FIFTH SECTION

# CASE OF PARASHKEVANOVA v. BULGARIA

*(Application no. 72855/01)*

JUDGMENT

STRASBOURG

3 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 Parashkevanova 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,
Mrs M. TSATSA-NIKOLOVSKA,
Mr R. MARUSTE,
Mr M. VILLIGER, *judges*,
and Mrs C. WESTERDIEK, *Section Registrar*,

Having deliberated in private on 3 April 2007,

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

# PROCEDURE

1. The case originated in an application (no. 72855/01) 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 Ms Galina Nikolaeva Parashkevanova, a Bulgarian national who was born in 1953 and lives in Sofia ("the applicant"), on 26 May 2001.

2. The applicant was represented by Ms V. Vandova and Ms Y. Vandova, lawyers practising in Sofia. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Karadzhova, of the Ministry of Justice.

3. On 9 September 2005 the Court decided to give notice of the application to the Government. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

# THE FACTS

## THE CIRCUMSTANCES OF THE CASE

4. On 1 December 1994 the applicant took up the post of executive director of the Bulgarian Publishers' Association ("the association"). On 30 September 1996 she was dismissed.

5. On 21 November 1996 the applicant filed an action for wrongful dismissal against the association. She sought reinstatement and damages.

6. In a judgment of 4 June 1997 the Sofia District Court held that the applicant's dismissal had been unlawful. It accordingly ordered her reinstatement and awarded her damages.

7. On 23 June 1997 the association appealed.

8. On 26 June 1997 the Sofia District Court instructed the association to pay the court fees for the appeal within a seven-day time-limit. These instructions were served on the association on 27 October 1997.

9. On 28 November 1997 the Sofia District Court discontinued the proceedings, holding that the association had not paid the fees in due time.

10. The decision to discontinue the proceedings was served on the association on 16 March 1998. On 20 March 1998 it appealed against it to the Sofia City Court, arguing that the fees had in fact been paid on time. On 8 May 1998 the Sofia City Court allowed the appeal, agreeing that the fees had been paid within the specified time-limit. On 25 May 1998 the case was returned to the Sofia District Court for further processing.

11. On 29 May 1998 the Sofia District Court instructed the association to indicate the grounds of appeal together with the new evidence to be gathered, as well as to present the written evidence on which the appeal was based. These instructions were not served on the association's counsel. According to the applicant, the court's server returned them, noting that the concierge of the building in which the counsel's office was purportedly situated had informed him that the counsel's office was in fact not there. On 1 July 1998 the Sofia District Court ordered the decision to be re-served on the counsel. It is unclear whether its order was complied with.

12. On 19 April 1999 the Sofia District Court rescinded its ruling of 29 May 1998 and decided to process the appeal without further particulars by the association. Accordingly, a copy of the appeal was served on the applicant's counsel the same day and on 29 April 1999 the case was sent to the Sofia City Court.

13. On 18 May 1999 the Sofia City Court instructed the association to specify within fourteen days the grounds of appeal and the evidence to be gathered, as compulsory under an intervening amendment of the Code of Civil Procedure. According to the applicant, an attempt to serve these instructions on the association on 27 May 1999 failed, because the court's process server did not find it at the specified address. The instructions were served on 2 May 2000.

14. On 12 January 2001 the Sofia City Court, finding that the association had not complied with its instructions, discontinued the proceedings. Its decision was served on the applicant on 17 January 2001 and on the association on 5 February 2001. Neither of them appealed against it. Accordingly, the judgment of the Sofia District Court of 4 June 1997 entered into force in February 2001.

# THE LAW

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

15. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

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

16. The Government contested that argument.

17. The period to be taken into consideration began on 21 November 1996, when the applicant filed her action (see paragraph 5 above) and ended in February 2001, when the judgment of the Sofia District Court entered into force (see paragraph 14 above). It thus lasted four years and approximately three months.

### A. Admissibility

18. The Court considers that the application 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.

### B. Merits

19. 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). Special diligence is necessary in employment disputes (see, among many other authorities, *Ruotolo v. Italy*, judgment of 27 February 1992, Series A no. 230-D, p. 39, § 17 *in limine*). In civil proceedings, the courts must ensure that the case is examined within a reasonable time, as required by Article 6 § 1, even in systems where the procedural initiative rests with the parties (see, among many other authorities, *Buchholz v. Germany*, judgment of 6 May 1981, Series A no. 42, p. 16, § 50).

20. The Court finds that the case was not factually or legally complex. Indeed, the first-instance court was able to dispose of it in less than seven months (see paragraphs 5 and 6 above). The entirety of the ensuing delay of more than three and a half years was due to the disorganised manner in which the courts processed the defendant association's appeal against the first-instance court's judgment. About a year of that time was taken up by efforts to resolve a fairly straightforward issue – the payment of the court fees due for the appeal (see paragraphs 7-10 above). The later – and longer – part of that period was spent in attempts to bring the association's appeal in line with the altered requirements of the Code of Civil Procedure (see paragraphs 11-14 above). While a change in the rules of procedure may justify a certain delay, the Court notes that it took the domestic courts more than two and a half years to settle the problem. A substantial amount of that interval was lost in difficulties – whatever their cause – with the service of process (see paragraphs 11 and 13 above). These gaps of time appear excessive, especially in view of the fact that the proceedings concerned the applicant's employment.

21. In the light of the criteria laid down in its case-law and having regard in particular to what was at stake for the applicant and to the delays attributable to the authorities, the Court considers that the length of the proceedings failed to satisfy the reasonable-time requirement. There has therefore been a violation of Article 6 § 1 of the Convention.

## II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

22. 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

23. The applicant claimed 683 euros (EUR) in respect of pecuniary damage. She submitted that this represented the amount which she had been awarded by the Sofia District Court and which had remained unpaid to this day. The applicant also claimed EUR 20,000 in respect of non-pecuniary damage.

24. The Government did not express an opinion on the matter.

25. The Court does not discern a sufficient causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. On the other hand, it considers that the length of the proceedings, which concerned the applicant's employment, must have caused her a

certain amount of frustration. It therefore awards the applicant EUR 1,400, plus any tax that may be chargeable.

### B. Costs and expenses

26. The applicant sought the reimbursement of EUR 3,200 for the costs and expenses incurred before the Court.

27. The Government did not express an opinion on the matter.

28. According to the Court's case-law, an applicant is entitled to reimbursement of her 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 present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 500, plus any tax that may be chargeable.

### C. Default interest

29. 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* the application admissible;

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

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 1,900 (one thousand nine hundred euros) in respect of non-pecuniary damage and costs and expenses, plus any tax that may be chargeable;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

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

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President