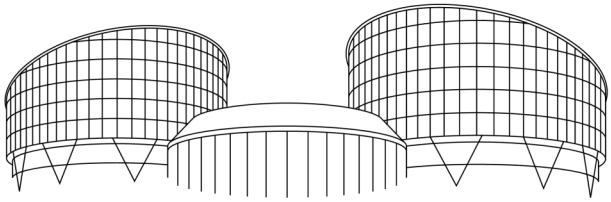

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF STEFANOV & YURUKOV v. BULGARIA

(Application no. 25382/04)

JUDGMENT

STRASBOURG

1 April 2010

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

In the case of Stefanov & Yurukov v. Bulgaria,

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

Peer Lorenzen, *President,*
Renate Jaeger,
Karel Jungwiert,
Rait Maruste,
Mark Villiger,
Isabelle Berro-Lefèvre,
Zdravka Kalaydjieva, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 9 March 2010,

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

PROCEDURE

1. The case originated in an application (no. 25382/04) against the Republic of Bulgaria lodged with the Court on 24 June 2004 under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Bulgarian nationals, Mr Rangel Vulchev Stefanov and Mr Mitko Zdravkov Yurukov, who were born in 1972 and 1971 respectively and live in Plovdiv.

2. The applicants were represented by Mrs S. H. Stefanova and Mr A. Atanasov, lawyers practising in Plovdiv. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. On 19 May 2008 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. On 18 June 1993 a car was broken into and a number of items were stolen. Shortly thereafter the police apprehended the applicants and took them to a police station. There they confessed that they had committed the offence and gave explanations on the manner in which they had acted. On the same day the victim of the offence was questioned.

5. On 29 July 1993 a preliminary investigation was opened against the applicants for the theft of the items from the car.

6. On 21 April 1999 the preliminary investigation (предварително следствие) was transformed into a police investigation (дознание).

7. On 3 February 2002 an expert report for assessing the value of the stolen items was commissioned.

8. On 5 and 12 February 2002, respectively, the two applicants were charged and questioned as suspects. On 14 October 2002 they were questioned by a judge.

9. Between February and June 2002 four witnesses were questioned.

10. On 2 April 2003 the prosecution authorities filed an indictment with the Plovdiv District Court and on the 11th the President of the Court scheduled the first hearing for 15 January 2004.

11. At the hearing held on 15 January 2004 the court approved a plea bargain agreement between the applicants and the prosecuting authorities and discontinued the proceedings.

THE LAW

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

12. The applicants 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 ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

13. The Government contested the applicants' assertions. They argued that for the purpose of Article 6 of the Convention the criminal proceedings commenced only when the applicants were charged on 5 and 12 February 2002. Thus, the Government considered that they had lasted for a little less than two years. Accordingly, they considered that the applicants' complaints should be rejected as being manifestly ill-founded.

14. The Court, however, finds that the period to be taken into consideration for the purpose of Article 6 of the Convention began on 18 June 1993 when the applicants were questioned by the police and confessed to having committed the offence (see *Myashev v. Bulgaria*, no. 43428/02, § 15, 8 January 2009 and *Yankov and Manchev v. Bulgaria*, nos. 27207/04 and 15614/05, §§ 17-18 and §§ 23-24, 22 October 2009). The period ended on 15 January 2004. It thus lasted ten years, five months and eighteen days for one level of jurisdiction.

15. 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.

16. The Court notes that it has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see, most recently, *Myashev*, §§ 14-18 and *Yankov and Manchev*, §§ 17-26, both cited above).

17. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of persuading it to reach a different conclusion in the present case. In particular, the major source of delay in the present case was the lack of sufficient activity from August 1993 to February 2002 when the case was effectively dormant. Thus, having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the "reasonable time" requirement.

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

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

18. The applicants further complained of the lack of an effective remedy in respect the excessive length of the proceedings against them. They relied on Article 13 of the Convention.

19. The Government did not comment.

20. The Court notes that this complaint is linked to the one examined above and must therefore likewise be declared admissible.

21. The Court notes that it has frequently found violations of Article 13 of the Convention in cases raising issues similar to the one in the present case (see, with further references, *Myashev*, § 22 and *Yankov and Manchev*, §§ 32-33, both cited above). It sees no reason to reach a different conclusion in the present case.

22. There has therefore been a violation of Article 13 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

23. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

24. The applicants claimed 20,000 euros (EUR) in respect of the non-pecuniary damage sustained as a result of the unreasonable length of the proceedings against them. They additionally claimed EUR 6,000 for the non-pecuniary damage suffered as a result of the lack of effective remedies against the excessive length of the proceedings.

25. The Government contested these claims.

26. The Court considers that the applicants must have suffered certain non-pecuniary damage as a result of the excessive length of the proceedings against them and the lack of effective remedies in this respect. Taking into account the particular circumstances and the awards made in similar cases, and ruling on an equitable basis, as required under Article 41, the Court awards each of the applicants EUR 6,200, plus any tax that may be chargeable.

B. Costs and expenses

27. The applicants sought the reimbursement of EUR 3,360 incurred in lawyers' fees for the proceedings before the Court, and of EUR 155 for other expenses. In support of their claim they presented postal receipts, a legal-services agreement and a timesheet approved by the applicants and their representatives. The applicants asked that any award under this head be made directly payable to their lawyers, Ms S. Stefanova and Mr A. Atanasov.

28. The Government contested these claims.

29. According to the Court's case-law, applicants are entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award them EUR 1,000, plus any tax that may be chargeable to the applicants. This sum is to be paid into the bank account of their legal representatives, Ms S. Stefanova and Mr A. Atanasov.

C. Default interest

30. 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* that there has been a violation of Article 13 of the Convention;

4. *Holds*
   (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian levs at the rate applicable at the date of settlement:
      (i) to each applicant, EUR 6,200 (six thousand two hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) jointly to both applicants, EUR 1,000 (one thousand euros), plus any tax that may be chargeable to them, in respect of costs and expenses, to be paid into the bank account of their legal representatives, Ms S. Stefanova and Mr A. Atanasov;
   (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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 1 April 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek	Peer Lorenzen
Registrar	President