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

FIRST SECTION

CASE OF TODOROV v. BULGARIA

(Application no. 39832/98)

JUDGMENT

STRASBOURG

18 January 2005

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 Todorov v. Bulgaria,

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

Mr C.L. ROZAKIS, *President*,
Mr L. LOUCAIDES,
Mrs F. TULKENS,
Mr P. LORENZEN,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mr D. SPIELMANN, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having deliberated in private on 14 December 2004,

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

PROCEDURE

1. The case originated in an application (no. 39832/98) against the Republic of Bulgaria lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Mr Nikolai Petkov Todorov, a Bulgarian national born in 1968 and living in Plovdiv ("the applicant"), on 13 February 1998.

2. The applicant was represented by Mr M. Ekimdjiev, a lawyer practising in Plovdiv. The Bulgarian Government ("the Government") were represented by their Agents, Ms M. Pasheva and Ms M. Kotzeva, of the Ministry of Justice.

3. The applicant alleged, in particular, that the length of the proceedings he had taken against the Customs Administration and the Prosecutor's Office was excessive and that he did not have effective remedies in this respect.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

6. By a decision of 14 March 2002 the Court (First Section) declared the application partly inadmissible.

7. By a decision of 6 November 2003 the Court (First Section) declared the remainder of the application admissible.

8. The parties did not file observations on the merits.

9. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed First Section (Rule 52 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

10. The applicant was born in 1968 and lives in Plovdiv.

A. The impounding, confiscation and returning of the applicant's car

11. On 14 August 1992 the applicant bought a car from a Mr I.G.

12. On 14 September 1992 the car was impounded by the police who explained to the applicant that it had been stolen. On 17 September 1992 the applicant requested the return of the car but received no reply.

13. On 30 September 1992 a criminal investigation was opened by the Plovdiv District Prosecutor's Office against a Mr N.P. for forgery of customs' declarations for the importation of cars, one of which was the applicant's. The prosecutor in charge of the case ordered that the car be held as a piece of evidence.

14. In October and November 1992 the applicant four times requested from the prosecution authorities the return of his car, but received no reply.

15. On 30 November 1992 the car was handed over to the Plovdiv Customs Administration by order of the Plovdiv District Prosecutor's Office. On 29 January 1993 the head of the Plovdiv Customs Administration made a penal order whereby he confiscated the car on the ground that it had been illegally imported into the country.

16. The applicant appealed against the penal order to the Plovdiv District Court. In a judgment of 28 July 1993 that court quashed the order and on 18 August 1993 the car was returned to the applicant.

B. Proceedings against the Prosecutor's Office and the Customs Administration

17. On 22 November 1993 the applicant brought an action for damages against the Plovdiv Customs Administration and the Chief Prosecutor's Office, complaining that the impounding of his car and the unlawful order for its confiscation had prevented him from using it during a period of eleven months.

18. Noting that the applicant had failed to adduce written evidence in support of his allegations, the Plovdiv District Court instructed him to do so within seven days. The applicant complied with these instructions and the court set the case down for hearing.

19. The first hearing took place on 24 March 1994. The court noted the absence of a representative of one of the defendants, the Chief Prosecutor's Office, and ordered that it be summoned for the next hearing. The applicant's lawyer requested the court to subpoena as a witness the prosecutor who had ordered the car to be handed over to the Customs Administration. The court rejected the request by an order of 28 March 1994, holding that the prosecutor's actions could be proved through the official documents he had made and that his testimony would therefore be superfluous.

20. The second hearing was held on 13 June 1994. No representative of the Chief Prosecutor's Office appeared but a prosecutor was present in his capacity of "special party" to the proceedings. The "special party" prosecutor requested that the proceedings be stayed in order to take into account the pending criminal investigation against Mr N.P., as it related to the same car. In particular, there was information that the number on the engine and on the chassis of the car had been forged and that it had been illegally imported. The applicant's lawyer agreed and requested that the actions against the Chief Prosecutor's Office and against the Customs Administration be severed. The court refused to sever the actions and acceded to the request for staying the proceedings, finding that there existed criminal elements the determination of which was decisive for the outcome of the civil dispute before it, within the meaning of Article 182 § 1 (d) of the Code of Civil Procedure ("the CCP").

21. On 20 June 1994 the applicant appealed against the order for staying the proceedings to the Plovdiv Regional Court. He argued that the outcome of the criminal investigation had nothing to do with the civil proceedings. Moreover, there were no criminal elements whose determination was decisive for the outcome of the civil dispute, as the prosecution authorities had transmitted the car to the customs authorities, thus excluding it from the evidence in the criminal investigation. The appeal was filed with the Plovdiv District Court. Noting that the applicant had not paid the requisite fee, the Plovdiv District Court refused to proceed with the appeal, instructing the applicant to pay the fee. The applicant did so and on 26 July 1994, after the Customs Administration had filed its answer, the Plovdiv District Court forwarded the appeal to the Plovdiv Regional Court. In a final order of 26 September 1994 the Plovdiv Regional Court dismissed the appeal, confirming the lower court's holding that there existed criminal elements whose determination was decisive for the outcome of the civil dispute, within the meaning of Article 182 § 1 (d) of the CCP. In particular, the car bought by the applicant had been impounded as a piece of evidence.

The fact that later it had later been delivered to the customs authorities did not change that. Nor was it significant that the criminal proceedings were against a third party and that the penal order against the applicant had been quashed, because the applicant could still suffer the negative consequences of the criminal proceedings, e.g. the forfeiture of the car.

22. On 21 December 1995 the applicant's lawyer requested the Plovdiv District Court to resume the proceedings. In view of the request, on 27 December 1995 the court sent a letter to the Plovdiv Regional Investigation Service, asking whether the criminal investigation against Mr N.P. had been completed. The Investigation Service informed the court that the proceedings were still pending.

23. In the following years the Plovdiv District Court made several inquiries about the stage reached in the investigation against Mr N.P. By letters of 27 February 1996, 22 September 1997, 1 October 1998 and 27 November 2000 the Plovdiv Regional Investigation Service informed the court that the criminal proceedings were still pending, without specifying whether it was undertaking any investigative actions.

24. Following a further inquiry by the court, the Plovdiv Regional Investigation Service notified it by a letter of 13 August 2001 that the case had been sent to the Plovdiv District Prosecutor's Office on 6 July 2001. Taking into consideration that the investigation was still pending, by an order of 20 August 2001 the Plovdiv District Court refused to resume the proceedings. It seems that there was no activity during the period between 1995-2001 in the criminal investigation against Mr N.P.

25. On 26 November 2001 the Plovdiv District Prosecutor's Office discontinued the criminal proceedings against Mr N.P.

26. The Plovdiv District Court then resumed the proceedings and held a hearing on 28 March 2002. The applicant requested a change in the names of the defendants, as during the time when the proceedings had been stayed the Chief Prosecutor's Office had been renamed the Prosecutor's Office of the Republic of Bulgaria and the Plovdiv Customs Administration had become the Customs Agency at the Ministry of Finance. The applicant also increased the amount of his claim for damages and requested leave to call one witness. The defendant Prosecutor's Office requested the court to include the case-file of the investigation against Mr N.P. in the record. The court acceded to all of the parties' requests and adjourned the case.

27. Three hearings listed for 7 and 21 May and 4 June 2002 did not take place because the Customs Agency had not been duly summoned.

28. A hearing listed for 2 July 2002 failed to take place because the Customs Agency, despite being duly summoned, did not send a representative. Its counsel requested the court in writing to adjourn the case because he was ill and could not attend.

29. The court held a hearing on 10 September 2002. The applicant and his lawyer did not appear. The court found that the case was ready for adjudication and reserved judgment.

30. On 13 September 2002 the applicant's lawyer requested the court to reopen the oral proceedings, as he had been unable to organise his defence prior to the 10 September 2002 hearing because between 15 August and 10 September 2002 the case-file had been sent to the Ministry of Justice in Sofia and he could not therefore prepare for the hearing. The court acceded to his request and scheduled a hearing for 22 October 2002.

31. The last hearing before the Plovdiv District Court was held on 22 October 2002. The court heard the applicant's witness and the parties' closing arguments.

32. In a judgment of 28 November 2002 the Plovdiv District Court partly allowed the applicant's claim for damages against the Customs Agency, awarding him 1,000 Bulgarian levs, and dismissed his claim against the Prosecutor's Office.

33. On 12 December 2002 the applicant appealed against the judgment to the Plovdiv Regional Court.

34. The Plovdiv Regional Court held a hearing on 3 June 2003. The applicant and the Customs Agency did not appear. The Prosecutor's Office requested the court to include in the record the case-file of the administrative case in which the Plovdiv District Court had quashed the penal order for the confiscation of the applicant's car. The court granted the request and adjourned the case until 23 October 2003.

35. A hearing took place on 23 October 2003. The case-file of the administrative case was not produced, because it had already been destroyed in the court's archive. The court adjourned the case until 27 January 2004.

36. On 18 December 2003 (date of the latest information from the parties) the proceedings were still pending before the Plovdiv Regional Court.

II. RELEVANT DOMESTIC LAW AND PRACTICE

37. The CCP provides, in Articles 182 § 1 (d) and 183, that a court examining a civil action:

> "182. ... shall stay the proceedings:
>
> ...
>
> (d) whenever criminal elements, the determination of which is decisive for the outcome of the civil dispute, are discovered in the course of the civil proceedings...
>
> 183. Proceedings which have been stayed shall be resumed *ex officio* or upon a party's request after the respective obstacles have been removed..."

Article 222 of the CCP provides:

> "The findings contained in a final judgment of a criminal court and concerning the issue whether the act in question has been committed, its unlawfulness and the perpetrator's guilt are binding on the civil court when it examines the civil consequences of the criminal act."

In a judgment of 18 January 1980 (реш. № 3421 от 18 януари 1980 г. по гр.д. № 1366/1979 г., I г.о.) the First Civil Division of the Supreme Court held:

> "In principle the fact of a crime may only be established under the procedures of the Code of Criminal Procedure. That is why, when an alleged civil right derives from a fact which constitutes a crime under the Criminal Code, the civil court, according to Article 182 § 1 (d) of the [CCP], is obliged to stay the civil proceedings. This is necessary in order to respect the decision of the criminal court. It is mandatory for the civil courts regardless of the crime in issue. The mandatory binding force of the decisions of the criminal courts is set out in Article 222 of the [CCP]."

38. The new Article 217a of the CCP, adopted in July 1999, provides:

> "1. Each party may lodge a complaint about delays at every stage of the case, including after oral argument, when the examination of the case, the delivery of judgment or the transmitting of an appeal against a judgment is unduly delayed.
>
> 2. The complaint about delays shall be lodged directly with the higher court, no copies shall be served on the other party, and no State fee shall be due. The lodging of a complaint about delays shall not be limited by time.
>
> 3. The chairperson of the court with which the complaint has been lodged shall request the case file and shall immediately examine the complaint in private. His instructions as to the acts to be performed by the court shall be mandatory. His order shall not be subject to appeal and shall be sent immediately together with the case file to the court against which the complaint has been filed.
>
> 4. In case he determines that there has been [undue delay], the chairperson of the higher court may make a proposal to the disciplinary panel of the Supreme Judicial Council for the taking of disciplinary action."

THE LAW

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

39. The applicant alleged that the length of the civil proceedings he had commenced against the Customs and the Prosecutor's Office had been unreasonable, in breach of Article 6 § 1 of the Convention.

Article 6 § 1 provides, as relevant:

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

A. Period to be taken into consideration

40. The Court notes that the proceedings at issue commenced on 22 November 1993 (see paragraph 17 above). On 18 December 2003, date of the latest information from the parties, they were pending before the second-instance court (see paragraph 36 above). The proceedings have therefore lasted at least ten years and one month for two levels of court.

B. Reasonableness of the length of the proceedings

1. Arguments of the parties

41. The applicant submitted, concerning the conduct of the authorities, that the staying of the proceedings had been unjustified, as they had nothing to do with the criminal proceedings against Mr N.P. It could not be claimed that the outcome of the civil proceedings against the Customs and the Prosecutor's Office would be dependent on the determination of criminal elements, as envisaged in Article 182 § 1 (d) of the CCP. By delivering the car to the Customs, thus excluding it from the exhibits in the criminal case against Mr N.P., the Prosecutor's Office had itself acknowledged that the car was not linked to the commission of a crime. Even assuming, however, that the civil proceedings were dependent on the criminal ones, there existed no justification for the inactivity of the investigation authorities for more than eight years. The fact that the court had repeatedly inquired about the conduct of the investigation did not mean that that there had been activity in the criminal proceedings. Later, after the resumption of the civil proceedings, three hearings had been adjourned due to the faulty summoning of the Customs Agency, which was entirely attributable to the authorities. Finally, the adjourning of the hearings before the Plovdiv Regional Court on 3 June and on 23 October 2003 had not been warranted.

42. As regards his own conduct, the applicant maintained that his initial failure to submit written evidence had been rectified within seven days, which was a negligible amount of time compared with the overall length of the proceedings. He had not paid a fee for filing his appeal against the staying of the proceedings because proceedings in damages against State bodies were exempt from court fees. Finally, he could not be held responsible for the reopening of the oral proceedings after the hearing on 10 September 2002, as his lawyer had been unable to prepare himself because the case-file had been missing from the court during the twenty-five days preceding the hearing.

43. The Government maintained that the proceedings had not exceeded a reasonable time. The staying of the proceedings had been necessary because of the concurrent criminal proceedings.

44. According to the Government, part of the delay was due to the applicant's conduct. In particular, his statement of claim had not been supported by written evidence, he had not paid the fee for his appeal against the staying of the proceedings, and he had requested the court to reopen the oral proceedings because he had been unable to organise his defence for the hearing held on 10 September 2002.

2. The Court's assessment

45. The Court will assess the reasonableness of the length of the proceedings in the light of the 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. What was at stake for the applicant in the litigation has also to be taken into account (see, among many other authorities, *Süßmann v. Germany*, judgment of 16 September 1996, *Reports of Judgments and Decisions* 1996-IV, pp. 1172-73, § 48, and *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

46. As regards the complexity of the case, noting that the proceedings concerned a claim for non-pecuniary damages resulting from an act which had been overturned in previous proceedings, the Court does not consider that the case presented any exceptional legal or factual difficulties.

47. Concerning the applicant's conduct, the Court notes that he failed to enclose written evidence to his statement of claim and failed to pay the fee for his interlocutory appeal against the staying of the proceedings (see paragraphs 18 and 21 above). However, the Court does not consider that these omissions significantly contributed to the overall duration of the proceedings. As regards the fact that the oral proceedings before the Plovdiv District Court had to be reopened because the applicant's lawyer had not been able to prepare and was absent during the hearing on 10 September 2002, the Court, noting that this failure was due to the sending of the case-file to the Ministry of Justice in the period immediately preceding the hearing (see paragraphs 29 and 30 above), does not consider that the resulting delay can be held against the applicant.

48. As to the conduct of the competent authorities, the Court notes that the civil proceedings were stayed on 13 June 1994, approximately seven months after their institution (see paragraph 20 above). It is not the Court's task to determine whether there existed “criminal elements, the determination of which [was] decisive for the outcome of the civil dispute”, within the meaning of Article 182 § 1 (d) of the CCP, and whether the proceedings were thus properly stayed, because, as a general rule, it is for the domestic courts to establish the facts and interpret and apply national

law. The Court will not interfere with their rulings unless the applicant succeeds in demonstrating that they acted arbitrarily. Nor can the Court find that a system providing for the dependence of civil proceedings on criminal ones, when they concern the same or related facts, goes *per se* against the requirements of Article 6 of the Convention. However, the Court notes that after the civil proceedings were stayed, no activity took place in the concurrent criminal proceedings for more than six years (see paragraph 24 above). This delay, which appears unjustified, in turn led to a delay in the civil proceedings.

49. Moreover, even after the resumption of the civil proceedings in March 2002 additional delays continued to accumulate. In particular, the Court notes that three hearings failed to take place because one of the defendants, the Customs Agency, had not been properly summoned (see paragraph 27 above). A further hearing was adjourned because the Customs Agency, which is a State body and hence engages the responsibility of the authorities, did not send a representative (see paragraph 28 above).

50. Finally, the Court notes that in December 2003, more than ten years after their institution, the proceedings were still pending before the second-instance court (see paragraph 36 above).

51. In the light of the criteria laid down in its case-law and having regard to the overall duration of the proceedings and the delays attributable to the authorities, the Court considers that the length of the proceedings complained of failed to satisfy the reasonable time requirement.

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

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

52. The applicant also maintained, relying on Article 13 of the Convention, that he had had no effective remedy in respect of the length of the proceedings. Article 13 reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

53. The Government submitted that the very fact that the applicant was able to prosecute an action against the Customs and the Prosecutor's Office was indicative of the existence of effective remedies. He could, within the context of these proceedings, vindicate his right to damages.

54. The applicant replied that apparently the Government had failed to understand the nature of the complaint. In his view, his averment that there had been a breach of Article 13 did not need additional arguments.

55. The Court reiterates that Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the

Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 is thus to require the provision of a domestic remedy to deal with the substance of an arguable complaint under the Convention and to grant appropriate relief.

56. The scope of the Contracting States' obligations under Article 13 varies depending on the nature of the applicant's complaint. However, the remedy required by Article 13 must be "effective" in practice as well as in law (see *Kudła v. Poland* [GC], no. 30210/96, § 157, ECHR 2000-XI).

57. Remedies available to a litigant at domestic level for raising a complaint about the length of proceedings are "effective", within the meaning of Article 13, if they "[prevent] the alleged violation or its continuation, or [provide] adequate redress for any violation that [has] already occurred" (see *Kudła*, cited above, § 158). Article 13 therefore offers an alternative: a remedy will be considered "effective" if it can be used either to expedite a decision by the courts dealing with the case, or to provide the litigant with adequate redress for delays that have already occurred (see *Mifsud v. France* (dec.)[GC], no. 57220/00, ECHR 2002-VIII).

58. Having regard to its conclusion in respect of the applicant's complaint under Article 6 § 1 (see paragraph 51 above), the Court is of the view that the complaint was arguable. The Court must therefore determine whether, in the particular circumstances of the present case, there existed in Bulgarian law any means for obtaining redress in respect of the length of the proceedings.

59. The Court first notes that the Government did not indicate any remedy that could have expedited the determination of the applicant's case or provided him with adequate redress for the delays that had already occurred. It also notes that the only apparent remedy against the excessive length of civil proceedings in Bulgaria is the "complaint about delays" introduced with the adoption of the new Article 217a of the CCP in July 1999. This procedure allows a litigant to apply to the chairperson of the higher court when the examination of the case, the delivery of judgment or the transmitting of an appeal against judgment is unduly delayed. The chairperson has the power to issue binding instructions to the court examining the case (see paragraph 38 above).

60. However, having regard to the particular circumstances of the present case, the Court does not consider it necessary to rule in the abstract whether the "complaint about delays" is an effective remedy for the purposes of Article 13 of the Convention. Even if it is accepted that after its introduction in July 1999 the applicant could have effectively fought against the further delays by filing such complaints, that could not have made up for the delay already accumulated during the period 1993-99. In this connection, the Court notes that the effectiveness of a remedy may depend on whether it has a significant effect on the length of the proceedings as a

whole (see *Holzinger v. Austria (No. 1)*, no. 23459/94, § 22, ECHR 2001-I, *Holzinger v. Austria (No. 2)*, no. 28898/95, § 21, 30 January 2001, and *Rajak v. Croatia*, no. 49706/99, §§ 33-35, 28 June 2001).

61. Moreover, regardless of whether a "complaint about delays" may provide a remedy for delays which are directly attributable to the civil court examining a case, it is doubtful whether the applicant could have successfully used this procedure while the civil proceedings were stayed to await the outcome of the concurrent criminal proceedings, because the criminal proceedings, while pending, constituted an "obstacle", within the meaning of Article 183 of the CCP, to the resumption of the civil ones (see paragraphs 22, 24 and 37 above). It thus seems that until 26 November 2001, when the criminal investigation against Mr N.P. was discontinued, the "complaint about delays" could not have provided a remedy to the applicant.

62. The Court concludes, therefore, that in the particular circumstances of the present case a "complaint about delays" cannot be considered an effective remedy irrespective of its possible effectiveness in principle.

63. Since the bulk of the delay in the present case occurred because of the decision of the civil court to stay the proceedings during the pendency of the concurrent criminal proceedings and the lack of any activity in these proceedings (see paragraph 48 above), the Court must also examine whether there existed any means whereby the applicant could have obtained the speeding up of the criminal proceedings. In this connection, it notes that the Government have not argued, and it does not appear, that at the relevant time there existed in Bulgarian law any remedies whereby a party to stayed civil proceedings could obtain the acceleration of criminal proceedings which were blocking their resumption.

64. In sum, the Court finds that in the particular circumstances of the present case the applicant did not have at his disposal any domestic remedies whereby he could have expedited the examination of his civil action.

65. Furthermore, as regards compensatory remedies, the Court has not found it established that in Bulgarian law there exists the possibility to obtain compensation or other redress for excessively lengthy proceedings.

66. Accordingly, there has been a violation of Article 13 of the Convention in that the applicant had no domestic remedy whereby he could enforce his right to a "hearing within a reasonable time" as guaranteed by Article 6 § 1 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

67. 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

68. The applicant claimed 13,000 euros (EUR) in compensation for non-pecuniary damage. He made detailed submissions in respect of each violation of the Convention, emphasising the gravity of the case and referring to some of the Court's judgments.

69. Referring to some of the Court's judgments in previous length-of-proceedings cases against Bulgaria, the Government submitted that the claim was exaggerated and excessive. They were of the view that the amount of the compensation should be commensurate to the living standards in Bulgaria.

70. The Court considers that it is reasonable to assume that the applicant has suffered some distress and frustration on account of the unreasonable length of the proceedings and the lack of any remedies in this respect. Taking into account the circumstances of the case and making its assessment on an equitable basis, the Court awards the applicant the sum of EUR 3,000, plus any tax that may be chargeable on that amount.

B. Costs and expenses

71. The applicant claimed EUR 2,000 for 5 hours of legal work on the domestic proceedings and 35 hours of legal work on the Strasbourg proceedings, at the hourly rate of EUR 50. He claimed an additional EUR 260 for translation costs (33 pages), copying, mailing and overhead expenses. The applicant submitted a fees' agreement between him and his lawyer, a time-sheet and postal receipts. He requested that the amounts awarded by the Court under this head be paid directly to his legal representative, Mr M. Ekimdjiev.

72. The Government stated that: (i) the Court had declared part of the application inadmissible, (ii) the hourly rate of EUR 50 was excessive, regard being had to the usual lawyers' fees in Bulgaria; (iii) the legal work on the domestic proceedings had nothing to do with the subject-matter of the case before the Court; moreover, no documents had been submitted to prove that the applicant had indeed paid any fees for this work; and (iv) the claim for translation and other expenses, with the exception of postage, was not supported by documents.

73. The Court notes that the applicant has submitted a fees agreement and his lawyer's time sheet concerning work done on his case and that he has requested that the costs and expenses incurred should be paid directly to his lawyer.

74. According to the Court's case-law, costs and expenses are reimbursable only in so far as it has been shown that they have been actually and necessarily incurred and were reasonable as to quantum. In the instant case, the Court considers that the expenses incurred by the applicant in an effort to expedite the domestic proceedings, which were unjustifiably lengthy, were necessary and relevant to the complaints under the Convention. The Court does not find that the hourly rate of EUR 50 is excessive as such (see *Anguelova v. Bulgaria*, no. 38361/97, § 176 *in fine*, ECHR 2002-IV, and *Nikolov v. Bulgaria*, no. 38884/97, § 111, 30 January 2003). However, it considers that the number of hours claimed is excessive and that a reduction is necessary on that basis. It also considers that a reduction should be applied on account of the fact that part of the application was declared inadmissible (see paragraph 6 above). Finally, the claim for translation expenses is not supported by relevant documents.

75. Having regard to all relevant factors and deducting EUR 701 received in legal aid from the Council of Europe, the Court awards EUR 800 in respect of costs and expenses, payable into the bank account of the applicant's lawyer in Bulgaria.

C. Default interest

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

2. *Holds* that there has been a violation of Article 13 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 according to 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) EUR 3,000 (three thousand euros) in respect of non-pecuniary damage;

(ii) EUR 800 (eight hundred euros) in respect of costs and expenses, payable into the bank account of the applicant's lawyer in Bulgaria;
(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;

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

Done in English, and notified in writing on 18 January 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President