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

FIFTH SECTION

CASE OF VLADIMIR GEORGIEV v. BULGARIA

(Application no. 61275/00)

JUDGMENT

STRASBOURG

16 October 2008

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 Vladimir Georgiev v. Bulgaria,

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

Peer Lorenzen, *President,*
Rait Maruste,
Karel Jungwiert,
Volodymyr Butkevych,
Mark Villiger,
Mirjana Lazarova Trajkovska,
Zdravka Kalaydjieva, *judges,*

and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 25 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 61275/00) 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 Vladimir Angelov Georgiev ("the applicant"), on 16 June 2000.

2. The applicant was represented by Mr Y. Grozev, a lawyer practising in Sofia. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Kotseva, of the Ministry of Justice.

3. The applicant alleged, in particular, that he had been ill-treated in detention and that the authorities had failed to effectively investigate his allegations in this respect.

4. On 17 October 2006 the President of the Fifth Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3 of the Convention).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1976 and lives in Sofia.

A. The criminal proceedings against the applicant and his pre-trial detention

6. On 19 November 1998 a criminal investigation was opened against the applicant on allegations of wilfully inflicting intermediate bodily harm on a former colleague of his at a construction site. On 15 February 1999 he was charged and ordered to pay bail. On 18 February 1999 he appealed to the Sofia District Prosecutor's Office, asking for a reduction of the bail. On an unspecified date that office granted the request, but its decision was not notified to the applicant. As he was unaware of it, he did not pay the bail. Accordingly, on 21 April 1999 an order was made for him to be placed in pre-trial detention. He was not notified of that order either.

7. At about 2.40 p.m. on 28 May 1999, following a visit by a police officer to his home earlier that day, the applicant appeared at the first district police department in Sofia. At about 5.30 p.m. he was formally taken into custody. Several days later the applicant's lawyer lodged a request for his release with the Sofia District Court. On 8 June 1999 that court made an order to that effect and the applicant was set free on 10 June 1999.

B. The applicant's alleged ill-treatment between 28 and 31 May 1999

8. According to the applicant's allegations, some time after being taken into custody the applicant was taken to a room on the fourth floor of the police department, where he saw a uniformed and a plain clothes police officer. Shortly after that the investigator in charge of his case, Ms T., came in and asked him to sign certain papers relating to his pre-trial detention and the criminal charges against him. The applicant refused, whereupon she started shouting at him. The applicant still refused to sign, as in the papers it was stated that he did not wish to give evidence, which was not the case. He said that the offence alleged against him was not an arrestable one. After a verbal exchange the uniformed police officer started kicking the applicant on the left tibia and beneath the right knee. The plain clothes officer punched him in the face and the chest and slapped him on the face. In the same time Ms T. insisted that the applicant sign the papers presented to him, which he eventually did.

9. After that another uniformed police officer entered the room and, together with the one already present, took the applicant out. They cuffed both of his hands to a pipe running at head level along the corridor. He spent about two hours in this position.

10. At about 7.30 p.m. the applicant was taken to the cell block, situated on the top floor of the police department. He was put in a cell with three other detainees, Mr G.M., Mr T.T. and Mr E.

11. On the morning of the following day, 29 May 1999, the applicant requested to contact his mother or a lawyer, or to be interviewed by the

investigator. However, nothing ensued. As the applicant was persisting in his requests, on 30 May 1999 the guards apparently became annoyed with him.

12. According to the applicant's allegations, on the evening of 30 May 1999 he was let out of his cell together with Mr G.M. to go to the toilet. On the way back, in the corridor, he waited for Mr G.M. to move away from him and closer to the cell, and broke the glass of one of the corridor's windows. Hearing the noise, Mr G.M. turned to see what was happening. The applicant made him a sign to move away, and Mr G.M. went back to the cell. Then the applicant took a piece of broken glass and cut himself on the forearms, allegedly in protest against the way in which he was being treated in custody. Thereupon one of the guards, sergeant R.V., came out of the guards' room, holding two truncheons. He hit the applicant on the forearms to make him drop the piece of glass. Then he kicked him into the toilet and started hitting his waist with the truncheons. After that he threw him to the ground and started kicking him. The applicant lost consciousness. Sergeant R.V. poured water over him to restore him to consciousness, pulled him upright and made him strip naked. Then he poured more water on the applicant to clean him. He put him back in the cell naked and handcuffed him lying on the floor, with his hands secured behind his back. The applicant spent two to three hours like this. At about 7 p.m. chief sergeant S.S. arrived and ordered that the handcuffs be secured in front of the applicant's body, and that he be dressed and covered with a blanket.

13. On the morning of 31 May 1999, some time before 9 a.m., the applicant banged his head against the cell wall several times, allegedly to protest against his treatment. Thereupon sergeant R.V. dragged him out of the cell and hit his thighs with a truncheon. As a result of his being dragged along the floor the applicant's back was grazed.

14. Later that day the investigator in charge of the applicant's case, Ms T., was informed of the incident and ordered that the applicant's handcuffs be removed and that he be examined by the in-house doctor. As the applicant was unable to move alone, one of his cellmates, Mr T.T., helped him go there. The doctor, first lieutenant N.T., found that the applicant was uncommunicative and somnolent. Later the applicant was taken to a hospital operated by the Ministry of Internal Affairs, where he was examined by doctor K. After that he was taken back to the detention facility, where he remained until 10 June 1999.

15. On 11 June 1999, the day following his release, the applicant made colour photographs of his body. They showed a number of bruises.

16. On 12 June 1999 the applicant was examined by a doctor at the Chair of Forensic Medicine and Professional Ethics of the Sofia Medical Academy. The doctor noted the following marks on his body: (i) a grazing scar measuring 4 to 2.5 cm on the right upper part of the forehead, near the hair, accompanied by a very slightly pronounced yellowish-violet

haematoma; (ii) a pale-rose scar of a healing wound, about 1 cm long, in the middle of the lower part of the chin; (iii) three oval yellowish-violet haematomas with diameters from 3 to 5 cm on the chest; (iv) an area measuring 28 to 20 cm covering the lower left third of the thorax, the flank and the buttocks, where one could observe a number of obliquely positioned strip-shaped haematomas, almost parallel to one another, higher in the back and lower in the front; this area was almost diffusely swollen and filled with blood, but there existed distinct haematomas consisting of two dark strips around one light strip, each being about 0.5 to 1 cm wide and 8 to 15 cm long; (v) a number of yellowish-violet haematomas with various shapes and sizes (some strip-shaped, others oval) on the right shoulder and the lateral-back surface of both forearms; (vi) a multitude of pale-rose strip-shaped scars on the internal side of the right forearm, along its length, and four such scars on the left forearm; some of those on the right one were crossed by transversal scars; the longitudinal ones, which were several millimetres wide, ran from the elbow to the wrist joint; (vii) spotted yellowish-violet haematomas on the highest third of the right forearm; (vii) a haematoma measuring 20 to 13 cm on the lateral surface of the upper part of the left thigh; (ix) a similar haematoma, measuring 19 to 16 cm, on the front surface of the right thigh; (x) a haematoma measuring 10 to 8 cm on the back surface of the right thigh; (xi) a number of yellowish-violet haematomas on both knees and on the front surface of both legs beneath the knee, almost diffusely from the knees to the ankles. The doctor was of the opinion that the injuries to the applicant's body were consistent with the blows described by him. In his view, these injuries amounted to intermediate bodily harm within the meaning of the 1968 Criminal Code (see paragraph 25 below) and were the result of a number of blows made with considerable strength and causing pain for prolonged periods of time.

C. The applicant's attempts to trigger the opening of criminal proceedings against the officers who allegedly ill-treated him

17. On an unspecified date the applicant complained to the Sofia Regional Military Prosecutor's Office and requested the opening of criminal proceedings against the officers who had allegedly ill-treated him. After conducting a preliminary inquiry, during which it gathered certain documents but carried out no interviews, in a decision of 19 October 1999 a prosecutor of that office rejected the applicant's request. He stated that at the time of his arrest the applicant had not had any "health-related complaints". The prosecutor further found that when the guards had tried to take away the piece of glass which the applicant had used to cut his veins, he had waved it towards them and his cellmates, which had compelled the use of force and handcuffs. He also briefly described the banging of the applicant's head against the cell wall, but did not refer to any of the

allegations of beating with truncheons and kicking, and did not mention the applicant's injuries. He stated that the guards' actions had been in line with the applicable legal provisions and therefore did not amount to a criminal offence.

18. The applicant appealed to the Military Appellate Prosecutor's Office. In a decision of 29 December 1999 the deputy head of that office dismissed the appeal. He stated that the inquiry conducted pursuant to the applicant's allegations had been "especially thorough and comprehensive". The applicant had broken a window and had tried to cut his veins. When the guards had intervened, he had put up strong resistance, including reaching out with a piece of glass, which had driven the guards to forcibly handcuff him. Later on he had banged his head against the cell wall. All of this led to the conclusion that no criminal offence had been committed by the guards.

19. The applicant appealed to the Supreme Cassation Prosecutor's Office. In a decision of 26 January 2000 a prosecutor of that office dismissed the appeal. He described the 30 May 1999 incident in some detail and noted that the guards had denied beating the applicant or using force against him beyond what had been necessary to restrain him and take the piece of glass away from him. As regards the 31 May 1999 incident, he did not make any mention of beating following the applicant's banging his head against the cell wall. He also described the applicant's injuries, as noted in the 12 June 1999 medical certificate, but said that they could have been the result of guards' subduing his resistance and placing him on the ground. The injuries could have also been caused by the applicant's cellmates. There was furthermore no indication that he had been medically examined on being taken into custody, whereas the medical certificate presented by him did not specify the time when the injuries had been sustained. The decision was sent to the applicant on 1 February 2000.

20. The applicant later lodged a criminal complaint with the Sofia District Court. In a decision of 22 May 2000 the court dismissed the complaint, holding that the facts alleged by the applicant amounted to a publicly prosecutable offence, which made it impossible to institute private criminal proceedings pursuant to them.

D. The applicant's complaints to the Ministry of Justice and the Ministry of Internal Affairs

21. On an unspecified date the applicant complained to the Ministry of Justice. In a letter of 22 June 1999 the director of the pre-trial detention facilities directorate of the Ministry advised him that an internal inquiry had been carried out. It had found that in using force against the applicant the custodial staff had acted adequately and had not exceeded their powers. If the applicant disagreed with this conclusion, it remained open to him to issue proceedings under the 1988 State Responsibility for Damage Act (see

paragraph 28 below). A second complaint by the applicant resulted in a letter dated 4 August 1999 by the same director, in which he stated that a second check had confirmed that the guards had not used excessive force. It invited the applicant to name the guards who had allegedly ill-treated him.

22. Meanwhile, on 3 August 1999, the Ministry of Internal Affairs wrote to the applicant, apparently in reply to a complaint. It stated that there was no indication that the applicant had ever been taken to the First District Police Department in Sofia.

23. On 25 October 1999 the applicant wrote again to the Ministry of Justice, requesting an investigation of the incident. On 3 November 1999 the Deputy Minister of Justice replied that sergeant R.V. had denied hitting the applicant and had stated that he had used force only to the extent necessary to restrain him. There was no indication that the applicant had been subjected to degrading treatment. This was also confirmed by the decision of the Sofia Regional Military Prosecutor's Office. If the applicant disagreed with this conclusion, it remained open to him to bring an action under the 1988 State Responsibility for Damage Act (see paragraph 28 below).

24. In reply to further complaints by the applicant, the Deputy Minister of Justice advised him in a letter of 16 March 2000 that the matter fell within the competence of the military prosecution authorities.

II. RELEVANT DOMESTIC LAW

A. Criminal remedies against ill-treatment by State agents

25. Articles 128, 129 and 130 of the 1968 Criminal Code make it an offence to cause minor, intermediate or grievous bodily harm to another. Article 131 § 1 (2) of that Code provides that if the harm is caused by police officers in the course of or in connection with the performance of their duties the offence is aggravated. The offence is publicly prosecutable (Article 161 of the Code).

26. Article 192 §§ 1 and 2 of the 1974 Code of Criminal Procedure, as in force at the relevant time, provided that proceedings concerning publicly prosecutable offences could be opened only by a prosecutor or an investigator. They had to open an investigation whenever they received information, supported by sufficient evidence, that an offence might have been committed (Articles 187 and 190 of the Code). If the information given to the prosecuting authorities was not supported by evidence, they had to order a preliminary inquiry to determine whether the opening of a criminal investigation was warranted (Article 191 of the Code, as in force at the material time).

27. The offences allegedly committed by police officers were tried by military courts (Article 388 § 1 (2) of the Code, as in force at the relevant time). Where a case would fall within the jurisdiction of the military courts, the preliminary investigation was handled by military investigators and prosecutors.

B. Civil remedies against ill-treatment by State agents

28. Section 1 of the Act originally called the 1988 State Responsibility for Damage Caused to Citizens Act (*Закон за отговорността на държавата за вреди, причинени на граждани* – "the SRDA"), renamed on 12 July 2006 the 1988 State and Municipalities Responsibility for Damage Act (*Закон за отговорността на държавата и общините за вреди*), as in force at the material time, provided that the State was liable for damage suffered by individuals as a result of the unlawful acts of civil servants committed in the course of or in connection with the performance of their duties. The State's liability is strict, that is, no fault is required to be established on the part of the civil servants in the commission of these acts (section 4 *in fine* of the Act).

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLES 3 AND 13 OF THE CONVENTION

29. The applicant complained under Article 3 of the Convention that he had been ill-treated by the staff of the detention facility where he had been kept between 28 May and 10 June 1999.

30. The applicant also complained under Article 3 of the Convention that the authorities had not properly investigated his allegations of ill-treatment. He additionally complained that he had not had effective remedies in this respect, in breach of Article 13 of the Convention.

31. Articles 3 and 13 provide as follows:

Article 3 (prohibition of torture)

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

Article 13 (right to an effective remedy)

"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."

A. Admissibility

32. The Court considers that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, nor inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The alleged ill-treatment

33. The applicant submitted that the medical report drawn up after his release and the prosecutors' decisions not to open criminal proceedings made it clear that he had been ill-treated while in custody. While one of the bruises on his back could have been caused by efforts to restrain him, the rest were visibly the result of brutal and unnecessary force applied against him by the guards, long after they had overcome his initial resistance.

34. The Government did not submit observations.

35. The Court first observes that the applicant's very numerous and widespread injuries (see paragraph 16 above) were clearly indicative of treatment running counter to the prohibition set out in Article 3 of the Convention.

36. There is no indication in the file that the applicant was injured when he was taken into custody. While he was apparently not medically examined at that point in time, the authorities noted that he had no "health-related complaints" (see paragraphs 17 above). The injuries were noted by a medical doctor two days after his release, and were apparently visible on photographs taken one day after his release (see paragraphs 15 and 16 above). Where a person, when taken in custody, is in good health, but is found to be injured at the time of release – as in the case at hand –, it is incumbent on the State to provide a plausible explanation how these injuries were caused (see, among many other authorities, *Tomasi v. France*, judgment of 27 August 1992, Series A no. 241-A, pp. 40-41, §§ 108-11; *Selmouni v. France* [GC], no. 25803/94, § 87, ECHR 1999-V; and *Toteva v. Bulgaria*, no. 42027/98, § 50, 19 May 2004). Neither the domestic authorities nor the Government in the proceedings before the Court tried to provide such an explanation, or to produce appropriate evidence that could cast doubt on the account given by the applicant. On the contrary, the decisions of the prosecution authorities make it clear that the guards had

used force to restrain the applicant. The Court therefore comes to the conclusion that the injuries suffered by the applicant were the result of treatment for which the respondent State bears responsibility.

37. It remains to be determined whether or not some or all of these injuries were the result of force strictly necessary to restrain the applicant while he was enraged on 30 May 1999 (see, *mutatis mutandis*, *Rehbock v. Slovenia*, no. 29462/95, § 76, ECHR 2000-XII). On this point, the Court observes that they were numerous and widespread. While some of them – for instance, those to his back and forearms – may have been the inevitable result of the guards' effort to make him drop the piece of glass and immobilise him, a number of others – for instance, those to his thorax, flanks, buttocks, thighs and legs – appear to be the result of random blows, probably with truncheons, made with considerable force (see paragraph 16 above). According to the applicant's uncontroverted account, most of these blows were administered while he was lying defenceless on the ground after being subdued. The Court therefore finds that the force used against him was clearly excessive, both in intensity and duration. According to its settled case-law, any recourse to physical force in respect of a person deprived of his liberty which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 (see *Ribitsch v. Austria*, judgment of 4 December 1995, Series A no. 336, p. 26, § 38; and *Toteva*, cited above, § 55).

38. There has therefore been a violation of Article 3 of the Convention.

2. The effectiveness of the investigation

39. The applicant submitted that the inquiry which had served as a basis for the prosecution authorities' decision not to open criminal proceedings against the guards had been deficient in several respects. It had been based solely on documents issued by the police. Neither the guards nor the applicant's cellmates had been interviewed. Finally, the prosecutors had made contradictory findings of fact and had not explained the origin of all the applicant's injuries.

40. The Government did not submit observations.

41. The Court considers that the medical evidence and the applicant's complaints together raised a reasonable suspicion that his injuries could have been caused by the custodial staff of the place where he was kept.

42. Where an individual raises an arguable claim that she has been seriously ill-treated by the police in breach of Article 3, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires by implication that there should be an effective official investigation. This investigation should be

capable of leading to the identification and punishment of those responsible (see *Toteva*, cited above, § 62, with further references).

43. In this connection, the Court observes that the prosecution authorities did carry out an inquiry following the applicant's allegations. However, it appears flawed in several respects. Firstly, it does not seem that any of the participants in, or the eyewitnesses to, the incidents of 28, 30 and 31 May 1999 – the officers and the applicant's cellmates – were interviewed. Secondly, no medical documents were gathered and no medical doctors – for instance, first lieutenant N.T. and doctor K., who examined the applicant while he was in custody (see paragraph 14 above) – were interviewed either. Thirdly, the investigation did not comprehensively account for all of the applicant's numerous and widespread injuries. They were not even mentioned by the prosecutors of the Sofia Regional Military Prosecutor's Office and the Military Appellate Prosecutor's Office. The prosecutor at the Supreme Cassation Prosecutor's Office described them, but surmised, without giving any reasons, that all of them could have been the result of the applicant's being restrained or to a beating by his cellmates. Finally, the prosecution authorities' decisions did not even mention the alleged beating on 28 May 1999 (see paragraphs 17-19 above).

44. The same goes for the internal inquiries by the Ministry of Justice, which appear even more cursory and which partly relied on the prosecution authorities' findings (see paragraphs 21-24 above).

45. An action under the 1988 State Responsibility for Damage Act, suggested twice to the applicant as an avenue of redress by the Ministry of Justice, would have been premised on the State's strict liability and was capable of resulting only in an award of compensation (see paragraph 28 above), but not in the punishment of those responsible for the ill-treatment. It cannot therefore be considered as satisfying the procedural requirements of Article 3 (see *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, *Reports of Judgments and Decisions* 1998-VIII, p. 3286, § 86 *in fine*; and *Krastanov v. Bulgaria*, no. 50222/99, § 60, 30 September 2004).

46. In view of the foregoing, Court finds that there has been a violation of Article 3 of the Convention in this respect as well.

47. Having regard to this conclusion, the Court sees no need to make a separate finding under Article 13 (see, *mutatis mutandis*, *Angelova and Iliev v. Bulgaria*, no. 55523/00, § 106, ECHR 2007-..., citing further authorities).

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

48. The applicant complained under Article 5 § 1 (c) of the Convention that his deprivation of liberty between 28 May and 10 June 1999 had been unlawful and arbitrary.

49. Article 5 § 1 (c) provides:

"Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so[.]"

50. The Court observes that the applicant was taken into custody on 28 May 1999 and released on 10 June 1999 (see paragraph 7 above). His application to the Court was lodged on 16 June 2000, more than six months after that. His efforts to trigger the opening of criminal or disciplinary proceedings against the officers who had allegedly ill-treated him, being only able to lead to these officers' criminal conviction or disciplinary punishment, did not amount to a remedy for his grievance under Article 5 § 1 (c). The decisions given by the authorities in response to his requests that the officers be criminally or otherwise prosecuted have therefore no bearing on the running of the six-month time-limit in respect of this complaint (see *Ivan Vasilev v. Bulgaria*, no. 48130/99, § 83, 12 April 2007).

51. It follows that this complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

52. 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

53. The applicant claimed 767 euros (EUR) in respect of pecuniary damage. He submitted that as a result of his detention he was unable to go to work and was dismissed disciplinarily by his employer. As a result of this dismissal he was deprived of one month's salary and prevented from applying for unemployment benefits. Following his dismissal, he remained unemployed for six months. His monthly salary before his dismissal was 213.86 Bulgarian levs (BGN) (equivalent to EUR 109.67). He therefore claimed BGN 1497.02 (or EUR 767.70), which amounted to seven monthly salaries.

54. The applicant further claimed EUR 8,000 in respect of non-pecuniary damage. EUR 6,000 of that amount was for the pain and suffering endured by him on account of his ill-treatment and EUR 2,000 for the mental suffering brought about by his unlawful detention.

55. The Government did not comment on the applicant's claims.

56. The Court first notes that an award of just satisfaction can only be based on breaches of Articles 3 of the Convention arising from the applicant's ill-treatment and the lack of an effective investigation.

57. With regard to the claim in respect of pecuniary damage, the Court observes that the damage suffered bears no causal relation with the breaches of Article 3 of the Convention, but solely with the alleged breach of Article 5 § 1. However, the Court made no findings on the merits of this claim, as it declared it inadmissible. Consequently, it makes no award under this head.

58. For the same reason, the Court makes no award in respect of the non-pecuniary damage flowing from the alleged breach of Article 5 § 1.

59. On the other hand, the Court accepts that the applicant has suffered considerable pain and suffering on account of his ill-treatment in custody. In addition, the lack of an effective investigation in this regard must have caused him anguish and frustration. Having regard to the awards made in previous similar cases and to the circumstances of this case, the Court decides to award the entire amount claimed by the applicant under this head (EUR 6,000), plus any tax that may be chargeable.

B. Costs and expenses

60. The applicant sought the reimbursement of EUR 2,800 incurred in lawyers' fees for forty hours of work on the proceedings before the Court. He submitted a fees agreement between him and his lawyer and a time-sheet. He requested that any amount awarded by the Court under this head be made directly payable to his lawyer, Mr Y. Grozev.

61. The Government did not comment on the applicant's claim.

62. According to the Court's settled case-law, applicants are entitled to the reimbursement of their 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, having regard to the information in its possession and the above criteria, and noting that part of the application was declared inadmissible, the Court considers it reasonable to award the sum of EUR 2,400, plus any tax that may be chargeable to the applicant. This amount is to be paid directly into the bank account of the applicant's representative, Mr Y. Grozev.

C. Default interest

63. 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 complaints concerning (i) the applicant's alleged ill-treatment and (ii) the effectiveness of the investigation in this respect admissible and the remainder of the application inadmissible;

2. *Holds* that there has been a violation of Article 3 of the Convention on account of the applicant's ill-treatment;

3. *Holds* that there has been a violation of Article 3 of the Convention on account of the lack of an effective investigation;

4. *Holds* that it is not necessary to examine the complaint under Article 13 of the Convention;

5. *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, the following amounts, to be converted into Bulgarian levs at the rate applicable at the date of settlement:
      (i) EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 2,400 (two thousand four hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, to be paid directly into the bank account of the applicant's representative, Mr Y. Grozev;
   (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;

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

Done in English, and notified in writing on 16 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek Registrar	Peer Lorenzen President