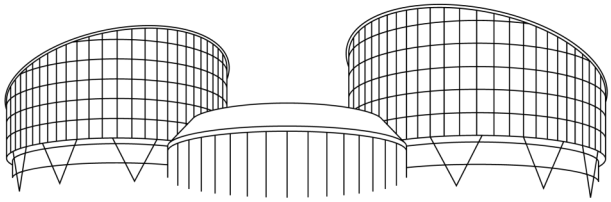

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF GEORGI GEORGIEV v. BULGARIA

(Application no. 22381/05)

JUDGMENT

STRASBOURG

27 May 2010

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 Georgi Georgiev v. Bulgaria,

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

Peer Lorenzen, *President,*
Renate Jaeger,
Karel Jungwiert,
Rait Maruste,
Mark Villiger,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 4 May 2010,

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

PROCEDURE

1. The case originated in an application (no. 22381/05) 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, Mr Georgi Borisov Georgiev ("the applicant"), on 19 May 2005.

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

3. On 16 February 2009 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3 of the Convention).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1945 and lives in Varna.

5. The applicant worked as a stoker at the Varna port. In 1999 he was dismissed as new requirements he did not meet were introduced for his position.

6. On an unspecified date in October 1999 the applicant brought an action for unfair dismissal alleging that: 1) the dismissal order had not been reasoned; 2) it had been indicated in it that it had been effective as of a date

preceding the date when it had been issued; and 3) it had not been necessary to change the requirements for his position.

7. In a judgment of the Varna District Court of 8 June 2000, upheld by the Varna Regional Court on 12 January 2001, the applicant's dismissal was found to be unlawful.

8. Upon appeal by the applicant's former employer, in a judgment of 8 May 2002 the Supreme Court of Cassation quashed the Regional Court's judgment, finding that the latter had misapplied the law.

9. Following a fresh examination of the case, on 1 August 2002 the Varna Regional Court delivered a new judgment whereby it dismissed the applicant's claim.

10. On 3 September 2002 the applicant appealed in cassation.

11. The Supreme Court of Cassation held a hearing to examine the applicant's appeal on 14 October 2004. In a final judgment of 19 November 2004 it upheld the Regional Court's judgment and dismissed the applicant's arguments in respect of the alleged unlawfulness of the dismissal order, finding that: 1) the order indicated the legal ground for the applicant's dismissal, namely that he did not meet the relevant requirements; this represented sufficient reasoning in the case; 2) the order had entered into force on the date it had been served on him, any other date indicated in it as a date of entry into force was irrelevant; and 3) the applicant's former employer had enjoyed discretion, which could not be subject to judicial review, to set the requirements for the applicant's position.

12. In December 2004 and February 2005 the applicant requested the Varna District Court, where the case file was to be archived, for copies of all court judgments in the case. According to him, the District Court refused to provide him with a copy of the judgment of the Varna Regional Court of 12 January 2001 (see paragraph 7 above). Nevertheless, the applicant has enclosed a copy of the said judgment with his application.

II. RELEVANT DOMESTIC LAW

13. Article 344 § 1 of the Labour Code of 1986 provides that where an employee considers that he had been unfairly dismissed, he can bring an action to challenge the lawfulness of the dismissal. By Article 344 § 4, such an action is to be filed with the respective district court, who must examine it within three months. Where the district court's decision has been appealed against, the respective regional court must examine the appeal within one month of its lodging.

THE LAW

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

14. The applicant complained that the length of the civil proceedings in his case had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention, which, in so far as relevant, reads:

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

15. The Government did not submit observations.

A. Admissibility

16. The Court considers that the present complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention and not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

17. The period to be taken into consideration began in October 1999 when the applicant brought an action for unfair dismissal (see paragraph 6 above) and ended on 19 November 2004 when the Supreme Court of Cassation gave a final judgment (see paragraph 11 above). It thus lasted five years and one month for three levels of jurisdiction.

18. 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, the conduct of the applicant and the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). Furthermore, the Court reiterates that in examining cases concerning employment disputes States are under an obligation to proceed with special diligence (see *Ruotolo v. Italy*, 27 February 1992, § 17, Series A no. 230-D).

19. In the present case, the Court observes that the proceedings were delayed, whereby domestic law required that the national courts act speedily in employment disputes (see paragraph 13 above). Moreover, the case was remitted for re-examination as the Varna Regional Court had misapplied the law (see paragraph 8 above). The Supreme Court of Cassation only examined the applicant's cassation appeal, lodged on 3 September 2002, on 14 October 2004, that is after more than two years, during which it had remained completely inactive (see paragraphs 10-11 above). Those delays are attributable to the authorities. There appear to be, on the other hand, no

significant delays attributable to the applicant or the other party to the proceedings.

20. Having regard to these considerations and to the fact that the present case concerned the applicant's employment, which obliged the State to proceed with special diligence (see paragraph 18 above), whereas the case's examination took more than five years (see paragraph 17 above), the Court considers that the length of the proceedings was excessive. There has accordingly been a breach of Article 6 § 1 of the Convention.

II. THE REMAINDER OF THE APPLICANT'S COMPLAINTS

21. Relying on Article 6 § 1 of the Convention, the applicant also complained that the domestic courts had decided wrongly in his case. However, in the light of all the material in its possession, the Court finds that they do not disclose any appearance of a violation of that provision. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

22. Furthermore, the applicant complained that the courts had failed to provide him with a copy of a document necessary in support of his application with the Court. However, noting that the application has enclosed the document he claims was refused to him (see paragraph 12 above), the Court considers that the applicant's allegations are unsubstantiated and that no issue arises as to any alleged hindrance in the applicant's right to individual petition, requiring examination under Article 34 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. 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."

24. The applicant claimed 31,365.03 Bulgarian levs (BGN), the equivalent of approximately 16,000 euros (EUR), for lost income after his dismissal in 1999.

25. The Government contested this claim.

26. The Court does not discern any causal link between the violation found in the case and the pecuniary damage alleged; it therefore rejects this claim.

27. The applicant did not claim any sum in respect of non-pecuniary damage, stating expressly that he did not wish to burden the State with such

a claim. Nor did he claim costs and expenses. Accordingly, the Court considers that there is no call to award him any sum on these accounts.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the excessive length of the proceedings admissible, the remaining complaint under Article 6 § 1 inadmissible and that there is no need to examine further any alleged hindrance in the right of individual petition;

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

3. *Dismisses* the applicant's claim for pecuniary damage and *holds* that there is no call to award him any sum in respect of non-pecuniary damage and costs and expenses.

Done in English, and notified in writing on 27 May 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Peer Lorenzen
President