FIFTH SECTION

CASE OF NAVUSHTANOV v. BULGARIA

(Application no. 57847/00)

JUDGMENT

STRASBOURG

24 May 2007

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 Navushtanov v. Bulgaria,

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

Mr P. LORENZEN, *President*,
Mrs S. BOTOUCHAROVA,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mr R. MARUSTE,
Mr J. BORREGO BORREGO,
Mr M. VILLIGER, *judges*,
and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 2 May 2007,

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

PROCEDURE

1. The case originated in an application (no. 57847/00) 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 a Bulgarian national, Mr Ivan Radkov Navushtanov who was born in 1978 and lives in Velingrad ("the applicant"), on 30 December 1999.

2. The applicant was represented by Mr V. Stoyanov and Mrs V. Kelcheva, lawyers practising in Pazardzhik.

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

4. The applicant alleged that there were numerous violations of his rights under Article 5 of the Convention in respect to his detention from 5 October 1999 to 21 April 2000. In addition, he claimed that he had been subjected to inhuman or degrading treatment as a result of having been detained in allegedly inadequate conditions of detention at the Velingrad Investigation detention facility and the Pazardzhik Prison.

5. On 5 April 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

A. The criminal proceedings against the applicant and his detention in the context of these proceedings

6. On 5 October 1999 the Prosecutor's Office, acting on the victim's complaints and after having collected over forty-five pages of evidence, opened a preliminary investigation against the applicant concerning a series of five burglaries. The prosecutor in charge ordered that the applicant be detained on remand in view of the fact that there were another three preliminary investigations and sixteen enquiries pending against him for various other offences.

7. By order of the same day, issued by an investigator and confirmed by a prosecutor, the applicant was charged with the five burglaries and was detained on remand. No specific reasons were cited in the order of the investigator for detaining the applicant, but reference was made to the aforesaid order of the prosecutor to detain the applicant. The applicant was presented with the order and at 4:20 p.m. on the same day signed a statement that he had been informed of its content.

8. The applicant was questioned on an unspecified date and confessed to having committed the burglaries.

9. The charges against the applicant were amended on 18 October and 15 November 1999. The detention on remand was sustained on both occasions without specific reasons being cited by the authorities.

10. On 29 November 1999 the applicant appealed against his detention and argued, *inter alia*, that he had a permanent address, was planning to marry his pregnant girlfriend and had been in detention since 5 October 1999.

11. In a decision of 2 December 1999 the Velingrad District Court dismissed the appeal. Referring to the serious charges against the applicant, the other three preliminary investigations and the sixteen enquiries pending against him, the court considered that, if released, there was a likelihood that he might abscond or re-offend.

12. On an unspecified date the charges against the applicant were amended and he was charged with another three burglaries. Also on an unspecified date he confessed to having committed these burglaries.

13. The preliminary investigation was completed on 21 December 1999.

14. On 10 February 2000 an indictment was filed against the applicant with the Velingrad District Court for a series of eight burglaries.

15. A hearing was conducted before the Velingrad District Court on 21 March 2000 at which the applicant confessed to the offences he had been charged with.

16. At the next hearing on 19 April 2000 the applicant stated his readiness to endure an appropriate sentence for his offences.

17. By judgment of the same day, 19 April 2000, the Velingrad District Court found the applicant guilty as charged and sentenced him to two years' imprisonment, suspended for a period of five years. In determining his sentence, the domestic court took into account, *inter alia*, that he did not have a criminal record and that he had confessed. According to the minutes, the court also amended the measure for securing the applicant's appearance in court to bail in the amount of 50 Bulgarian levs [BGN : approximately 25 euros (EUR)], payable within three days, and ordered that he be released after provision of the said recognisance.

18. On 20 April 2000 a friend or relative of the applicant deposited the recognizance into the bank account of the Velingrad District Court. It is not clear when the District Court was informed that bail had been provided. The applicant was released on 21 April 2000.

19. Neither the applicant nor the prosecution appealed against the judgment and it entered into force.

B. The conditions of the applicant's detention

20. The applicant contended, which the Government did not challenge, that from 5 October 1999 to 7 February 2000 he was detained at the Velingrad Investigation detention facility. He was then transferred to the Pazardzhik Prison where he remained until his release on 21 April 2000.

21. In the applicant's submission, at both of these detention facilities, (1) there was insufficient fresh air in the cells; (2) there was no exercise or healthy food; (3) hygiene was lacking (presence of parasites and rodents); (4) he was denied access to newspapers, books, radio and television; (5) he could not meet with his attorney in private, and (6) he could not maintain an active correspondence.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Grounds for detention

22. The relevant provisions of the Code of Criminal Procedure (the "CCP") and the Bulgarian courts' practice before 1 January 2000 are summarised in the Court's judgments in several similar cases (see, among others, *Nikolova v. Bulgaria* [GC], no. 31195/96, §§ 25-36, ECHR 1999-II;

Ilijkov v. Bulgaria, no. 33977/96, §§ 55-59, 26 July 2001; and *Yankov v. Bulgaria*, no. 39084/97, §§ 79-88, ECHR 2003-XII (extracts)).

23. As of 1 January 2000 the legal regime of detention under the CCP was amended with the aim to ensure compliance with the Convention (TR 1-02 Supreme Court of Cassation). The effected amendments and the resulting practice of the Bulgarian courts are summarised in the Court's judgments in the cases of *Dobrev v. Bulgaria* (no. 55389/00, §§ 32-35, 10 August 2006) and *Yordanov v. Bulgaria* (no. 56856/00, §§ 21-24, 10 August 2006).

B. Scope of judicial control on pre-trial detention

24. On the basis of the relevant law before 1 January 2000, when ruling on appeals against pre-trial detention of a person charged with having committed a "serious" offence, the domestic courts generally disregarded facts and arguments concerning the existence or absence of a danger of the accused person's absconding or committing offences and stated that every person accused of having committed a serious offence must be remanded in custody unless exceptional circumstances dictated otherwise (see decisions of the domestic authorities criticised by the Court in the cases of *Nikolova* and *Ilijkov*, both cited above, and *Zaprianov v. Bulgaria*, no. 41171/98, 30 September 2004).

25. In June 2002, interpreting the amended provisions on pre-trial detention, the Supreme Court of Cassation stated that when examining an appeal against pre-trial detention the courts' task was not only to verify whether the initial decision on remand in custody had been lawful but also to establish whether continued detention was still lawful and justified. In such proceedings the courts had to examine all available evidence on all relevant aspects, including the amount of the recognisance as the case may be (TR 1-02 Supreme Court of Cassation).

C. Release on bail

26. Article 150 § 5 of the CCP provided at the relevant time:

> "When the measure for securing [a person's appearance in court] is amended from a more [restrictive] one to bail, the [person] shall be released following provision of recognisance."

D. The State Responsibility for Damage Act

27. The State Responsibility for Damage Act of 1988 (the "SRDA") provides that the State is liable for damage caused to private persons by (a) the illegal orders, actions or omissions of government bodies and officials acting within the scope of, or in connection with, their administrative duties; and (b) the organs of the investigation, the prosecution and the courts for unlawful pre-trial detention, if the detention order has been set aside for lack of lawful grounds (sections 1-2).

28. In respect of the regime of detention and conditions of detention, the relevant domestic law and practice under sections 1 and 2 of the SRDA has been summarised in the cases of *Iovchev v. Bulgaria* (no. 41211/98, §§ 76-80, 2 February 2006) and *Hamanov v. Bulgaria* (no. 44062/98, §§ 56-60, 8 April 2004).

III. REPORTS OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ("THE CPT")

29. The CPT visited Bulgaria in 1995, 1999, 2002, 2003 and 2006. All but its most recent visit report have since been made public.

30. The Pazardzhik Prison was visited by the CPT in 1995. The Velingrad Investigation detention facility has never been visited, but there are general observations about the problems in all investigation service establishments in the 1995, 1999 and 2002 reports.

A. Relevant findings of the 1995 report (made public in 1997)

1. General observations

31. The CPT found that most, albeit not all, of the Investigation Service detention facilities were overcrowded. With the exception of one detention facility where conditions were slightly better, the conditions were as follows: cells did not have access to natural light; the artificial lighting was too weak to read by and was left on permanently; ventilation was inadequate; the cleanliness of the bedding and the cells as a whole left much to be desired; detainees could access a sanitary facility twice a day (morning and evening) for a few minutes and could take a weekly shower; outside of the two daily visits to the toilets, detainees had to satisfy the needs of nature in buckets inside the cells; although according to the establishments' internal regulations detainees were entitled to a "daily walk" of up to thirty

minutes, it was often reduced to five to ten minutes or not allowed at all; no other form of out-of-cell activity was provided to persons detained.

32. The CPT further noted that food was of poor quality and in insufficient quantity. In particular, the day's "hot meal" generally consisted of a watery soup (often lukewarm) and inadequate quantities of bread. At the other meals, detainees only received bread and a little cheese or halva. Meat and fruit were rarely included on the menu. Detainees had to eat from bowls without cutlery – not even a spoon was provided.

33. The CPT also noted that family visits and correspondence were only possible with express permission by a public prosecutor and that, as a result, detainees' contacts with the outside world were very limited. There was no radio or television.

34. The CPT concluded that the Bulgarian authorities had failed in their obligation to provide detention conditions which were consistent with the inherent dignity of the human person and that "almost without exception, the conditions in the Investigation Service detention facilities visited could fairly be described as inhuman and degrading". In reaction, the Bulgarian authorities agreed that the CPT delegation's assessment had been "objective and correctly presented" but indicated that the options for improvement were limited by the country's difficult financial circumstances.

35. In 1995 the CPT recommended to the Bulgarian authorities, *inter alia*, that sufficient food and drink and safe eating utensils be provided, that mattresses and blankets be cleaned regularly, that detainees be provided with personal hygiene products (soap, toothpaste, etc.), that custodial staff be instructed that detainees should be allowed to leave their cells during the day for the purpose of using a toilet facility unless overriding security considerations required otherwise, that the regulation providing for thirty minutes' exercise per day be fully respected in practice, that cell lighting and ventilation be improved, that the regime of family visits be revised and that pre-trial detainees be more often transferred to prison even before the preliminary investigation was completed. The possibility of offering detainees at least one hour's outdoor exercise per day was to be examined as a matter of urgency.

2. Pazardzhik Prison

36. In this report the CPT found, *inter alia*, that the prison was seriously overcrowded and that prisoners were obliged to spend most of the day in their dormitories, mostly confined to their beds because of lack of space. It also found the central heating to be inadequate and that only some of the dormitories were fitted with sanitary facilities.

B. Relevant findings of the 1999 report (made public in 2002)

37. The CPT noted that new rules providing for better conditions had been enacted but had not yet resulted in significant improvements.

38. In most investigation detention facilities visited in 1999, with the exception of a newly opened detention facility in Sofia, conditions of detention were generally the same as those observed during the CPT's 1995 visit, as regards poor hygiene, overcrowding, problematic access to toilet/shower facilities and a total absence of outdoor exercise and out-of-cell activities. In some places, the situation had even deteriorated.

39. In the Plovdiv Regional Investigation detention facility, as well as in two other places, detainees "had to eat with their fingers, not having been provided with appropriate cutlery".

C. Relevant findings of the 2002 report (made public in 2004)

40. During the 2002 visit some improvements were noted in the country's investigation detention facilities, severely criticised in previous reports. However, a great deal remained to be done: most detainees continued to spend months on end locked up in overcrowded cells twenty-four hours a day.

41. Concerning prisons, the CPT drew attention to the problem of overcrowding and to the shortage of work and other activities for inmates.

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLE 5 OF THE CONVENTION

42. The applicant made several complaints falling under Article 5 of the Convention, the relevant part of which provides:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

...

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation."

A. Complaint under Article 5 § 3 of the Convention that the applicant was not brought promptly before a judge or other officer authorised by law to exercise judicial power

43. The applicant complained under Article 5 § 3 of the Convention that when he was detained on remand on 5 October 1999 he was not brought promptly before a judge or other officer authorised by law to exercise judicial power.

44. The Government disagreed and argued that the applicant's detention on remand was mandatory at the time given the numerous other criminal proceedings against him. They also referred to the Court's findings in previous cases concerning the system of pre-trial detention in Bulgaria before 1 January 2000, where it had found that neither investigators before whom the accused persons were brought, nor prosecutors who approved detention orders, could be considered as "officer[s] authorised by law to exercise judicial power" within the meaning of Article 5 § 3 of the Convention. However, the Government argued that each case should be considered on its merits and noted that the applicant had been brought promptly before a judge after he had filed an appeal against his detention on 29 November 1999.

1. Admissibility

45. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

46. The Court reiterates, as noted by the Government, that in previous judgments which concerned the system of detention pending trial, as it existed in Bulgaria until 1 January 2000, it found that neither investigators before whom the accused persons were brought, nor prosecutors who approved detention orders, could be considered as "officer[s] authorised by law to exercise judicial power" within the meaning of Article 5 § 3 of the Convention (see *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, *Reports of Judgments and Decisions* 1998-VIII, p. 3299, §§ 144-50; *Nikolova*, cited above, §§ 49-53, and *Shishkov v. Bulgaria*, no. 38822/97, §§ 52-54, ECHR 2003-I (extracts)).

47. The present case likewise concerns pre-trial detention imposed before 1 January 2000. The applicant's pre-trial detention was ordered by an investigator and confirmed by a prosecutor (see paragraph 7 above), in accordance with the provisions of the CCP then in force (see paragraph 22 above). However, neither the investigator nor the prosecutor were sufficiently independent and impartial for the purposes of Article 5 § 3 of the Convention, in view of the practical role they played in the investigation and the prosecution and the prosecutor's potential participation as a party to the criminal proceedings (see paragraph 22 above and the references quoted therein). The Court refers to the analysis of the relevant domestic law contained in its *Nikolova* judgment (cited above – see paragraphs 28, 29 and 49-53 of that judgment). Moreover, the Government's arguments do not expressly challenge the above findings.

48. It follows that there has been a violation of the applicant's right to be brought before a judge or other officer authorised by law to exercise judicial power within the meaning of Article 5 § 3 of the Convention.

B. Complaints under Article 5 § 1 of the Convention regarding the lawfulness of the applicant's detention

49. The applicant complained under Article 5 § 1 of the Convention that he was unlawfully detained. He contended that the evidence against him was not sufficient to lead to the conclusion that he was guilty of an offence, considered that several domestic provisions were breached and that no reasons were given for the need to detain him. The applicant also argued that he was detained unlawfully from 19 April 2000, when the courts ordered his release on bail, to 21 April 2000, when he was freed.

50. Referring to the applicant's detention from 19 to 21 April 2000, the Government noted that after the trial court had delivered its judgment it had also amended the measure for securing the applicant's appearance in court to bail of BGN 50. Accordingly, the latter's release was thereafter conditional

on the provision of recognizance. The bail amount was deposited by a friend or relative of the applicant only on 20 April 2000 and he was released on the very next day, 21 April 2000. Thus, the Government argued that the applicant's detention between 19 and 21 April 2000 was in conformity with domestic legislation and was not in contravention with the Convention.

1. The applicant's detention from 10 October 1999 to 19 April 2000

51. The Court notes that the applicant's detention from 10 October 1999 to 19 April 2000 fell within the ambit of Article 5 § 1 (c) of the Convention, as it was imposed for the purpose of bringing him before the competent legal authority on suspicion of having committed an offence. There is nothing to indicate that the formalities required by domestic law were not observed. As regards the alleged lack of reasonable suspicion, the Court reiterates that the standard imposed by Article 5 § 1 (c) of the Convention does not presuppose the existence of sufficient evidence to bring charges, or find guilt, at the time of arrest. Facts which raise a suspicion need not be of the same level as those necessary to bring a charge (see *O'Hara v. the United Kingdom*, no. 37555/97, § 36, ECHR 2001-X).

52. In the present case, the Court considers that the authorities had sufficient information to ground a "reasonable" suspicion against the applicant as they had amassed a considerable amount of evidence against him (see paragraphs 6 and 7 above).

53. Consequently, the Court concludes that in respect of this period there is no appearance of a violation of Article 5 § 1 of the Convention. It follows that the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

2. The applicant's detention from 19 to 21 April 2000

54. The Court observes that the main issue to be determined in the context of this complaint is whether the disputed detention was "lawful", including whether it complied with "a procedure prescribed by law". The Convention here essentially refers back to national law and states the obligation to conform to the substantive and procedural rules thereof, but it requires in addition that any deprivation of liberty should be consistent with the purpose of Article 5 of the Convention, namely to protect individuals from arbitrariness (see *Benham v. the United Kingdom*, judgment of 10 June 1996, *Reports* 1996-III, pp. 752-53, § 40). It is in the first place for the national authorities, notably the courts, to interpret and apply domestic law. However, since under Article 5 § 1 of the Convention failure to comply with domestic law entails a breach of the Convention, it follows that the

Court can and should exercise a certain power to review whether this law has been complied with (see *Benham*, cited above, § 41).

55. In the present case, the Court notes that immediately after the Velingrad District Court delivered its judgment on 19 April 2000 it amended the measure for securing the applicant's appearance in court to bail, payable within three days, and ordered his release subject to the provision of recognisance (see paragraph 17 above). The Court recognises that the statutory basis for the applicant's detention thereby changed. Thereafter it was the court's order and Article 150 § 5 of the CCP which provided for his continued detention pending the provision of recognizance (see paragraph 26 above).

56. The Court further notes that on 20 April 2000 the recognizance was deposited by a friend or relative of the applicant into the bank account of the Velingrad District Court (see paragraph 18 above). However, it observes that the applicant does not claim or argue that on that same day the authorities were informed or became aware of the said payment. The applicant was released on the next day, 21 April 2000 (see paragraph 18 above). Considering the above, the Court finds no indication, and the applicant provides no arguments to that affect, that the authorities did not act immediately upon becoming aware of the payment of the bail amount and that they did not release him promptly thereafter.

57. Consequently, the Court concludes that in respect of this period there is also no appearance of a violation of Article 5 § 1 of the Convention. It follows that the complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Complaint under Article 5 § 2 of the Convention that the applicant was not informed promptly of the reasons for his arrest

58. The applicant complained under Article 5 § 2 of the Convention that when he was arrested on 5 October 1999 he was not informed promptly of the reasons for his arrest and of the charges brought against him.

59. The Court reiterates that Article 5 § 2 of the Convention contains the elementary safeguard that any person arrested should know why he is being deprived of his liberty. This provision is an integral part of the scheme of protection afforded by Article 5: by virtue of paragraph 2 any person arrested must be told, in simple, non-technical language that he can understand, the essential legal and factual grounds for his arrest, so as to be able, if he sees fit, to apply to a court to challenge its lawfulness in accordance with paragraph 4. Whilst this information must be conveyed "promptly", it need not be related in its entirety by the arresting officer at

the very moment of the arrest. Whether the content and promptness of the information conveyed were sufficient is to be assessed in each case according to its special features (see *Fox, Campbell and Hartley v. the United Kingdom*, judgment of 30 August 1990, Series A no. 182, p. 19, § 40 and *H.B. v. Switzerland*, no. 26899/95, § 47, 5 April 2001).

60. The Court observes that in the present case by order of 5 October 1999 the applicant was charged with a series of five burglaries and was detained on remand. Contrary to his contentions, he was presented with the order on the same day and at 4:20 p.m. signed a statement that he had been informed of its content (see paragraph 7 above). The applicant does not state or imply that he signed the aforementioned statement under duress or without having had the opportunity to read it. Thus, the Court finds no indications that he was not promptly informed of the reasons for his arrest and of the charges brought against him.

61. Consequently, the Court concludes that there is no appearance of a violation of Article 5 § 2 of the Convention. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

D. Complaint under Article 5 § 3 of the Convention pertaining to the applicant's right to trial within a reasonable time or release pending trial

62. The applicant complained under Article 5 § 3 of the Convention that his detention was unjustified and excessively lengthy.

63. The Government disagreed with the applicant and noted that he had been detained from 5 October 1999 to 21 April 2000. They further noted that the preliminary investigation had been completed on 21 December 1999, the first hearing before the Velingrad District Court had been conducted on 21 March 2000 and that the latter had delivered its judgment on 19 April 2000 which the applicant did not appeal against it. The Government therefore argued that the investigation and trial stage of the criminal proceedings had been completed quickly within only six-and-a-half months. Thus, they considered that the applicant's right to be tried within a reasonable time had not been violated.

1. Admissibility

64. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

65. The Court notes that the applicant was in pre-trial detention from 5 October 1999 to 19 April 2000, a period of six months and fourteen days.

66. The Court further notes that the complaint is similar to those in previous cases against Bulgaria where violations were found (see, for example, *Ilijkov*, cited above, §§ 67-87 and *Shishkov*, cited above, §§ 57-67). Likewise, in the decisions of the authorities of 18 October and 15 November 1999 to extend the applicant's detention they failed to cite any reasons and to assess specific facts and evidence about a possible danger of the applicant absconding, re-offending or obstructing the investigation (see paragraph 9 above). In so far as the authorities did not consider it necessary to justify the continuation of the applicant's detention on each and every occasion they seem to have considered his detention mandatory and to have primarily relied on the statutory provisions requiring such detention for serious intentional offences.

67. In view of the above, the Court finds that there has been a violation of Article 5 § 3 of the Convention on account of the authorities' failure to justify the applicant's continued detention.

E. Complaint under Article 5 § 4 of the Convention regarding the limited scope and nature of the judicial control of lawfulness of the applicant's detention

68. The applicant complained under Article 5 § 4 of the Convention, in conjunction with Article 13, that in its decision of 2 December 1999 the Velingrad District Court did not examine all factors relevant to the lawfulness of his detention and that he had no right of appeal against the aforesaid decision.

69. The Government challenged the assertions of the applicant. They alleged that the Velingrad District Court, in its decision of 2 December 1999 for dismissing the applicant's appeal against his detention, had taken into account his prior convictions for serious offences, the existence of other preliminary investigations and enquiries pending against him and the fact that his detention on remand was thus mandatory under the applicable domestic legislation. The Government therefore considered that the domestic court examined all factors relevant to the lawfulness of the applicant's detention when it dismissed his appeal on 2 December 1999.

70. In respect of the applicant's reliance on Article 13 of the Convention, the Court considers that this complaint should be understood as referring to the applicant's alleged inability to effectively challenge his detention under Article 5 § 4 of the Convention. In addition, the Court observes that Article 5 § 4 of the Convention constitutes a *lex specialis* in relation to the

more general requirements of Article 13 (see, among other authorities, *Nikolova*, cited above, § 69). Accordingly, the Court must examine the complaint only under Article 5 § 4 of the Convention.

1. Admissibility

71. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

72. The Court notes at the outset that this complaint is very similar to those in previous cases against Bulgaria where violations were found (see *Nikolova*, §§ 54-66 and *Ilijkov*, §§ 88-106, both cited above).

73. Likewise, the Court finds that the domestic court in the present case, when examining the applicant's appeal against his detention on 2 December 1999, simply relied on the seriousness of the charges against the applicant and the existence of other preliminary investigations pending against him. It failed to take into account the fact that the applicant did not have a criminal record at the time and had confessed to the charges against him. Moreover, it did not cite any specifics facts or evidence about the possible danger of the applicant absconding, re-offending or obstructing the investigation. Thus, it appears that it relied on the statutory provisions requiring mandatory detention for serious intentional offences and the Supreme Court's practice which excluded any examination of the question whether there was a "reasonable suspicion" against the detainee and of facts concerning the likelihood of flight or re-offending (see paragraph 24 above).

74. In view of the aforesaid, the Court finds that the Velingrad District Court, in its decision of 2 December 1999 for dismissing the applicant's appeal against his detention, denied him the guarantees provided for in Article 5 § 4 of the Convention on account of the limited scope and nature of the judicial control of lawfulness of the applicant's detention.

Thus, there has been a violation of the said provision in that respect.

F. Complaint under Article 5 § 5 of the Convention

75. The applicant complained under Article 5 § 5 of the Convention that he did not have an enforceable right to seek compensation for being a victim of arrest or detention in breach of the provisions of Article 5 of the Convention.

76. The Government disagreed and claimed that the applicant had available a procedure under the SRDA whereby he could have claimed and obtained compensation for having been unlawfully detained.

1. Admissibility

77. The Court observes at the outset the similarity of the complaint to those in a number of other cases against Bulgaria where violations where found (see, for example, *Yankov*, cited above, and *Belchev v. Bulgaria*, no. 39270/98, 8 April 2004).

78. The Court further observes that it has found that there were violations of the applicant's right to be brought before a judge or other officer authorised by law to exercise judicial power (see paragraph 48 above), that the authorities failed to justify his continued detention (see paragraph 67 above) and that they denied him the guarantees provided for in Article 5 § 4 of the Convention (see paragraph 74 above). Thus, Article 5 § 5 of the Convention is applicable.

79. The Court also notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

80. In view of the above, the Court must establish whether or not Bulgarian law afforded the applicant an enforceable right to compensation for the breaches of Article 5 of the Convention in his case.

81. The Court notes that by section 2(1) of the SRDA, a person who has been remanded in custody may seek compensation only if the detention order has been set aside "for lack of lawful grounds", which refers to unlawfulness under domestic law (see paragraphs 27 and 28 above).

82. In the present case, the applicant's detention on remand was considered by the domestic courts as being in full compliance with the requirements of domestic law. Therefore, the applicant did not have a right to compensation under section 2(1) of the SRDA. Nor does section 2(2) apply (see paragraphs 27 and 28 above).

83. It follows that in the applicant's case the SRDA did not provide for an enforceable right to compensation. Furthermore, it does not appear that such a right is secured under any other provision of Bulgarian law (see paragraphs 27 and 28 above).

84. Thus, the Court finds that Bulgarian law did not afford the applicant an enforceable right to compensation, as required by Article 5 § 5 of the Convention. There has therefore been a violation of that provision.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

85. The applicant complained under Article 3 of the Convention that he was subjected to inhuman or degrading treatment while being detained at the Velingrad Investigation detention facility and the Pazardzhik Prison.

Article 3 of the Convention provides:

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

A. The parties' submissions

1. The Government

86. The Government challenged the applicant's submissions. They argued that his grievances in respect of the conditions of his detention were formulated in a very general manner and that they lacked coherent and precise elements supported by evidence of a violation. In respect of the applicant's reliance on the reports of the CPT, the Government noted that there had only been a visit to the Pazardzhik Prison in 1995 and that it had not been only critical of the conditions at that facility.

87. To support their arguments in respect of the Pazardzhik Prison the Government presented a report from the prison warden, dated 21 July 2005, detailing the conditions of the applicant's detention at that detention facility, together with a number of supporting documents, orders, schedules, time tables and invoices (the "warden's report"). The information provided therein is summarised below.

88. The applicant was held at the Pazardzhik Prison from 8 February to 21 April 2000. He was attached to second prisoners' company and was placed in a cell with other first time offenders.

89. The second prisoners' company was accommodated in five cells with a total living area of 172.86 sq. m, designated for a maximum of twenty-eight detainees. The cells ranged in size from 17.72 sq. m to 56.70 sq. m and were intended for two to eight persons, depending on their size. During the year 2000 the average occupancy rate of the cells in the second prisoners' company was twenty-five persons which allowed for more living area for each detainee.

90. At the time, the cells did not have sanitary facilities, so communal such facilities were provided which comprised of four separate toilet cabins and two extended sinks with four taps of running water each. Access to these facilities was possible at set periods several times during the day, usually before and after meals and the various other daily activities. As an exception, access to the sanitary facilities was also possible at other times.

91. All the cells had access to direct sunlight from windows which could be opened to allow fresh air to circulate. Artificial light was available from 10 p.m. to 6 a.m.

92. Each detainee was provided with clothes, a bed with a mattress and bed linen (sheets, a pillow cover and two blankets), which was changed every two weeks. They were also provided with a locker where they could

place their personal belongings. Detainees were required to bathe once a week, if they did not work, and daily, if they did. A washing machine was also available for them to wash their clothes. In 1999 boilers were installed in each corridor to provide detainees with easier access to hot water.

93. The detainees were provided free-of-charge with toiletry products and materials to wash and disinfect their clothes and living areas, as evidenced by an order of the prison warden of 20 January 1999. However, it was noted that the level of cleanness depended in part on the detainees who were responsible, under the supervision of the prison authorities, for maintaining their living areas clean.

94. The prison authorities entered into a contract on 16 February 2000 with an anti-infestation company to undertake an assessment of the status of contamination of the prison by insects and rodents, and to exterminate them. Thereafter, extermination activities were performed on a regular basis, as evidenced by three invoices for such services dating from later in the same year.

95. The prison kitchen prepared the food for the detainees. The daily menus were set and controlled for quantity and quality by the prison authorities with the aim of providing for a balanced diet. As evidence, the menus for the weeks of 7 to 13 February 2000 and 17 to 23 April 2000 were presented to the Court. Thus, it can be observed that during the two weeks in question the detainees were provided with a meat or meat containing dish once a day for six days of each week, on the seventh day they had fish, vegetarian dishes and dairy products were provided daily, while fresh vegetables were given only twice during the period.

96. Detainees were provided with an hour of daily outdoor exercise, which was increased to an hour and forty-five minutes at the beginning of 2000. A sports hall with weightlifting equipment and facilities to play table tennis and badminton was also available for use by the detainees to which they had daily access for fifty minutes.

97. The detainees from the second prisoners' company had access to the prison library, which had over 8,500 books, for half an hour every day, as evidenced by a schedule approved by the prison warden on 26 April 1999.

98. Newspapers were also available as the prison had taken out a number of such subscriptions, as evidenced by two invoices for the year 2000 dating from 14 December 1999 and 17 January 2000. Individual subscriptions by detainees were also allowed.

99. In the prison there was also a chapel, a priest and organised religious services, as evidenced by a schedule approved by the warden on 6 April 2000.

100. There was also an equipped cinema hall where films were shown once a week, as evidenced by three invoices from 2000 for renting ninety-five films. In 1999 each cell and dormitory was connected to a cable

television network offering over fifty channels. Detainees had to provide their own television sets.

101. At the time, the prison also had an internal radio station which transmitted to each cell, and detainees could have their own radios.

102. The correspondence of the detainees with their lawyers, relatives and friends was unrestricted and was not registered. There was also no restriction on the number of petitions, appeals or requests they could make. Telephone conversations could also be organised with relatives and lawyers.

103. During working hours, detainees could also meet privately, without restriction or limitation, with their lawyers in a specially designated room.

104. In respect of the applicant, the warden's reports noted that when he was transferred to the prison he had declared in writing on 9 February 2000 that he did not want his relatives to be informed of his place of detention. In addition, he had been found to be completely healthy at the medical check-up on the same day, did not make any complaints and until his release did not seek medical attention at the prison's infirmary.

105. Lastly, it was claimed that significant improvements had been undertaken in the prison following the CPT's visit in 1995 and that, as of the date of the report, all cells and dormitories had access to sanitary facilities with running hot water. Separately, the prison switched from electricity to gas in 2002 which improved its central heating and hot-water-provision' capabilities. In conclusion, it was claimed that, as of the date of the warden's report, all the prescriptions for improving the conditions at this detention facility had been met with the exception of the overcrowding and the provision of medical services.

2. The applicant

106. The applicant simply reiterated his complaints and contended that the conditions of detention in which he was held at the Velingrad Investigation detention facility and the Pazardzhik Prison were inadequate and amounted to inhuman and degrading treatment under Article 3 of the Convention. He relied, *inter alia*, on the findings of the CPT in their reports and the declarations of two other detainees at the Velingrad Investigation detention facility, Mr V.G. and Mr. D.A., who corroborated his claims.

B. Admissibility

107. The Court notes that these complaints 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.

C. Merits

1. General principles

108. The Court reiterates at the outset that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, among others, *Kudła v. Poland* [GC], no. 30210/96, § 90, ECHR 2000-XI and *Poltoratskiy v. Ukraine*, no. 38812/97, § 130, ECHR 2003-V).

109. To fall within the scope of Article 3, ill-treatment must attain a minimum level of severity. The assessment of this minimum is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see *Kudła*, § 91, and *Poltoratskiy*, § 131, both cited above).

110. Treatment has been held by the Court to be "inhuman" because, *inter alia*, it was premeditated, was applied for hours at a stretch and caused either actual bodily injury or intense physical and mental suffering. It has deemed treatment to be "degrading" because it was such as to arouse in the victims feelings of fear, anguish and inferiority capable of humiliating and debasing them (see *Kudła*, cited above, § 92). The question whether the purpose of the treatment was to humiliate or debase the victim is a further factor to be taken into account, but the absence of any such purpose cannot conclusively rule out a violation of Article 3 (see *Kalashnikov v. Russia*, no. 47095/99, §§ 95 and 101, ECHR 2002-VI).

111. The suffering and humiliation involved must go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment. Measures depriving a person of his liberty may often involve such an element. Yet it cannot be said that detention in itself raises an issue under Article 3. Nevertheless, under this provision the State must ensure that a person is detained in conditions which are compatible with the respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistance (see *Kudła*, cited above, § 92-94).

112. When assessing conditions of detention, account has to be taken of the cumulative effects of those conditions and the duration of the detention

(see *Kalashnikov*, cited above, §§ 95 and 102; *Kehayov v. Bulgaria*, no. 41035/98, § 64, 18 January 2005; and *Iovchev*, cited above, § 127). In particular, the Court must have regard to the state of health of the detained person (see *Assenov and Others*, cited above, § 135).

113. An important factor, together with the material conditions, is the detention regime. In assessing whether a restrictive regime may amount to treatment contrary to Article 3 in a given case, regard must be had to the particular conditions, the stringency of the regime, its duration, the objective pursued and its effects on the person concerned (see *Kehayov*, § 65 and *Iovchev*, § 128, both cited above; and, *mutatis mutandis*, *Van der Ven v. the Netherlands*, no. 50901/99, § 51, ECHR 2003-II).

2. Application of these principles to the present case

(a) Velingrad Investigation detention facility

114. The Court reiterates that allegations of ill-treatment must be supported by appropriate evidence. In assessing evidence, the Court has generally applied the standard of proof "beyond reasonable doubt". However, such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII and *Fedotov v. Russia*, no. 5140/02, § 59, 25 October 2005).

115. The Court notes that the primary account of the conditions of the applicant's detention at the Velingrad Investigation detention facility is that furnished by him (see paragraph 21 above). It also notes that he provided signed declarations by another two detainees at this detention facility (see paragraph 106 above). However, in so far as those individuals also made applications before the Court with identical complaints (*Ganchev v. Bulgaria* (dec.), no. 57855/00, 30 June 2005 and application no. 57180/00), it finds that their statements should not be considered objective and that they should not therefore be given any particular weight (see *Yordanov*, cited above, § 82 and *Dobrev*, cited above, § 117).

116. In any event, the Court reiterates that Convention proceedings, such as the present application, do not in all cases lend themselves to a rigorous application of the principle *affirmanti incumbit probatio* (he who alleges something must prove that allegation) because in certain instances the respondent Government alone have access to information capable of corroborating or refuting these allegations. The failure on a Government's part to submit such information without a satisfactory explanation may give

rise to the drawing of inferences as to the well-foundedness of the applicant's allegations (see *Ahmet Özkan and Others v. Turkey*, no. 21689/93, § 426, 6 April 2004 and *Fedotov*, cited above, § 60).

117. In the present case, in their observations the Government restricted themselves to responding only to the applicant's complaints in respect of the Pazardzhik Prison (see paragraphs 86-105 above). Moreover, they did not offer any convincing explanation for their failure to submit relevant information regarding the Velingrad Investigation detention facility (see *Fedotov*, cited above, § 61).

118. In these circumstances, the Court will examine the merits of the applicant's complaint in respect of the conditions of detention at the Velingrad Investigation detention facility solely on the basis of his submissions (see *Fedotov*, cited above, § 61 and *Staykov v. Bulgaria*, no. 49438/99, § 75, 12 October 2006).

While not directly relevant, because the Velingrad Investigation detention facility was never itself visited and the reports cover somewhat different periods, the Court considers that the general observations of the CPT in respect of the conditions of detention in all Investigation Service detention facilities during its visits, in so far as relevant, may also inform it in its decision (see paragraphs 29-41 above and, for a similar approach, *Iovchev*, cited above, § 130 and *Staykov v. Bulgaria*, no. 49438/99, §§ 75 and 79, 12 October 2006).

119. The Court observes that the applicant was detained on the premises of the Velingrad Investigation detention facility from 5 October 1999 to 7 February 2000 (see paragraph 20 above). The period to be taken into account, therefore, is four months and three days.

120. The applicant was detained in a cell, which lacked fresh air and was unhygienic. He also had no possibility for outdoor or out-of-cell activities and communication with the outside world was very limited. Moreover, the food provided at this facility was substandard (see paragraph 21 above).

121. The Court observes however that the applicant was detained at this facility for a period of not longer than four months and, quite significantly, did not complain of any overcrowding or that his physical or mental health deteriorated during or as a result of his detention there.

122. Thus, while recognising that the applicant may have endured some distress and hardship during the period of his detention at the Velingrad Investigation detention facility, the Court does not find that in the particular circumstances of the present case the treatment complained of went beyond the threshold of severity under Article 3 of the Convention.

123. Therefore, there has been no violation of Article 3 of the Convention on account of the applicant's detention at the Velingrad Investigation detention facility.

(b) Pazardzhik Prison

124. The Court observes that the applicant was detained on the premises of the Pazardzhik Prison from 7 February to 21 April 2000 (see paragraph 20 above). The period to be taken into account, therefore, is two months and thirteen days.

125. The applicant initially complained that he was detained in a cell, which lacked fresh air, was unhygienic and had parasites and rodents. The CPT, during its visit in 1995, found that the Pazardzhik Prison was seriously overcrowded and that prisoners were obliged to spend most of the day in their dormitories, mostly confined to their beds because of lack of space. In addition, it found that the central heating was far from sufficient, inadequate and only some of the dormitories were fitted with sanitary facilities (see paragraph 36 above).

The Court takes note, however, of the Government's detailed submissions and the supporting documents they presented (see paragraphs 86-105 above) arguing that the conditions of the applicant's detention were materially different from what the CPT had observed at the Pazardzhik Prison in 1995. Moreover, it notes that none of the Government's claims or arguments were subsequently challenged by the applicant. Accordingly, the Court must afford them the required weight when accessing the merits of the applicant's complaint in respect of the Pazardzhik Prison.

126. In view of the above and based on the information provided by the Government (see paragraph 89 above), the Court notes that on average the living area available per detainee in second prisoners' company during the year 2000 was 6.91 sq. m. The CPT, meanwhile, has set 7 sq. m as an approximate, desirable guideline for a single-occupancy police cell [see "The CPT Standards" – CPT/Inf/E (2002) 1 - Rev. 2006, paragraph 43], but there is no such guideline in respect of prison cells. However, the CPT has in general applied a standard of a minimum of 4 sq. m per prisoner in multiple occupancy cells [see, for example, the CPT reports on the 2002 visit to Bulgaria, CPT/Inf (2004) 21, paragraphs 82 and 87, and on the 2004 visit to Poland, CPT/Inf (2006) 11, paragraphs 87 and 111], and a minimum of 6 sq. m. per prisoner in single occupancy cells [see, for example, the CPT report on the 2004 visit to Poland, CPT/Inf (2006) 11, paragraphs 87 and 111]. Separately, the Court notes that during the period of the applicant's detention there were no sanitary facilities in the cells, but that access to such facilities was provided several times daily (see paragraph 90 above). There was direct sunlight and the windows in the cells could be opened to allow fresh air to circulate (see paragraph 91 above). Detainees were provided with clothes, a bed with a mattress, bed linen and a locker for personal belongings. The bed linen was changed every fortnight. The detainees had to bathe at least once a week, had access to a washing machine and after 1999 had easier access to hot water on account of the boilers installed in

each corridor (see paragraph 92 above). Detainees were provided free-of-charge with toiletry products and materials to wash and disinfect their clothes and living areas (see paragraph 93 above). Efforts were also made to exterminate any insects and rodents (see paragraph 94 above).

127. The applicant further complained that the food provided was of insufficient quantity and substandard. However, the Court notes that the Government claimed, which the applicant did not subsequently challenge, that at the time of the applicant's detention the prison's kitchen prepared the food and adhered to menus set and controlled for quantity and quality by the prison authorities providing for a balanced diet. Considering the menus presented by the Government in respect of two of the weeks of the applicant's detention at this facility, the Court does not find that the food during those periods was substandard or inadequate (see paragraph 95 above).

128. The applicant also complained that there was no possibility for outdoor or out-of-cell activities at this detention facility. The Court notes, however, that the Government claimed, which the applicant did not subsequently challenge, that detainees were provided with an hour of daily outdoor exercise, which was increased to one hour and forty-five minutes at the beginning of 2000. An equipped sports hall was also available for use by detainees to which they had was daily access (see paragraph 96 above). There was also a chapel, a priest and organised religious services (see paragraph 99 above).

129. The applicant complained that he could not maintain an active correspondence, that he was not allowed to read newspapers or books and that he had no access to a radio or a television. However, the Court notes that the Government claimed, which the applicant did not subsequently challenge, that detainees' correspondence with their lawyers, relatives and friends was not restricted and that telephone conversations could also be organised in certain cases (see paragraph 102 above). It further notes that there was a prison library with a significant number of books and newspapers (see paragraphs 97 and 98 above). Films were screened on a weekly basis and there was the possibility to watch cable television in each cell. Radios were also permitted (see paragraphs 100 and 101 above).

130. The applicant also complained that he was denied the right to meet with his attorney in private. The Court notes, however, that the Government claimed, which the applicant did not subsequently challenge, that during working hours, detainees could meet privately, without restriction or limitation, with their lawyers in a specially designated room (see paragraph 103 above).

131. The Court notes that the applicant did not complain that his physical or mental health deteriorated during or as a result of his detention at this facility. Accordingly, no considerations in this respect are warranted.

132. Having regard to the regime to which the applicant was subjected and the material conditions in which he was held at the Pazardzhik Prison for a period of two-and-a-half months, the Court concludes that the distress and hardship he endured during the period of his detention at this facility did not exceed the unavoidable level of suffering inherent in detention and that the resulting anguish did not go beyond the threshold of severity under Article 3 of the Convention.

133. Therefore, there has been no violation of Article 3 of the Convention on account of the applicant's detention at the Pazardzhik Prison.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

134. 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

135. The applicant claimed EUR 10,000 euros as compensation for each of the alleged violations of his rights under the Convention.

136. The Government did not submit comments on the applicant's claims for damage.

137. Having regard to the specific circumstances of the present case and the violations found (see paragraphs 48, 67, 74 and 84 above), its case-law in similar cases and deciding on an equitable basis, the Court awards EUR 1,000 under this head, plus any tax that may be chargeable on that amount.

B. Costs and expenses

138. The applicant also claimed EUR 10,000 for 156 hours of legal work by his lawyers in the proceedings before the Court at an effective hourly rate of EUR 64. In addition, he claimed BGN 39.37 (approximately EUR 20) for postal expenses of his lawyer. He submitted a legal fees agreement between him and his lawyers, a timesheet and postal receipts. The applicant requested that the costs and expenses incurred should be paid directly to his lawyers, Mr V. Stoyanov and Mrs V. Kelcheva.

139. The Government did not submit comments on the applicant's claims for costs and expenses.

140. The Court reiterates that according to its case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has

been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the instant case, the Court considers the number of hours claimed excessive given that a number of the applicant's complaints were either declared inadmissible or no violation of the Convention was established (see paragraphs 53, 57, 61 123 and 133 above). Moreover, there was a lack of substantive submissions in response to some of the Government's observations (see, for example, paragraph 106 above). Thus, it considers that a significant reduction is necessary on both accounts. Having regard to all relevant factors, 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 on that amount.

C. Default interest

141. 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. *Declares* admissible the complaints concerning (a) the applicant not being promptly brought before a judge or other officer authorised by law to exercise judicial power; (b) the justification of his continued detention; (c) the limited scope and nature of the judicial control of lawfulness of the applicant's detention; (d) the lack of an enforceable right to compensation for being a victim of arrest or detention in breach of the provisions of Article 5 of the Convention; and (e) the applicant's detention in allegedly inadequate conditions of detention at the Velingrad Investigation detention facility and the Pazardzhik Prison;

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

3. *Holds* that there has been a violation of Article 5 § 3 of the Convention on account of the applicant not having been promptly brought before a judge or other officer authorised by law to exercise judicial power;

4. *Holds* that there has been a violation of Article 5 § 3 of the Convention on account of the authorities' failure to justify the applicant's continued detention;

5. *Holds* that there has been a violation of Article 5 § 4 of the Convention on account of the limited scope and nature of the judicial control of lawfulness of the applicant's detention;

6. *Holds* that there has been a violation of Article 5 § 5 of the Convention on account of the applicant not having had available an enforceable right to compensation for being a victim of arrest or detention in breach of the provisions of Article 5 of the Convention;

7. *Holds* that there has been no violation of Article 3 of the Convention on account of the applicant's detention at the Velingrad Investigation detention facility;

8. *Holds* that there has been no violation of Article 3 of the Convention on account of the applicant's detention at the Pazardzhik Prison;

9. *Holds*

(a) that the respondent State is to pay to the applicant, 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 1,000 (one thousand euros) in respect of non-pecuniary damage, payable to the applicant himself;

(ii) EUR 500 (five hundred euros) in respect of costs and expenses, payable in two equal instalments of EUR 250 (two hundred and fifty euros) into the bank accounts of the applicants' lawyers in Bulgaria, Mr V. Stoyanov and Mrs V. Kelcheva;

(iii) any tax that may be chargeable on the above amounts;

(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;

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

Done in English, and notified in writing on 24 May 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President