefore awards her that amount, plus any tax that may be chargeable to her. It is to be paid to the applicant's legal representative, Mr M. Ekimdzhiev.

C. Default interest

144. 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. *Joins* the Government's objection of non-exhaustion of domestic remedies to the merits and *declares* the remainder of the application admissible;

2. *Dismisses* the Government's objection of non-exhaustion of domestic remedies and *holds* that there has been a violation of Article 13 of the Convention;

3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

4. *Holds* that the violations of Article 6 § 1 and Article 13 of the Convention originated in a practice incompatible with the Convention which consists in the unreasonable length of civil proceedings in the Bulgarian courts and in Bulgaria's failure to introduce an effective remedy allowing litigants to obtain appropriate redress in that regard;

5. *Holds* that the respondent State must set up, within twelve months from the date on which this judgment becomes final in accordance with Article 44 § 2 of the Convention, an effective remedy which complies with the requirements set out in this judgment;

6. *Holds*

(a) that the respondent State is to pay the applicant, within three months of the date on which this judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian levs at the rate applicable on the date of settlement:

(i) EUR 1,200 (one thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 3,306.81 (three thousand three hundred and six euros and eighty-one cents), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, EUR 750 of which is to be paid to the applicant herself, and the remainder is to be paid into the bank account of her legal representative, Mr M. Ekimdzhiev;

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

7. *Dismisses* the remainder of the applicant's claim for just satisfaction.

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

Fatoş Aracı Deputy Registrar	Nicolas Bratza President

ANNEX 1:

(judgments against Bulgaria in which the Court has found breaches of the "reasonable time" requirement in relation to the determination of the applicant's civil rights or obligations):

1. *Djangozov v. Bulgaria*, no. 45950/99, §§ 35-41, 8 July 2004
2. *Dimitrov v. Bulgaria*, no. 47829/99, §§ 57-69, 23 September 2004
3. *Rachevi v. Bulgaria*, no. 47877/99, §§ 73-92, 23 September 2004
4. *Krastanov v. Bulgaria*, no. 50222/99, §§ 68-77, 30 September 2004
5. *Todorov v. Bulgaria*, no. 39832/98, §§ 40-51, 18 January 2005
6. *Kiurkchian v. Bulgaria*, no. 44626/98, §§ 51-72, 24 March 2005
7. *Hadjibakalov v. Bulgaria*, no. 58497/00, §§ 47-56, 8 June 2006
8. *Babichkin v. Bulgaria*, no. 56793/00, §§ 28-36, 10 August 2006
9. *Karcheva and Shtarbova v. Bulgaria*, no. 60939/00, §§ 41-48, 28 September 2006
10. *Vatevi v. Bulgaria*, no. 55956/00, §§ 34-45, 28 September 2006
11. *Stefanova v. Bulgaria*, no. 58828/00, §§ 50-60, 11 January 2007
12. *Kovacheva and Hadjiilieva v. Bulgaria*, no. 57641/00, §§ 30-34, 29 March 2007
13. *Parashkevanova v. Bulgaria*, no. 72855/01, §§ 17-21, 3 May 2007
14. *Kostova v. Bulgaria*, no. 76763/01, §§ 34-41, 3 May 2007
15. *Gospodinov v. Bulgaria*, no. 62722/00, §§ 35-44, 10 May 2007
16. *Kuyumdzhiyan v. Bulgaria*, no. 77147/01, §§ 33-39, 24 May 2007
17. *Simizov v. Bulgaria*, no. 59523/00, §§ 38-43, 18 October 2007
18. *Maslenkovi v. Bulgaria*, no. 50954/99, §§ 40-44, 8 November 2007
19. *Kavalovi v. Bulgaria*, no. 74487/01, §§ 64-70, 17 January 2008
20. *Dodov v. Bulgaria*, no. 59548/00, §§ 108-20, ECHR 2008-...
21. *Kambourov v. Bulgaria*, no. 55350/00, §§ 52-69, 14 February 2008
22. *Jeliazkov and Others v. Bulgaria*, no. 9143/02, §§ 33-42, 3 April 2008
23. *Mihalkov v. Bulgaria*, no. 67719/01, §§ 69-77, 10 April 2008
24. *Givezov v. Bulgaria*, no. 15154/02, §§ 27-32, 22 May 2008
25. *Merdzhanov v. Bulgaria*, no. 69316/01, §§ 31-43, 22 May 2008
26. *Kuncheva v. Bulgaria*, no. 9161/02, §§ 25-33, 3 July 2008
27. *Krushev v. Bulgaria*, no. 66535/01, §§ 49-54, 3 July 2008
28. *Krastev v. Bulgaria*, no. 29802/02, §§ 25-34, 24 July 2008
29. *Atanasova v. Bulgaria*, no. 72001/01, §§ 51-57, 2 October 2008
30. *Petko Ivanov v. Bulgaria*, no. 19207/04, §§ 22-30, 26 March 2009
31. *Bratovanov v. Bulgaria*, no. 28583/03, §§ 16-20, 23 April 2009
32. *Ilievi v. Bulgaria*, no. 7254/02, §§ 33-37, 28 May 2009
33. *Demirevi v. Bulgaria*, no. 27918/02, §§ 21-25, 28 May 2009
34. *Gyuleva and Others v. Bulgaria*, no. 76963/01, §§ 49-53, 25 June 2009

35. *Marinova and Radeva v. Bulgaria*, no. 20568/02, §§ 20-27, 2 July 2009
36. *Ruga v. Bulgaria*, no. 7148/04, §§ 38-41, 2 July 2009
37. *Donka Stefanova v. Bulgaria*, no. 19256/03, §§ 14-18, 1 October 2009
38. *Tzvyatkov v. Bulgaria*, no. 2380/03, §§ 27-32, 22 October 2009
39. *Nachev v. Bulgaria*, no. 15099/04, §§ 16-21, 5 November 2009
40. *Tonchev v. Bulgaria*, no. 18527/02, §§ 46-49, 19 November 2009
41. *Pavlova v. Bulgaria*, no. 39855/03, §§ 19-25, 14 January 2010
42. *Patrikova v. Bulgaria*, no. 71835/01, §§ 64-68, 4 March 2010
43. *Maria Ivanova v. Bulgaria*, no. 10905/04, §§ 18-25, 18 March 2010
44. *Kabakchievi v. Bulgaria*, no. 8812/07, §§ 29-34 and 45-47, 6 May 2010
45. *Georgi Georgiev v. Bulgaria*, no. 22381/05, §§ 17-20, 27 May 2010
46. *Kotseva-Dencheva v. Bulgaria*, no. 12499/05, §§ 20-23, 10 June 2010
47. *Dzhagarova and Others v. Bulgaria*, no. 5191/05, §§ 14-17, 2 September 2010
48. *Rosen Petkov v. Bulgaria*, no. 65417/01, §§ 25 and 27-29, 2 September 2010
49. *Deyanov v. Bulgaria*, no. 2930/04, §§ 65-66 and 73-77, 30 September 2010

ANNEX 2:

(applications concerning alleged breaches of the "reasonable time" requirement in relation to the determination of the applicants' civil rights or obligations which have been struck out of the Court's list following friendly settlements or unilateral declarations by the Government):

1. *Momekova v. Bulgaria* (dec.), no. 76776/01, 4 December 2007
2. *Genchev v. Bulgaria* (dec.), no. 24193/05, 8 January 2008
3. *Stanev v. Bulgaria* (dec.), no. 1115/03, 15 January 2008
4. *Poryazov and Babaikova v. Bulgaria* (dec.), no. 38668/02, 1 April 2008
5. *Petrov v. Bulgaria* (dec.), no. 26890/03, 1 April 2008
6. *Bornazovi v. Bulgaria* (dec.), no. 59993/00, 22 April 2008
7. *Decheva v. Bulgaria* (dec.), no. 19203/03, 10 June 2008
8. *Lazarova v. Bulgaria* (dec.), no. 63813/00, 1 July 2008
9. *Marina v. Bulgaria* (dec.), no. 16463/02, 3 February 2009
10. *Alexander Petrov v. Bulgaria* (dec.), no. 40230/03, 3 March 2009
11. *Gerdjikov v. Bulgaria* (dec.), no. 4364/04, 31 March 2009
12. *Atanasovi v. Bulgaria* (dec.), no. 14843/04, 31 March 2009
13. *Krivenchev v. Bulgaria* (dec.), no. 1113/04, 14 April 2009
14. *Tanchev and Others v. Bulgaria* (dec.), no. 17366/04, 2 June 2009
15. *Videv v. Bulgaria* (dec.), no. 36986/03, 9 June 2009
16. *Manlievi v. Bulgaria* (dec.), no. 37703/03, 16 June 2009
17. *Ivanov v. Bulgaria* (dec.), no. 42627/02, 15 September 2009
18. *Kechedzhieva-Popova v. Bulgaria* (dec.), no. 15165/04, 15 September 2009
19. *Dimitrova v. Bulgaria* (dec.), no. 2415/03, 29 September 2009
20. *Tanova v. Bulgaria* (dec.), no. 30478/05, 13 October 2009
21. *Jeleva and Others v. Bulgaria* (dec.), no. 274/04, 1 December 2009
22. *Yordanov v. Bulgaria* (dec.), no. 37596/04, 1 December 2009
23. *Kancheva v. Bulgaria* (dec.), no. 43009/04, 1 December 2009
24. *Milushevi v. Bulgaria* (dec.), no. 23601/05, 4 May 2010
25. *Kostadinov v. Bulgaria* (dec.), no. 2494/05, 4 May 2010
26. *Valova v. Bulgaria* (dec.), no. 29322/05, 4 May 2010
27. *Popov v. Bulgaria* (dec.), no. 36277/05, 4 May 2010
28. *Lazarov v. Bulgaria* (dec.), no. 8442/05, 11 May 2010
29. *Kostovi v. Bulgaria* (dec.), no. 33497/05, 11 May 2010
30. *Ivanov v. Bulgaria* (dec.), no. 27397/05, 18 May 2010
31. *Semerdzhieva v. Bulgaria* (dec.), no. 34852/05, 18 May 2010
32. *Boneva v. Bulgaria* (dec.), no. 9044/06, 1 June 2010
33. *Nikolov v. Bulgaria* (dec.), no. 19671/05, 8 June 2010
34. *Valchev v. Bulgaria* (dec.), no. 27238/04, 8 June 2010
35. *Doychinski v. Bulgaria* (dec.), no. 31695/05, 8 June 2010

36. *Petrovi v. Bulgaria* (dec.), no. 27937/05, 15 June 2010
37. *Yakimovi v. Bulgaria* (dec.), no. 26560/05, 6 July 2010
38. *Pramatarovi v. Bulgaria* (dec.), no. 34686/05, 5 October 2010
39. *Sheytanov v. Bulgaria* (dec.), no. 5131/06, 5 October 2010
40. *Dimitrov v. Bulgaria* (dec.), no. 31952/05, 2 November 2010
41. *Trifonova v. Bulgaria* (dec.), no. 24435/05, 2 November 2010
42. *Todorova v. Bulgaria* (dec.), no. 20806/04, 30 November 2010
43. *Shiderovi v. Bulgaria* (dec.), no. 17923/03, 18 January 2011