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

FIFTH SECTION

CASE OF ATANASOV AND OVCHAROV v. BULGARIA

(Application no. 61596/00)

JUDGMENT

STRASBOURG

17 January 2008

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

In the case of Atanasov and Ovcharov v. Bulgaria,

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

Peer Lorenzen, *President*,
Snejana Botoucharova,
Karel Jungwiert,
Rait Maruste,
Javier Borrego Borrego,
Renate Jaeger,
Mark Villiger, *judges*,
and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 11 December 2007,

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

PROCEDURE

1. The case originated in an application (no. 61596/00) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Bulgarian nationals, Mr Ivan Georgiev Atanasov and Mr Petar Asenov Ovcharov ("the applicants"), on 19 April 2000.

2. The applicants, who had been granted legal aid, were represented by Mr V.S. Stoyanov, a lawyer practising in Pazardzhik.

3. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Kotzeva, of the Ministry of Justice.

4. The applicants alleged that the length of the criminal proceedings against them had been excessive, that they had lacked an effective remedy in that connection and that they had been subjected to inhuman and degrading treatment as a result. The applicants further complained that their tractor and hunting rifles had been unlawfully seized by the police, that they had been held as physical evidence for the duration of the criminal proceedings against them and that the tractor had then been delivered to the farm cooperative. They also claimed to have lacked an effective remedy in that connection.

5. On 28 January 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. Mr Atanasov ("the first applicant") was born in 1957 and lives in Pazardzhik. He is the son-in-law of Mr Ovcharov ("the second applicant") who was born in 1936 and lives in Aleko Konstantinovo.

7. Between 1993 and 1994 the second applicant was the head of a farm cooperative.

A. The criminal proceedings against the applicants

8. On 12 August 1993 the farm cooperative, represented by the second applicant, acquired a tractor ("the first tractor") at an auction organised by another cooperative.

9. On 31 August 1993 the first applicant acquired a similar, cheaper tractor ("the second tractor") at a second auction organised by the same cooperative. Immediately after the auction the first applicant, assisted by the second applicant, took possession of a tractor. However, they apparently took the first tractor.

10. The farm cooperative took possession of the second tractor on 6 September 1993.

11. On 15 November 1993 an invoice was issued to the first applicant for the purchase of the second tractor. Subsequently, the first applicant requested the seller to reissue the sales invoice so that it indicated that he had in fact acquired the first tractor.

12. Sometime around 11 February 1994 the farm cooperative discovered that it had a different tractor from the one it had purchased. Soon thereafter it complained to the authorities of the alleged fraud perpetrated by the applicants.

13. On 16 May 1994 a preliminary investigation was opened against the applicants.

14. On 29 March 1996 the applicants were charged with fraud and malfeasance. The charges against the first applicant were amended on 28 February 1997 to include the offence of using a falsified document to obtain another's chattel with the aim of misappropriating it.

15. On 7 April 1997 the Pazardzhik district prosecutor's office entered an indictment against the applicants with the Pazardzhik District Court for malfeasance fraud and use of a falsified document.

16. Between 2 June 1997 and 18 February 2000 the District Court conducted ten hearings. During this period the judge in charge of the proceedings was changed on three occasions for undisclosed reasons. At the hearing on 18 February 2000 the District Court established that there had

been procedural violations at the stage of the preliminary investigation, discontinued the proceedings and remitted the case to the investigation authorities.

17. The preliminary investigation against the applicants continued and there were no significant developments until 2004.

18. On 29 June and 20 July 2004 the applicants filed separate requests with the Pazardzhik Regional Court under the procedure envisaged in the new Article 239a of the Code of Criminal Procedure (see paragraph 34 below) and petitioned the court to order the termination of the preliminary investigation against them.

19. In decisions of 12 July and 22 July 2004 the Regional Court referred the case to the Pazardzhik regional prosecutor's office either to discontinue the preliminary investigation or to enter indictments against the applicants. In its decision of 12 July 2004 the court established that no investigative procedures whatsoever had been undertaken since 18 February 2000, when the District Court had remitted the case to the investigation authorities.

20. Following a delay by the prosecutor's office to rule on the matter, the applicants lodged their requests again on 19 October 2004.

21. In a decision of 28 October 2004 the regional prosecutor's office discontinued the preliminary investigation against the applicants because the time-limit for prosecution under the statute of limitations for the offences had expired.

22. On 10 November 2004 the applicants appealed against the decision of the prosecutor's office and claimed that the grounds for terminating the preliminary investigation should be the lack of evidence of an offence and not the expiry of the time-limit for prosecution under the statute of limitations.

23. In a decision of 22 November 2004 the District Court upheld the decision to discontinue the preliminary investigation against the applicants and found that they could not seek to amend the grounds for its termination. The court reasoned that if the applicants had wanted to have the criminal proceedings terminated because of the lack of evidence that they had perpetrated an offence then they should have requested that the proceedings continue in spite of the expiry of the time-limit under the statute of limitations, which they had not done.

B. The seizure and impounding of the first tractor

24. On 25 January 1995 the police seized the first tractor from the first applicant and impounded it as physical evidence in the pending criminal proceedings.

25. The seizure and impounding of the first tractor was upheld on appeal by the district and regional prosecutor's offices and by the Chief Public Prosecutor on unspecified dates.

26. The first tractor was held in storage at a police compound until it was delivered to the farm cooperative on an unspecified date before 1 April 2002.

27. On 1 April 2002 the district prosecutor's office ordered the farm cooperative to deliver the second tractor to the second applicant, which it did not do.

C. The seizure and impounding of the hunting rifles

28. The applicants asserted that in the course of the preliminary investigation against them the authorities also seized a hunting rifle from each of them and held them as physical evidence. However, it is unclear when and how these actions were undertaken.

29. In so far as can be ascertained from the documents presented, the second applicant voluntarily handed over a hunting rifle to the police on 4 October 2000, which was returned to him on 23 August 2001.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Code of Criminal Procedure (1974)

1. Physical evidence

30. Paragraphs 1, 2 and 4 of Article 107 of the Code of Criminal Procedure (1974) provided as follows:

> "(1) Physical evidence must be carefully examined, described in detail in the respective record, and photographed, if possible.
>
> (2) Physical evidence shall be attached to the case file while at the same time measures shall be taken not to spoil or alter the evidence.
>
> ...
>
> (4) Physical evidence which, because of its size or other reasons, cannot be attached to the case file, must be sealed, if possible, and deposited for safekeeping at the places indicated by the respective authority."

31. Paragraphs 1 and 2 of Article 108 of the Code, as in force at the relevant time and until 1 January 2000, provided as follows:

> "(1) Physical evidence shall be held until the termination of the criminal proceedings.
>
> (2) Chattels which have been collected as physical evidence can be returned to their owners before the termination of criminal proceedings only as long as this will not hinder the establishment of the facts in the case."

32. Article 108 paragraph 2 of the Code was amended on 1 January 2000 to clarify that it was within the powers of the prosecutor's office to rule on requests for the return of chattels held as physical evidence. In addition, a right of appeal to a court was introduced against refusals by the prosecutor's office to return such chattels (Article 108 paragraph 4 of the Code of Criminal Procedure as in force after 1 January 2000).

33. If a dispute over ownership requiring adjudication by the civil courts arose in respect of items held as physical evidence, the authorities were obliged to keep those items safe until the relevant judgment became final (Article 110).

2. Request to have a case examined by a court

34. By an amendment of June 2003 the new Article 239a introduced the possibility for an accused person to request to have his case examined by a court if the preliminary investigation had not been completed within the statutory time-limit (two years in investigations concerning serious crimes and one year in all other investigations). In such instances the courts would remit the case to the prosecutor's office with instructions to either enter an indictment against the accused within two months or discontinue the criminal proceedings. If the prosecutor's office failed to take action, the courts would then terminate the criminal proceedings themselves.

B. State and Municipalities' Responsibility for Damage Act (1988)

35. Section 1 (1) of the State and Municipalities' Responsibility for Damage Act of 1988 (the "SMRDA": title changed in 2006), as in force at the relevant time, provided as follows:

> "The State shall be liable for damage caused to [private persons] from unlawful acts, actions or inactions of its apparatus and officials [in the exercise] of administrative duties."

36. Section 2 of the SMRDA provides as follows:

> "The State shall be liable for damage caused to [private] persons by the [apparatus] of ... the investigation authorities, the prosecution authorities, the court ... for an unlawful:
>
> 1. detention ... ;
>
> 2. charge for an offence, if the person has been acquitted or the opened criminal proceedings have been terminated because the act was not perpetrated by the person [in question] or the act is not an offence ... ;
>
> 3. sentence ... ;
>
> 4. ... forced medical treatment ... ;

5. ... imposition of administrative sanctions ... ;

6. enforcement of an imposed sentence in excess of the determined period ... ”

37. Compensation awarded under the Act comprises all pecuniary and non-pecuniary damage which is the direct and proximate result of the illegal act of omission (section 4). The person aggrieved has to lodge an “action ... against the [entity] ... whose illegal orders, actions, or omissions have caused the alleged damage” (section 7). Compensation for damage arising from instances falling under section 1 and 2 of the Act can only be sought under the Act and not under the general rules of tort (section 8 § 1).

38. The practice of the Bulgarian courts in the application of the Act has been very restrictive.

39. In particular, the domestic courts have ruled that liability for damage stemming from instances within the scope of section 1 of the Act are to be examined only under the Act and not under the general rules of tort (решение № 55 от 14.III.1994 г. по гр.д. № 599/93 г., ВС, IV г.о.).

40. Similarly, liability of the investigation and prosecution authorities may arise only in respect of the exhaustively listed instances under section 2 (2) of the Act and not under the general rules of tort (решение № 1370 от 16.XII.1992 г. по гр.д. № 1181/92 г., IV г.о. and Тълкувателно решение № 3 от 22.04.2005 г. по т. гр. д. № 3/2004 г., ОСГК на ВКС). In particular, the investigation authorities and the prosecutor's office are not liable for their actions in instances, such as in the present case, where criminal proceedings have been discontinued because the time-limit for prosecution under the statute of limitations expired after the criminal proceedings had been opened (Тълкувателно решение № 3 от 22.04.2005 г. по т. гр. д. № 3/2004 г., ОСГК на ВКС). No reported cases have been identified of successful claims for damage stemming from actions by the investigation or prosecution authorities which fall outside the list in section 2 of the Act.

41. Lastly, liability under section 2 of the Act may only arise for unlawful actions, but not for unlawful inactions by the investigation authorities, the prosecution authorities and the courts (решение № 183 от 05.IV.2001 г. по гр. д. № 1362/2000 г.).

C. The Obligations and Contracts Act

42. The Obligations and Contracts Act provides in section 45 that a person who has suffered damage can seek redress by bringing a civil action against the person who has, through his fault, caused the damage. Under section 110 the claim for damage is extinguished on expiry of a five-year prescription period.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3, 6 § 1 AND 13 OF THE CONVENTION

43. The applicants complained of the excessive length of the criminal proceedings against them, and that they lacked an effective remedy in that connection. Articles 6 § 1 and 13 of the Convention provide, in their relevant parts:

Article 6 (right to a fair hearing)

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

Article 13 (right to an effective remedy)

"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."

They also raised a complaint under Article 3 of the Convention that they had been subjected to inhuman and degrading treatment as a result of the length of the criminal proceedings against them. Article 3 of the Convention provides:

Article 3 (prohibition of torture)

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

A. Admissibility

1. Complaints under Articles 6 § 1 and 13 of the Convention

44. The Government submitted that the applicants had failed to exhaust the available domestic remedies. They claimed that they should have initiated an action under the SMRDA and should have sought compensation for all pecuniary and non-pecuniary damage which was the direct and proximate result of the alleged violation. The Government referred to the practice of the domestic courts in similar cases.

45. The applicants replied that the Government had failed to substantiate their objection because they had failed to show that an action under the SMRDA was an effective remedy for their complaint of the excessive

length of the criminal proceedings against them and, therefore, that it was required of them to have made use of it. They submitted that the violations complained of could neither be established nor compensated under the SMRDA.

46. The Court considers that the question of exhaustion of domestic remedies is so closely related to the merits of the applicants' complaint that they lacked an effective remedy for the excessive length of the criminal proceedings against them that it cannot be detached from it. Therefore, to avoid prejudging the merits of the said complaint, these questions should be examined together.

Thus, the Court holds that the issue of whether the applicants exhausted the domestic remedies should be joined to the merits of their complaint under Article 13, in conjunction with Article 6 of the Convention.

47. The Court notes that complaints about "length of proceedings" fall to be considered under Article 6 § 1 of the Convention. There is no indication that the length of the criminal proceedings itself amounted to treatment attaining the minimum level of severity at which Article 3 of the Convention becomes relevant (see *Osmanov and Yuseinov v. Bulgaria* (dec.), nos. 54178/00 and 59901/00, 4 September 2003). The Court considers that the applicants' complaints under Articles 6 § 1 and 13 of the Convention about the length of the criminal proceedings and the availability of an effective remedy in that connection are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits of the complaints under Articles 6 § 1 and 13 of the Convention

1. Period to be taken into consideration

48. The Court finds that the period to be taken into consideration lasted from 16 May 1994, when the preliminary investigation was opened (see paragraph 13 above), to 22 November 2004, when the decision to terminate the criminal proceedings became final (see paragraph 23 above).

49. This represents a period of ten years, six months and ten days during which time the criminal proceedings had failed to effectively progress further than the investigation stage because the court proceedings had been discontinued on 18 February 2000 and the case had been remitted to the investigation authorities (see paragraph 16 above) where it remained until it was discontinued (see paragraphs 17-23 above).

2. The parties' submissions

50. The Government did not submit separate observations on the merits of the applicants' complaints other than in the context of their objection of non-exhaustion of domestic remedies, with which the applicants disagreed (see paragraphs 44-45 above).

51. The applicants further claimed that there was no justification for the excessive length of the criminal proceedings and claimed that there had been unexplained and unreasonable delays by the authorities. Moreover, they noted that it was only after they had filed a request under new Article 239a of the Code of Criminal Procedure that the criminal proceedings had been discontinued.

3. Compliance with Article 6 § 1 of the Convention regarding the length of the criminal proceedings

52. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the following criteria: the complexity of the case, and the conduct of the applicants and the relevant authorities (see, among many other authorities, *Pélissier and Sassi v. France* [GC], no. 25444/94, § 67, ECHR 1999-II).

53. Having examined all the material before it, the Court finds that no facts or arguments capable of persuading it that the length of the criminal proceedings in the present case was reasonable have been put forward. In particular, the criminal proceedings against the applicants lasted ten-and-a-half years and failed to effectively progress further than the investigation stage (see paragraphs 48-49 above). In addition, no investigative procedures whatsoever were performed from 18 February 2000 to 29 June 2004, as established by the Pazardzhik Regional Court in its decision of 12 July 2004 (see paragraph 19 above).

54. Thus, having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

There has accordingly been a breach of Article 6 § 1 of the Convention.

4. Compliance with Article 13 in conjunction with Article 6 § 1 of the Convention regarding the availability of an effective remedy

55. The Court reiterates that Article 13 of the Convention guarantees an effective remedy before a national authority for an alleged breach of the requirement under Article 6 § 1 of the Convention to hear a case within a reasonable time (see *Kudła*, cited above, § 156).

56. The Court notes that it has found in similar cases against Bulgaria that, in respect of the period before June 2003, there was no formal remedy under domestic legislation that could have expedited the determination of

the criminal charges against the applicants (see *Osmanov and Yuseinov v. Bulgaria*, nos. 54178/00 and 59901/00, §§ 38-42, 23 September 2004, and *Sidjimov v. Bulgaria*, no. 55057/00, § 41, 27 January 2005). It sees no reason to reach a different conclusion in the present case regarding that period.

57. The Court recognises that with the introduction in June 2003 of the new Article 239a of the Code of Criminal Procedure (see paragraph 34 above) the possibility was introduced for an accused person to request to have his case brought before the courts if the preliminary investigation had not been completed within a certain statutory time-limit. The applicants used this possibility in June and July 2004 and successfully brought about the discontinuation of the criminal proceedings against them on 22 November 2004.

58. However, the acceleration of the proceedings at that moment cannot be considered to make up for the delay of over nine years which had already accumulated (see *Sidjimov*, cited above, § 40).

59. As regards compensatory remedies and the Government's preliminary objection, the Court observes that they submitted that the applicant had failed to have recourse to an available domestic remedy under section 2 (2) of the SMRDA and referred to the existing possibility therein to obtain redress for having been unlawfully charged with an offence. They did not, however, indicate how that would have remedied the complaint currently before this Court in respect of the alleged excessive length of the criminal proceedings. Moreover, the Government failed to provide copies of domestic court judgments where awards had been made under the SMRDA providing redress for excessive length of criminal proceedings.

60. In view of the above, the Court does not find it proven by the Government that in the circumstances of the present case an action under the SMRDA would have provided for an enforceable right to compensation which could be considered an effective, sufficient and accessible remedy in respect of the applicants' complaint concerning the alleged excessive length of the criminal proceedings (see, likewise, *Osmanov and Yuseinov*, cited above, §41; *Sidjimov*, cited above, § 42; and *Nalbantova v. Bulgaria*, no. 38106/02, § 36, 27 September 2007).

61. Accordingly, there has been a violation of Article 13 in conjunction with Article 6 of the Convention.

It follows that the Government's preliminary objection (see paragraphs 44-46 above) must be dismissed.

II. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION AND ARTICLE 13 OF THE CONVENTION

62. The applicants complained under Article 1 of Protocol No. 1 to the Convention that their tractor and hunting rifles had been unlawfully seized

by the police, that they had been held as physical evidence for the duration of the criminal proceedings against them and that the tractor had then been delivered to the farm cooperative.

Article 1 of Protocol No. 1 to the Convention provides:

Article 1 of Protocol No. 1 (protection of property)

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

63. The applicants also complained that they did not have at their disposal an effective domestic remedy for their complaints under Article 1 of Protocol No. 1 to the Convention and that they were *de facto* denied access to a court, because (1) they could not challenge the continued seizure of their possessions before a court and (2) they lacked an effective domestic remedy for their claims against the authorities for compensation stemming from the prolonged inability to use those possessions. The Court recognises that the applicants complained of the lack of a substantive right of action under domestic law rather than of the existence of procedural bars preventing or limiting the possibilities of bringing potential claims to court. Thus, it considers that this complaint should be examined under Article 13 of the Convention in respect of the alleged lack of effective domestic remedies against the interference with their right to peaceful enjoyment of their possessions, rather than under Article 6 of the Convention as an access to court issue (see, *mutatis mutandis*, *Fayed v. the United Kingdom*, judgment of 21 September 1994, Series A no. 294 B, p. 49, § 65, and *Karamitrovi v. Bulgaria* (dec.), no. 53321/99, 9 February 2006).

Admissibility

1. Complaints concerning the hunting rifles

64. In so far as can be ascertained from the documents presented to the Court there is no indication, other than the applicants' contentions, that in the course of the criminal proceedings against them two hunting rifles were seized from them as physical evidence and are still being held as such by the authorities.

65. The only documentary evidence before the Court indicates that the second applicant voluntarily presented a hunting rifle to the police on

4 October 2000 which was returned to him on 23 August 2001 (see paragraphs 28-29 above). Accordingly, he can no longer claim to be a victim of an interference with his right to the peaceful enjoyment of his possession under Article 1 of Protocol No. 1 to the Convention.

66. The first applicant, meanwhile, failed to provide any specifics in respect of when his rifle was allegedly seized and impounded by the authorities.

67. It follows that the applicants' complaints concerning the alleged seizure and impounding of their hunting rifles are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

2. Complaints concerning the tractor

(a) The second applicant

68. The Court finds no indication that the second applicant ever acquired any proprietary or other rights to either of the tractors, and no claims or documents have been presented to that effect. Accordingly, the second applicant cannot claim to be a victim of a violation under Article 1 of Protocol No. 1 to the Convention because the alleged interference did not relate to a possession of his.

69. It follows that the second applicant's complaints concerning the tractor are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

(b) The first applicant

70. The Court notes at the outset that there is no indication that the initial seizure and impounding of the tractor was unlawful or arbitrary, as it was performed in conformity with domestic legislation with the aim of securing physical evidence in an ongoing criminal investigation.

71. As to the continued seizure of the tractor, the Court recognises that under Article 108 of the Code of Criminal Procedure it was possible to petition the authorities to return objects held as physical evidence in criminal proceedings (see paragraph 31 above). Moreover, by an amendment of 1 January 2000 it was clarified that it was within the powers of the prosecutor's office to rule on requests for the return of chattels held as physical evidence and a right of appeal to a court was introduced against refusals by the prosecutor's office to return such chattels (see paragraph 32 above). The Court finds that the first applicant failed to use these procedures prior to filing his application with the Court on 19 April 2000 or to argue that they were in any way an ineffective remedy for his complaint concerning the continued interference.

72. As to the period prior to 1 January 2000, the interference had lasted a little over four years, which does not appear to have been an unreasonable length of time given that the tractor had been seized and held as the primary physical evidence in an ongoing criminal investigation.

73. Separately, the first applicant does not claim to have ever challenged the decision of the prosecutor's office to deliver the tractor to the farm cooperative or to have initiated separate civil proceedings against the latter challenging their alleged proprietary rights to it. Thus, it does not appear that he ever officially instigated a property dispute with the farm cooperative which would have required that the tractor remain with the authorities for the duration of such proceedings (see paragraph 33 above).

74. In respect of the lack of compensation for the interference under Article 1 of Protocol No. 1 to the Convention, the Court notes that the seizure of property for legal proceedings relates to the control of the use of property (see *Raimondo v. Italy*, judgment of 22 February 1994, Series A no. 281-A, § 27, and *G., S. and M. v. Austria*, no. 9614/81, Commission decision of 12 October 1983, Decisions and Reports (DR) 34, pp. 122-23) and that such a right to compensation is not inherent in the second paragraph of that provision (see *Banér v. Sweden*, no. 11763/85, Commission decision of 9 March 1989, DR 60, p. 128, at p. 142). Nor does Article 13 of the Convention require that compensation be paid under all circumstances.

75. In view of the above considerations, the Court finds that the first applicant's complaints concerning the tractor are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

76. 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

77. Each of the applicants claimed 15,000 euros (EUR) in respect of non-pecuniary damage stemming from the violations of their rights under the Convention. They argued that they had felt insecure and in fear for their future for a considerable length of time while the criminal proceedings against them had been ongoing and that they had been discredited among friends and neighbours.

78. The applicants also claimed in respect of pecuniary damage 3,700 Bulgarian levs (BGL), amounting to the present day value of the tractor, and EUR 9,000, representing the rental payments they could have obtained if they had had possession of the vehicle, plus interest. In support of their claim, the applicants submitted an expert report attesting to the aforesaid amounts.

79. The Government failed to submit comments on the applicants' claims for just satisfaction in one of the official languages.

80. The Court does not discern any causal link between the violations found (see paragraphs 54 and 61 above) and the pecuniary damage alleged; it therefore rejects this claim.

81. In respect of non-pecuniary damage, the Court finds that the applicants must undoubtedly have suffered a certain degree of anguish and despair as a result of the criminal proceedings having continued for over ten years. Thus, having regard to the circumstances of the present case and deciding on an equitable basis, the Court awards EUR 5,600 to each applicant under this head, plus any tax that may be chargeable on those amounts.

B. Costs and expenses

82. The applicants claimed EUR 8,500 for the legal work by their lawyer before the domestic courts and the Court as well postal expenses in the amount of BGL 18.90. They submitted a legal fees agreement and a time sheet, as well as receipts for the postal expenses. A request was also made that any award made in respect of costs and expenses incurred should be paid directly to their lawyer, Mr V. Stoyanov.

83. The Government failed to submit comments on the applicants' claims for costs and expenses in one of the official languages.

84. The Court reiterates that according to its case-law, an applicant is entitled to reimbursement of his or her costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Noting all the relevant factors and the fact that the applicants were paid EUR 824 in legal aid by the Council of Europe, the Court considers it reasonable to award the sum of EUR 500 in respect of costs and expenses, plus any tax that may be chargeable to the applicants on that amount.

C. Default interest

85. 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. *Decides* to join to the merits of the complaint under Article 13, in conjunction with Article 6 of the Convention, the question of whether the applicants exhausted the available domestic remedies and *dismisses* it after considering the merits;

2. *Declares* admissible the complaints concerning the alleged excessive length of the criminal proceedings against the applicants and the lack of an effective remedy related thereto;

3. *Declares* the remainder of the application inadmissible;

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

5. *Holds* that there has been a violation of Article 13, in conjunction with Article 6 § 1 of the Convention, on account of the lack of an effective remedy for the excessive length of the criminal proceedings;

6. *Holds*

   (a) that the respondent State is to pay to the applicants, within three months from the date on which the judgment becomes final according to 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 5,600 (five thousand six hundred euros) in respect of non-pecuniary damage to each of the applicants;

      (ii) EUR 500 (five hundred euros) in respect of costs and expenses, payable into the bank account of the applicants' lawyer in Bulgaria, Mr V. Stoyanov;

      (iii) any tax that may be chargeable to the applicants on the above amount;

   (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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 17 January 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK Registrar	Peer LORENZEN President