FIFTH SECTION

CASE OF REZOV v. BULGARIA

(Application no. 56337/00)

JUDGMENT

STRASBOURG

15 February 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 Rezov 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 22 January 2007,

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

PROCEDURE

1. The case originated in an application (no. 56337/00) 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 Todor Georgiev Rezov who was born in 1954 and lives in Vratza ("the applicant"), on 7 March 2000.

2. The applicant was represented by Mr V. Vasilev, a lawyer practising in Sofia.

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

4. The applicant alleged that the criminal proceedings against him for libel of a public official represented an interference with his right to freedom of expression, that they were of excessive length and that the presumption of innocence was not adhered to in the said proceedings.

5. On 10 December 2004 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 publication of the newspaper article

6. At the time of the events, the applicant, a journalist, was the regional correspondent for Vratza for the national newspapers "Trud" and "Noshten Trud".

7. A newspaper article, contributed by the applicant, was published in "Noshten Trud" in its issue no. 119 of 21-22 June 1995 under the title "Defendants [charged with] kidnapping call for [criminal proceedings against] the police officers who arrested them" ("Подсъдими за отвличане поискаха съд за полицаите, прибрали ги в ареста").

The text of the article read as follows:

> "The lawyers of the five defendants in the case regarding the kidnapping of nurse Mrs G. petitioned the Pleven Military Prosecutor's Office to open a preliminary investigation against three [policemen] from the Vratza District Police Directorate. The [defendants'] case is [currently] being heard by the Vratza District Court.
>
> Police officer V. and policemen T. and B. participated in the arrest of the abductors on 23 November [1994], but disguised as drivers of the luxury cars of the local businessman Mr P. The owner of a chain of establishments ... had gone to the police, had claimed that he had been kidnapped and had named his abductors.
>
> [Later] that night his men [wearing] bullet proof jackets with police insignia and carrying machine guns raided the residence of the alleged abductors. With the consent of the three policemen they took the arrestees to the mountain range near Vratza. [There they held them for] two days and beat them with metal rods after which they took them to the police station. The relatives of the injured and the [abductors'] medical certificates provide evidence as to the rage of their attackers. Charges were brought against the five abductors, among who is Mr A. ... who was recently sentenced to three years' imprisonment in [a related case]. He had been charged with organising the abduction of the nurse and the businessman. His case had been separated from those of the other [accused]. The Vratza District Court ruled that the Pleven Military Prosecutor's Office has three days to decide whether there is enough evidence [to justify] the opening of a preliminary investigation against the [three policemen]."

B. The criminal proceedings against the applicant

8. On 28 June 1995 policeman B. filed a complaint against the applicant and petitioned the Vratza District Prosecutor's Office to open criminal

proceedings against him for libel of an official during or in connection with the exercise of his duties or functions.

9. The applicant was summoned by the Vratza District Prosecutor's Office on 29 June 1995 and gave a written statement. He stated that he had simply reported on a request made by the lawyer of the alleged abductors during a hearing in the criminal proceedings before the Vratza District Court whereby he had demanded that the criminal proceedings be initiated against the police officers. The applicant also stated that one of the witnesses in the proceedings before the Vratza District Court had made a similar request to the Prosecutor's Office.

10. Subsequently, the Vratza District Prosecutor's Office obtained a copy of the court transcript which showed that one of the witnesses, the father of one of the accused, had given testimony implicating certain policemen in the beating of their son, but had not named policeman B.

11. On 19 July 1995 the case file was reassigned to the Sofia District Prosecutor's Office.

12. The Sofia District Prosecutor's Office issued instructions to the police on 4 August 1995 to interview the applicant in order to identify the source of his information and the basis for his claims that policeman B. had participated in the arrest of the alleged abductors.

13. The applicant was questioned once more on 21 August 1995. He confirmed that his article was based on statements made by the lawyer of the alleged abductors and on a petition filed on 22 May 1995 by one of his clients, Mr G., requesting that proceedings be initiated against the arresting officers. He claimed that in the said petition, a copy of which had been shown to the applicant, it had been stated that policeman B. had been one of the three policemen who had been present and had not intervened when the men of the local businessman had beaten them up.

14. The police prepared a report on 22 August 1995 in which they detailed their additional findings. It noted that they had obtained a copy of the petition filed on 22 May 1995 by Mr G. and that therein it had only been claimed that policeman B. was one of several policemen present when Mr G. had been brought to the police station for questioning, had threatened him verbally and had made him sign several blank statement sheets. The report also claimed that after having shared their additional findings with the applicant the latter had realised his mistake and had expressed a readiness to apologise to policeman B.

15. On 28 August 1995 the case file was transferred back to the Sofia District Prosecutor's Office.

16. On an unspecified date in September 1995 the Sofia District Prosecutor's Office refused to open a preliminary investigation against the applicant as it found that there was insufficient evidence of a criminal offence. Policeman B. appealed against the decision on 2 October 1995.

17. By decision of 23 October 1995 the Sofia City Prosecutor's Office quashed the decision of the lower-standing Prosecutor's Office as it found that the evidence against the applicant was sufficient to warrant the opening of a preliminary investigation against him and remitted the case with instructions that such proceedings be initiated.

18. On 10 November 1995 the Sofia District Prosecutor's Office opened a preliminary investigation against the applicant for libel of a public official during or in connection with the exercise of his duties or functions committed in print [Article 148 § 2 in connection with § 1 (2) and (3) and Article 147 § 1 of the Criminal Code (CC)]. A restriction was also placed on the applicant not to leave his place of residence without the consent of the Prosecutor's Office, which was not lifted until the end of the criminal proceedings against him. The case file was then transferred for further investigation by the First District Investigation Division with the following instruction: "The investigation must perform the following: Procedurally document the offence."

19. On 17 September 1996 policeman B. and an acquaintance of his were questioned.

20. On 19 September 1996 the applicant was charged with libel through falsely incriminating a public official during or in connection with the exercise of his duties or functions committed in print by another public official [Article 148 § 2 in connection with § 1 (2) and (3) and Article 147 § 1 of the CC]. He was questioned on the same day and then again on the 26th of the month. On both occasions he reiterated his previously given statements in that he had relied on statements and information received from third persons and expressed a readiness to apologise to policeman B. if he had in fact been misled.

21. The results of the preliminary investigation were presented to the applicant and policeman B. on 26 September 1996. The case file was then transferred to the Sofia District Prosecutor's Office.

22. On 18 October 1996 the Sofia District Prosecutor's Office remitted the case to the investigation stage because it found serious deficiencies in the investigation. In particular, that there was no information regarding the status of policeman B. as a public official and regarding the nature of the offence which the applicant had allegedly claimed to have been committed by the policeman.

23. Subsequently, on an unspecified date, the investigation obtained a copy of the employment contract of policeman B.

24. On 23 February 1998 the charges against the applicant were amended to libel of a public official during or in connection with the exercise of his duties or functions through dissemination of disreputable facts in print by another public official [Article 148 § 2 in connection with § 1 (2)-(4) and Article 147 of the CC]. On the same day he was also questioned and the preliminary investigation was presented to him.

25. On 3 June 1998 the preliminary investigation was presented to policeman B. and on the next day, the 4th, the case file was transferred to the Sofia District Prosecutor's Office.

26. On 7 October 1998 the Sofia District Prosecutor's Office filed an indictment with the Sofia District Court against the applicant for libel of a public official during or in connection with the exercise of his duties or functions through dissemination of disreputable facts in print by another public official [Article 148 § 2 in connection with § 1 (2)-(4) and Article 147 of the CC].

27. On 10 November 1998 a judge-rapporteur of the Sofia District Court remitted the case back to the Prosecutor's Office for correction of serious procedural deficiencies such as to indicate the offence with which the applicant was being charged in reference to the facts of the case and what his intent had been.

28. The charges against the applicant were slightly amended on 16 February 1999 but remained libel of a public official during or in connection with the exercise of his duties or functions through dissemination of disreputable facts in print by another public official [Article 148 § 2 in connection with § 1 (2)-(4) and Article 147 of the CC]. He was also questioned on the same day.

29. The preliminary investigation was presented to policeman B. on 10 March 1999 and to the applicant on 15 March. The case file was transferred to the Sofia District Prosecutor's Office on the next day, 16 March 1999.

30. On 30 March 1999 the Sofia District Prosecutor's Office filed a new indictment with the Sofia District Court against the applicant for libel of a public official during or in connection with the exercise of his duties or functions through dissemination of disreputable facts in print by another public official [Article 148 § 2 in connection with § 1 (2)-(4) and Article 147 of the CC].

31. On 26 April 1999 a judge-rapporteur of the Sofia District Court remitted the case back to the Prosecutor's Office for correction of a serious procedural deficiency. Namely, she found that it was still not clear for what offence the applicant was being tried because the charge brought against him on 19 September 1996 for libel through falsely incriminating a public official during or in connection with the exercise of his duties or functions committed in print by another public official was still standing.

32. On 25 May 1999 the Sofia District Prosecutor's Office dropped the charge of libel through falsely incriminating a public official during or in connection with the exercise of his duties or functions committed in print by another public official.

33. On an unspecified date the Sofia District Prosecutor's Office filed a new indictment with the Sofia District Court against the applicant for libel of a public official during or in connection with the exercise of his duties or

functions through dissemination of disreputable facts in print by another public official [Article 148 § 2 in connection with § 1 (2)-(4) and Article 147 of the CC].

34. On 30 July 1999 a judge-rapporteur of the Sofia District Court set a date for the first court hearing for 1 October 1999.

35. The hearings of 1 October, 5 November and 22 December 1999 were adjourned due to non-attendance of various parties. The applicant was ill for the first hearing, his lawyer could not attend the second and for the third hearing both the applicant and policeman B. could not reach Sofia due to heavy snowfall.

36. At the court hearing on 17 February 2000 the Sofia District Prosecutor's Office petitioned the Sofia District Court to remit the case for correction of a serious procedural deficiency as it claimed that there was still a lack of clarity as to what the applicant was being charged with. The court refused and proceeded to hear the case. It also recognised policeman B. as a civil claimant. The hearing was adjourned so as to allow the parties to collect and present additional documents and evidence.

37. On 21 March 2000 an amendment to the CC entered into force (see below, Relevant domestic law), which had the effect of reducing the statute of limitations for libel to two years.

38. At the next hearing on 30 March 2000 the representative of the Prosecutor's Office petitioned the court to discontinue the proceedings due to the expiration of the statute of limitations. The Sofia District Court granted the request and discontinued the criminal proceedings against the applicant.

II. RELEVANT DOMESTIC LAW

A. Criminal Code

39. Prior to March 2000 Article 148 of the CC envisaged a punishment of up to three years' imprisonment and a public reprimand for the offence of libel disseminated in print of a public official during or in connection with the exercise of his duties or functions by another public official during or in connection with the exercise of his duties or functions [Article 148 § 2 in connection with § 1 (2)-(4)]. The statute of limitations was five years [Article 80 § 1 (4)] and it was a publicly prosecuted offence (Article 161 § 1).

40. Following the amendments of March 2000 the punishment for the above stated offence was changed to a fine of between five to fifteen thousand Bulgarian levs [BGN: approximately between 2,564 and 7,692 euros (EUR)] and a public reprimand [Article 148 § 2 in connection with § 1 (2)-(4)]. As a result, the statute of limitations fell to two years

[Article 80 § 1 (5)]. It also became a privately prosecuted offence (Article 161 § 1).

B. State Responsibility for Damage Act

41. The relevant part of the State Responsibility for Damage Act of 1988 (the "SRDA") provides that the State is liable for damage caused by the organs of the investigation, the prosecution and the courts for having unlawfully charged a private person with an offence if (1) he/she is declared innocent or (2) the initiated criminal proceedings are terminated because (a) the deed was not perpetrated by the said person or (b) the perpetrated deed is not an offence or because (3) the criminal proceedings were initiated after the expiration of the statute of limitations for the offence or after the deed had been amnestied [section 2 (2)].

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

42. The applicant complained that the criminal proceedings against him for libel of a public official represented an interference with his right to freedom of expression as guaranteed by Article 10 of the Convention, which reads as follows:

> "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

43. The Government contested the applicant's assertion and claimed that the applicant could not be considered to be the victim of such a violation because he had never been convicted and the criminal proceedings against him had been terminated immediately after the amendments of the CC of March 2000.

They also argued that if the applicant considered that he had suffered damage as a result of having had criminal proceedings unlawfully instituted against him then he had failed to exhaust the available domestic remedies because he could have allegedly instituted proceedings for damages under the SRDA.

44. The applicant disagreed with the Government. In respect of their argument that he could have sought damages under the SRDA, he claimed that that was not possible because the criminal proceedings against him had been terminated on the grounds that the statute of limitations had expired after the said proceedings had been initiated. Thus, he claimed that he did not have an enforceable right to compensation under the SRDA because the grounds for the said termination were not that the proceedings were unlawful in any way.

45. The Court notes at the outset that in the case of *Kalpachka v. Bulgaria* [(dec.), no. 49163/99, 19 May 2005] it declared inadmissible an identical complaint because it found that the applicant could no longer claim to be a victim of an interference with her right of freedom of expression following the termination of the criminal proceedings as a result of the amendments of the CC of March 2000. The Court does not identify any material difference with the present complaint which would justify it to reach a different conclusion in respect of it.

It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

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

46. The applicant complained of the excessive length of the criminal proceedings against him. He relied on Article 6 of the Convention, the relevant part of which provides:

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

A. The relevant period

47. The Government argued that the period to be taken into consideration started on 10 November 1995 and ended on 30 March 2000. They claimed that prior to 10 November 1995 the applicant did not have a clear and precise indication of the authorities' subsequent decision to prosecute him. Moreover, his initial questioning had been in the context of a preliminary enquiry which in itself indicated a lack of certainty as to how the authorities would proceed with the evidence they had collected.

48. The applicant disagreed and claimed that the starting date of the relevant period was 29 June 1995 when he was summoned before an

investigator and was questioned in detail regarding his activities as a journalist and the newspaper article.

49. The Court reiterates that in criminal matters, the "reasonable time" referred to in Article 6 § 1 of the Convention begins to run as soon as a person is "charged"; this may occur on a date prior to the case coming before the trial court, such as the date of arrest, the date when the person concerned was officially notified that he would be prosecuted or the date when preliminary investigations were opened. "Charge", for the purposes of Article 6 § 1 of the Convention, may be defined as "the official notification given to an individual by the competent authority of an allegation that he has committed a criminal offence", a definition that also corresponds to the test whether "the situation of the [suspect] has been substantially affected" (see *Eckle v. Germany*, judgment of 15 July 1982, Series A no. 51, p. 33, § 73).

50. Applying these principles to the present case the Court finds that the relevant period started to run from 10 November 1995 when the Sofia District Prosecutor's Office opened a preliminary investigation against the applicant for libel and imposed a measure to secure his appearance in court which substantially affected him (see paragraph 17 above). Prior to that date the authorities had only conducted a preliminary enquiry and the Sofia District Prosecutor's Office had even initially decided not to prosecute the applicant (see paragraphs 7-16 above). Thus, it cannot be accepted that prior to the date of the opening of the preliminary investigation the applicant could be considered to have been officially notified that he would be prosecuted.

51. Further to the above, the Court finds that the end of the relevant period was 30 March 2000 when the Sofia District Court discontinued the criminal proceedings against the applicant (see paragraph 37 above).

52. Thus, for the purpose of assessing the "reasonable time" requirement under Article 6 of the Convention the criminal proceedings against the applicant lasted from 10 November 1995 to 30 March 2000, a period of four years, four months and twenty days without concluding one level of jurisdiction.

B. Admissibility

53. 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.

C. Merits

54. The Government argued that the case was complex as it related to defamation, which was contentious and difficult to prove, and involved public officials and local gangsters.

They also claimed that the criminal proceedings had not been initiated by the Prosecutor's Office, something they could not allegedly do on their own accord, but had been started after policeman B. had filed a petition for private criminal prosecution against the applicant.

The Government further noted that the restriction placed on the applicant was not severe as he was never detained.

In respect of the conduct of the authorities, the Government claimed that they had shown the required diligence in processing the case. They claimed that this was evidenced by the fact that the case was continuously moving between the various institutions with the aim of finalising and correcting the various deficiencies in the charges against the applicant.

The Government noted that the applicant was responsible for the postponement of two hearings before the Sofia District Court. They also considered that he had failed to contribute to the speedy conclusion of the proceedings by having proven the truthfulness of the statements he had written. Lastly, the Government stated that the applicant, as a journalist, should have expected to be the target of such libel proceedings and inferred that he should, therefore, be ready to endure them.

55. The applicant disagreed with the Government and claimed that the case was not complex, because it related to only one newspaper article. He further claimed that he, as a journalist, should never have been charged as a public official. In any event, he argued that the involvement of a public official could not, in itself, make a case complex.

Separately, he noted that prior to the amendments of the CC of 2000 libel of a public official by another public official was a publicly prosecuted offence. Accordingly, he argued that the State was responsible for initiating and maintaining the charges against him for the duration of the proceedings.

The applicant also disagreed with the notion of the Government that the constant moving of the case between the various institutions could be considered to indicate that they were diligently processing it. To the contrary, he considered that the grounds for remitting the case on several occasions to the Prosecutor's Office was an indication that the State had failed to correctly formulate the charges against him, to properly conclude the preliminary investigation and, therefore, to diligently process the case.

Lastly, the applicant disagreed with the argument of the Government that he should have been active in proving the truthfulness of the statements he had made in his newspaper article and noted that the burden of proof in the proceedings rested with the prosecuting authorities.

56. The Court reiterates that it must assess the reasonableness of the length of the proceedings in the light of the particular circumstances of the case and having regard to the criteria laid down in its case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities. On the latter point, what is at stake for the applicant has also to be taken into account (see *Philis v. Greece (no. 2)*, judgment of 27 June 1997, *Reports of Judgments and Decisions* 1997-IV, p. 1083, § 35). The Court reiterates that only delays attributable to the State may justify a finding of a failure to comply with the "reasonable time" requirement (see *H. v. France*, judgment of 24 October 1989, Series A no. 162-A, pp. 21-22, § 55).

57. The Court considers that the case was relatively simple as it did not require the collection of a significant amount of evidence, the questioning of many witnesses or the performance of any investigative procedures or experiments.

58. As to the conduct of the authorities, the Court observes that there are considerable periods of inaction or delays in the proceedings for which the Government did not provide adequate explanations. In particular, no investigative procedures were conducted for almost a year following the opening of the preliminary investigation against the applicant on 15 November 1995 (see paragraphs 17 and 18 above). Similarly, no investigative procedures or other actions were undertaken for almost two years after the Sofia District Prosecutor's Office remitted the case on 18 October 1996 (see paragraphs 21-23 above). In addition, the case was remitted on three occasions, due to serious procedural deficiencies in the investigation, for proper formulation and correction of the charges against the applicant which also delayed the proceedings (see paragraphs 21, 26 and 30). In conclusion, the Court finds that the authorities do not appear to have dealt with the case with the required expedience and have not satisfactorily explained the reasons for failing to do so.

59. As to the conduct of the applicant and the other parties to the proceedings, the Court notes that they were the reason for the postponement of three court hearings between 1 October and 22 December 1999 (see paragraph 34 above). Other than that they do not appear to have contributed to such an extent to the overall length of the proceedings so as to offset the above-noted delays attributable to the authorities (see paragraph 57 above).

60. Lastly, the Court notes that what was at stake for the applicant was significant as he risked imprisonment prior to the amendments of the CC of March 2000 and had a restriction placed on him for the duration of the proceedings not to leave his place of residence without the consent of the Prosecutor's Office (see paragraphs 17 and 38 above).

61. Considering the above, the Court finds that the "reasonable time" requirement of Article 6 § 1 of the Convention was breached in the present case on account of the criminal proceedings against the applicant having

lasted for almost four years and five months without concluding one level of jurisdiction.

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

III. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

62. The applicant complained under Article 6 § 2 of the Convention that the presumption of innocence was not adhered to because in the course of the criminal proceedings against him the authorities allegedly treated him as guilty of the offence and failed to carry out a balanced investigation. The latter was allegedly evidenced by the instruction of the Sofia District Prosecutor's Office of 10 November 1995 given to the investigating authorities (see paragraph 17 above).

Article 6 § 2 of the Convention provides as follows:

> "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

63. The Court reiterates that the presumption of innocence enshrined in Article 6 § 2 of the Convention is one of the elements of a fair criminal trial guaranteed by the first paragraph of the same article. The presumption of innocence will be violated if a statement of a public official concerning a person charged with a criminal offence reflects an opinion that he is guilty before he has been proved so according to law. It suffices, even in the absence of any formal finding, that there is some reasoning to suggest that the official regards the accused as guilty. Moreover, the presumption of innocence may be infringed not only by a judge or court but also by other public authorities, including the prosecution (see *Daktaras v. Lithuania*, no. 42095/98, §§ 41-42, ECHR 2000-X and *Falkovych v. Ukraine* (dec.), no. 64200/00, 29 June 2004)

64. In the present case, the Court is not convinced by the applicant's arguments and considers that there are no indications that the authorities started from the presumption that the applicant had committed the offence with which he was charged. The instruction of the Sofia District Prosecutor's Office of 10 November 1995 to the investigation to "procedurally document the offence" does not suffice as it is contained in a document which is primarily internal in nature and rather points to the existence of a strong suspicion that the applicant had committed the offence rather than to represent an expressed opinion that the latter was guilty before having been proven so according to law.

65. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

66. 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

67. The applicant claimed 30,000 euros (EUR) as compensation for the non-pecuniary damage arising out of the alleged violations of his rights under the Convention. He claimed that he felt frustration, anguish and despair as a result of the length of the proceedings and that the restriction on him movement for the duration hampered his work as a journalist, tarnished his reputation in the community and did not allow him to travel abroad.

68. The Government stated that the claim was unsubstantiated, that it was excessive and that it did not correspond to the size of the awards made by the Court in previous similar cases. They noted that the applicant had not lost his job as a journalist nor had he been convicted to a term of imprisonment. In respect of the restriction on his movement, the Government argued that it was the lightest possible restriction that could be imposed on a defendant and that no proof had been presented that a request to leave the country or travel anyway else had ever been made by the applicant, which they claimed were usually granted by the prosecuting authorities.

69. The Court, noting its finding of a violation in respect of the excessive length of the criminal proceedings under Article 6 of the Convention (see paragraph 60 above), taking into account the circumstances of the case and making its assessment on an equitable basis, awards the applicant EUR 1,600 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount.

B. Costs and expenses

70. The applicant claimed 7,620 United States dollars (USD – approximately EUR 5,972) for 127 hours of legal work by his lawyer on the proceedings before the Court, at an hourly rate of USD 60 (approximately EUR 47). He also claimed EUR 170 in respect of translation, postal and telephone charges, as well as photocopying and office supplies' expenses. The applicant submitted a legal fees agreement and a timesheet. He also presented four receipts for 3,398.50 Bulgarian levs (BGN – approximately EUR 1,743) for payments made to his lawyer by the Bulgarian Lawyers for Human Rights Foundation as compensation for the legal work on several

case before the Court among which are payments relating to the present case totalling at least BGN 1,414.50 (approximately EUR 725). He also enclosed an agreement for the translation expenses, a receipt for BGN 168.35 (approximately EUR 86) for the payment made to the translator and a postal receipt for BGN 21.70 (approximately EUR 11) all of which were on the account of the Bulgarian Lawyers for Human Rights Foundation.

71. The Government disputed the timesheet, stating that the number of hours claimed was excessive, and challenged the validity of the invoices and other expense documents presented by the applicant.

72. 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, taking into account that the Court found a violation only of Article 6 § 1 of the Convention on account of the excessive length of the criminal proceedings (see paragraph 60 above), it considers that the number of hours claimed seems excessive and that a reduction is necessary in that respect. Accordingly, 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

73. 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 complaint concerning the length of the criminal proceedings against the applicant;

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

3. *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 applicant;

4. *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 1,600 (one thousand six hundred euros) in respect of non-pecuniary damage;

(ii) EUR 500 (five hundred euros) in respect of costs and expenses;

(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;

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

Done in English, and notified in writing on 15 February 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia WESTERDIEK
Registrar

Peer LORENZEN
President