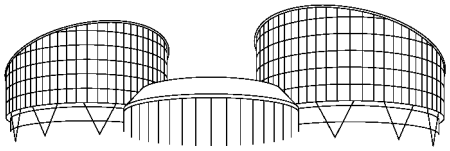

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF DIMITROVI v. BULGARIA

(Application no. 12655/09)

JUDGMENT
(merits)

STRASBOURG

3 March 2015

FINAL

03/06/2015

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Dimitrovi v. Bulgaria,

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

Guido Raimondi, *President,*
Päivi Hirvelä,
George Nicolaou,
Ledi Bianku,
Nona Tsotsoria,
Zdravka Kalaydjieva,
Faris Vehabović, *judges,*

and Françoise Elens-Passos, *Section Registrar,*

Having deliberated in private on 10 February 2015,

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

PROCEDURE

1. The case originated in an application (no. 12655/09) 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 two Bulgarian nationals, Ms Angelina Nedyalkova Dimitrova and Mr Konstantin Konstantinov Dimitrov ("the applicants"), on 23 January 2009.

2. The applicants were represented by Mr Y. Grozev and Ms N. Dobreva, lawyers practising in Sofia. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. The applicants alleged that property of theirs had been unfairly forfeited to the State.

4. On 2 September 2013 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants were born in 1973 and 2004 respectively and live in Sofia.

6. The applicants are the widow and the son of Mr Konstantin Dimitrov Dimitrov, who died in December 2003.

A. First proceedings under the CPA

7. In 2001, following publications in the media concerning the income of the first applicant and her husband, the Sofia regional public prosecutor's office opened proceedings against them under Chapter Three of the Citizens' Property Act ("the CPA", see paragraphs 23-28 below). In a decision of 23 August 2002 a prosecutor from that office discontinued the proceedings.

8. The prosecutor found, first, that for the period from 1990 to 1992 Mr Dimitrov's expenditure had exceeded his income, but that in 2002 he had paid the difference to the State budget. Accordingly, there was no ground to pursue the proceedings for that period (section 45 of the CPA, see paragraph 27 below).

9. Next, the prosecutor described the income and the expenditure of the first applicant and Mr Dimitrov for the period from 1993 to 1997, but did not make an explicit finding as to whether she considered their income lawful within the meaning of the CPA.

10. Lastly, analysing the couple's income and expenditure for the period from 1997 to 2001, the prosecutor concluded that they were equivalent, and that there were no grounds for bringing forfeiture proceedings under the CPA.

B. Second proceedings under the CPA

11. On an unspecified date the Sofia regional public prosecutor's office opened new proceedings under Chapter Three of the CPA. On 18 November 2004 it brought an action in the Sofia Regional Court against the two applicants, seeking the forfeiture of two flats, one in Varna and one in Sofia, a garage, an office and a share in a plot of land in Sofia, a holiday house in the Borovets resort and a Toyota Land Cruiser car, all acquired by the first applicant and Mr Dimitrov with income received between 1990 and 1999, which was allegedly "unlawful" within the meaning of section 34 of the CPA (see paragraph 25 below).

12. The Sofia Regional Court gave a judgment on 28 November 2006. It analysed in detail the income received by the first applicant and her husband and their expenditure during the period at issue. Due to the difficulties in making an assessment because of the high inflation of that time, the court relied on expert conclusions, calculating all the amounts in United States dollars (USD).

13. The Regional Court accepted in particular, referring to rent contracts, the tax declaration submitted by the first applicant in 1998 and witness statements by those involved, that in 1997 the first applicant and her husband had received substantial income from farming.

14. On the basis of its calculations, the Regional Court concluded that the couple's expenditure for the period at issue had exceeded their proved income by approximately USD 40,000, which by virtue of section 34 of the CPA represented "unlawful" income. Accordingly, allowing the action brought before it in part, the Sofia Regional Court ordered the forfeiture of property of that value, namely the flat in Varna, the share in a plot of land in Sofia and approximately one-quarter of the flat in Sofia.

15. Both parties lodged appeals.

16. On 17 March 2008 the second-instance Sofia Court of Appeal gave a judgment. It found that the applicants had not established all the income considered proven by the Regional Court, in particular as concerns the family's farming business. According to the Court of Appeal it was unacceptable to prove such income on the basis of the evidence presented before the lower court, without any further documents showing, for example, expenditure and revenue received. It also considered unproven two monetary gifts, one of them allegedly made by the first applicant's parents and the other allegedly received on the occasion of her wedding to Mr Dimitrov in 1997.

17. The Court of Appeal calculated that the expenditure of the first applicant and her husband for the period from 1990 to 1999 had exceeded their income by approximately USD 286,000. It considered further that the properties for which the prosecution authorities sought forfeiture had been acquired with this "unlawful" income, and accordingly ordered the forfeiture of the flats in Sofia and Varna and the office, the garage and the share in a plot of land in Sofia. As to the remaining properties at issue, namely a holiday house in Borovets and a car, given that they had in the meantime been transferred to third parties, the Court of Appeal ordered the applicants to pay their monetary value to the State.

18. The applicants lodged an appeal on points of law. In a final decision of 28 July 2008 the Supreme Court of Cassation refused to accept the appeal for examination.

19. On the basis of the judgment of 17 March 2008, on 28 January 2010 the regional governor of Varna issued a decision declaring the flat in Varna State property. Similar decisions concerning the properties in Sofia were issued by the Sofia regional governor on 27 July and 4 August 2011. Following these decisions the applicants surrendered possession to the State.

20. On 20 July 2010 the applicants paid 178,815 Bulgarian levs (BGN) to the State budget, representing the value of the remaining forfeited properties, namely the holiday house in Borovets and the car, and the court fees and other costs due by them. In the domestic proceedings they had been ordered to pay BGN 14,019.34 in total in fees and other expenses.

C. Other developments

21. In 2003 and 2004 the relevant tax authorities carried out probes into the income received by the first applicant and her husband between 1997 and 2002. Their decisions, calculating the income tax due, were given on 23 June and 26 November 2004.

22. In respect of the first applicant the respective decision was partly quashed on 20 June 2007 by the Supreme Administrative Court.

II. RELEVANT DOMESTIC LAW AND PRACTICE

23. The Citizens' Property Act ("the CPA", *Закон за собствеността на гражданите*) was adopted in 1973. While most of its provisions were repealed at the beginning of the 1990s, its Chapter Three, entitled "Forfeiture of non-work-related income received by citizens", remained in force until 2005.

24. The provisions of Chapter Three were not applicable to proceeds of crime, as sections 31(2) and 42(4) of the CPA provided that such assets were to be treated under the Criminal Code and the Code of Criminal Procedure. Section 31(2) provided also that any income unreported for the purpose of taxation was to be dealt with under tax legislation.

25. By section 34 of the CPA, until proven otherwise, it was presumed that "unlawful" or "non-work-related" income had been received where 1) the value of a person's property manifestly exceeded the income lawfully received by him and the members of his household, or 2) the expenditure by a person and his household manifestly exceeded their lawful income. Any "unlawful" or "non-work-related" income within the meaning above, or property acquired by means thereof, was to be forfeited. The State's claims in that regard could not lapse through prescription (section 36(2)).

26. The "unlawful" or "non-work-related" income within the meaning of the CPA was, in principle, to be established by a special regional commission, which was to submit its conclusions to the appropriate prosecution office. Where satisfied that the relevant conditions were fulfilled, the competent prosecutor was then to bring an action seeking forfeiture (sections 38, 41 and 42(1) of the CPA). Where a prosecutor was aware that a person had received "unlawful" or "non-work-related" income, he could directly bring an action for forfeiture, without a proposal to that effect by a commission (section 42(3)).

27. Any preliminary inquiries under the CPA were to be discontinued where the person voluntarily declared to the authorities any "unlawful" or "non-work-related" income and paid it, or the value of the properties acquired by means thereof, to the State budget (section 45).

28. Since 1989 the courts have examined very few actions under Chapter Three of the CPA (see, for example, *Решение № 103 от 20.01.2010 на*

САС по гр.д. №352/2006 г., ГК, 2-ри състав, and *Решение № 20 от 14.08.2012 г. на ВКС по гр. д. № 988/2010 г. IV г. о., ГК*, both concerning the same case).

29. Article 97(4) of the Code of Civil Procedure, in force until 2007, stated that a claim for the establishment of a "criminal circumstance" could be filed in the framework of civil proceedings, in cases where the person could not be prosecuted or the criminal proceeding had been discontinued or stayed, for reasons such as amnesty, prescription or death of the suspected perpetrator, or where the perpetrator had not been found. A similar provision is contained in Article 124(5) of the Code of Civil Procedure currently in force.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1

30. The applicants complained under Articles 6 § 1 and 13 of the Convention and Article 1 of Protocol No. 1 that their properties had been forfeited unfairly. The Court is of the view that the complaints are most appropriately examined under Article 1 of Protocol No. 1 alone, which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Arguments of the parties

1. The Government

31. The Government contested the complaint. Without elaborating further, they were of the view that the applicants had abused their right of individual petition.

32. The Government argued that the forfeiture of unlawfully acquired property was a "common policy" of the European countries, which did not contradict the Convention. They referred to the Court's judgments in the cases of *Welch v. the United Kingdom* (9 February 1995, Series A no. 307-A), and *Phillips v. the United Kingdom* (no. 41087/98, ECHR 2001-VII).

33. The Government pointed out that the case under examination did not concern the determination of criminal charges against the applicants, and that in the proceedings against them the authorities had not sought to identify any criminal conduct.

34. The Government were of the view that the forfeiture of the applicants' property was aimed at protecting justice and equality and guaranteeing just conditions for economic initiative. They considered that it had been meant as a reaction to the "manifestation of inexplicable material prosperity" on the part of individuals who "according to the dominant opinion" had committed "grave breaches, including of a criminal nature, of the economic order established by the Constitution and the laws". Furthermore, the Government considered that the CPA was aimed at combatting "profiting from activities which are in principle forbidden, such as tax evasion, non-payment of mandatory insurance, smuggling, corruption, trafficking in human beings and drugs, extortion, large-scale theft, and others". It was applicable in cases where forfeiture following a conviction would be "ineffective".

35. Lastly, the Government argued that the measures against the applicants had been proportionate, and pointed out that their property had been forfeited following adversarial judicial proceedings in which the applicants had been given the opportunity to demonstrate the lawful origin of their property.

2. The applicants

36. The applicants disagreed. They argued that the CPA did not provide sufficient protection from arbitrariness. This was so, first, because it did not specify the preconditions for opening proceedings under its Chapter Three, and did not provide for any time-limits, which meant that the authorities "could open, suspend, close and open again proceedings at will at any time". Moreover, the CPA placed the burden of proof of the lawfulness of their income on those whose properties the authorities sought to seize, and did not indicate any reliable methods of calculating income and expenditure over a lengthy period of time: a period marked, in this case, by radical economic transition and galloping inflation. Lastly, the applicants pointed out that the CPA provided for overly "drastic" measures where "unlawful" income was identified, such as the forfeiture of all property acquired with that income.

37. The applicants argued in addition that the measures provided for by Chapter Three of the CPA served no legitimate purpose. They were not aimed at countering tax evasion, because this area was covered by existing specialised tax legislation. Their purpose was not the confiscation of proceeds of crime, seeing that in proceedings under Chapter Three the prosecution authorities were not obliged to establish that the properties to be forfeited were linked to any criminal conduct. Nor had the authorities

attempted to establish any criminal conduct in the case at hand. In that connection the applicants submitted documents issued by the authorities certifying that Mr Dimitrov had never been charged with, prosecuted for or convicted of a criminal offence.

38. The applicants argued that in addition to being flawed in principle, the CPA had been applied to their case in an unjust and arbitrary manner. Despite concluding in 2002 that there was no ground to open proceedings under that Act against the first applicant and her husband, in 2004 the prosecution authorities had in fact opened new proceedings. These concerned the same period of time, dating back as early as 1990. In addition, the courts had unjustifiably refused to accept as "lawful" substantial amounts of income received by the first applicant and her husband, and had otherwise decided the case unfairly.

B. The Court's assessment

1. Admissibility

39. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. In particular, the Court sees no reason to accept the Government's unspecified allegations that the applicants were abusing their right of individual petition.

40. Accordingly, the application must be declared admissible.

2. Merits

41. The Court notes at the outset that the present case differs from the inadmissible case of *Nedyalkov and Others v. Bulgaria* ((dec.), no. 663/11, 10 September 2013), which concerned the application of different legislation adopted in 2005. In addition, in that case the applicants did not complain of forfeiture but of the freezing of alleged proceeds of crime with a view to their possible forfeiture.

42. Article 1 of Protocol No. 1 guarantees the right of property (see *Marckx v. Belgium*, 13 June 1979, § 63, Series A no. 31). It comprises three distinct rules: the first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the use of property in accordance with the general interest (see, among others, *Sporrong and Lönnroth v. Sweden*, 23 September 1982, § 61, Series A no. 52). However, the three rules are not distinct in the sense of being unconnected: the second and third rules are concerned with particular

instances of interference with the right to peaceful enjoyment of property, and should therefore be construed in the light of the general principle enunciated in the first rule (see *Lithgow and Others v. the United Kingdom*, 8 July 1986, § 106, Series A no. 102).

43. It is not in dispute between the parties in the present case that the forfeiture of the applicants' property amounted to an interference with their right to peaceful enjoyment of their possessions as protected by Article 1 of Protocol No. 1. As in other forfeiture cases (see, for example, *Phillips*, cited above, § 51; *Saccoccia v. Austria*, no. 69917/01, § 86, 18 December 2008; *Bongiorno and Others v. Italy*, no. 4514/07, § 42, 5 January 2010; and *Paulet v. the United Kingdom*, no. 6219/08, § 64, 13 May 2014), the Court is of the view that that interference falls within the scope of the second paragraph of Article 1 of Protocol No. 1, which, *inter alia*, allows the Contracting States to control the use of property to secure the payment of penalties. Still, this provision must be construed in the light of the general principle set out in the first sentence of the first paragraph (see, among many examples, *Allan Jacobsson v. Sweden (no. 1)*, judgment of 25 October 1989, Series A no. 163, § 55).

44. The first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful. This means, in the first place, compliance with the relevant provisions of domestic law (see, among others, *Zlínsat, spol. s r.o., v. Bulgaria*, no. 57785/00, §§ 97-98, 15 June 2006). In the present case the forfeiture of the applicants' property was provided for under the CPA. The applicants have not argued that the Act's requirements were not met.

45. However, the requirement of lawfulness means also compatibility with the rule of law. It thus presupposes that the rules of domestic law must be sufficiently precise and foreseeable (see *Hentrich v. France*, 22 September 1994, § 42, Series A no. 296-A, and *Beyeler v. Italy* [GC], no. 33202/96, § 109, ECHR 2000-I), and that the law must provide a measure of legal protection against arbitrariness (see *Zlínsat, spol. s r.o.*, cited above, § 98).

46. In that regard, the Court notes that in the case at hand the CPA provided that the State's claims under its Chapter Three could not lapse through prescription (see paragraph 25 above), which meant that individuals being investigated under it could be required to provide evidence of the income they had received and their expenditure many years earlier and without any reasonable limitation in time. In addition, as apparent from the applicants' case, decisions of the prosecution authorities to discontinue proceedings under Chapter Three, after establishing that their continuation was unjustified, had no binding force. In the present case, even though they concluded in 2002 that there was no legal ground for bringing an action for forfeiture against the first applicant and her husband, in 2004 the

prosecution authorities opened new proceedings under Chapter Three, concerning the same people and the same period of time (see paragraphs 7-11 above). It thus appears that, as pointed out by the applicants (see paragraph 36 above), the prosecution authorities were free to "open, suspend, close and open again proceedings at will at any time". All this, coupled with the fact that the procedure under Chapter Three of the CPA was very rarely resorted to after 1989 (see paragraph 28 above), means that the CPA did not meet the foreseeability requirement set out in the paragraph above, which entails that a person should be able – if need be with appropriate advice – to reasonably foresee the consequences which a given action may cause (see, *mutatis mutandis*, *Lindon, Otchakovsky-Laurens and July v. France* [GC], nos. 21279/02 and 36448/02, § 41, ECHR 2007-IV).

47. In addition, the CPA was silent on what might constitute acceptable means of establishing that any income was "lawful" within its meaning at any moment of the period at issue. In the case, this led to the courts reaching conflicting conclusions as to whether the evidence presented to them was relevant and sufficient to prove as "lawful" part of the income claimed by the applicants (see paragraphs 13 and 16 above). Eventually the Court of Appeal found the income at issue unproven and thus "unlawful", even though it had not been alleged that the first applicant and her husband had breached any legal regulation. To this was added the fact that the burden of proof in proceedings under the CPA was placed on the defendants (see paragraph 25 above); thus, the applicants had to show that the first applicant and Mr Dimitrov had received "lawful" income, without there being any clarity as to what constituted "lawful" within the meaning of the CPA. This clearly placed on the applicants an excessive burden.

48. Moreover, in the present case the applicants were required to provide evidence of the first applicant and Mr Dimitrov's income and expenditure during a period of major economic change and galloping inflation, which, as recognised by the experts appointed by the courts in the case (see paragraph 12 above), rendered any assessment of the actual amounts received and spent very difficult. Although the parties to the proceedings, to avoid this difficulty, apparently agreed that all amounts could be calculated in United States dollars, this inevitably resulted in some uncertainty and imprecision.

49. The above circumstances could be seen as an additional indication that the applicants were not adequately protected from arbitrary action on the part of the authorities.

50. The above considerations could, in principle, suffice to lead the Court to the conclusion that the interference with the applicants' peaceful enjoyment of their possessions which had taken place was not "lawful", as required by Article 1 of Protocol No. 1, and thus in breach of that provision. Nevertheless, the Court wishes to also make the observations that follow.

51. Any interference with the enjoyment of the rights protected by Article 1 of Protocol No. 1 must also pursue a legitimate aim, as the

principle of a "fair balance" inherent in that provision presupposes the existence of a general interest of the community (see *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], no. 60642/08, § 105, ECHR 2014). However, even in view of the wide margin of appreciation enjoyed by States in implementing social and economic policies and thus in determining that general interest, as recognised by the Court on numerous occasions (see, for example, *Draon v. France* [GC], no. 1513/03, § 76, 6 October 2005; *J.A. Pye (Oxford) Ltd and J.A. Pye (Oxford) Land Ltd v. the United Kingdom* [GC], no. 44302/02, § 71, ECHR 2007-III; *Berger-Krall and Others v. Slovenia*, no. 14717/04, § 192, 12 June 2014; and *Ališić and Others*, cited above, § 106), the Court fails to perceive a legitimate aim pursued by the legislation applicable in the present case.

52. The Government argued that the provisions of Chapter Three of the CPA aimed to protect justice and equality and to guarantee just conditions for economic activity (see paragraph 34 above). However, the Court notes that these aims are too general and vague. Moreover, it is of the view that even if, at the time of its adoption in 1973, the legislation at issue could have pursued aims such as social egalitarianism, these can only with difficulty be justified after 1989, under a political system aiming to protect human rights and encouraging economic entrepreneurship.

53. The Government seemed to argue next that Chapter Three of the CPA was intended to allow the forfeiture of proceeds of crime, as they pointed out that it was aimed at combatting "profiting from activities which are in principle forbidden", such as certain criminal offences (see paragraph 34 above). However, the Court cannot accept this argument. It observes, first, that sections 31(2) and 42(4) of the CPA stipulated expressly that the procedures provided for in Chapter Three were inapplicable to proceeds of crime, as these were to be treated under the Criminal Code and the Code of Criminal Procedure (see paragraph 24 above). Moreover, it is significant that at no point during the domestic proceedings against the applicants did the authorities attempt to establish that the properties whose forfeiture was being sought had been acquired through proceeds of crime. This point was also indicated by the Government (see paragraph 33 above).

54. The Government also seemed to claim that the procedure under Chapter Three of the CPA was aimed at combatting tax evasion (see paragraph 34 above). Once again, the Court notes that this was expressly ruled out by the CPA, which stated, again in section 31(2), that the matter was to be treated under the applicable tax legislation (see paragraph 24 above). It is also noteworthy that that tax legislation was applied to the first applicant and her husband, as the tax authorities initiated probes into their incomes and in two decisions of 23 June and 26 November 2004 established the amount of tax due from them (see paragraph 21 above). Accordingly, in so far as it could be argued that the first applicant and her husband had

evaded the payment of taxes, the problem was dealt with under the applicable tax legislation, and the proceedings against the applicants under the CPA had nothing to do with that matter.

55. The Government have not referred to any other legitimate aim in the public interest possibly served by Chapter Three of the CPA, and the Court fails to perceive any.

56. The above is sufficient to conclude in the case that the requirements of Article 1 of Protocol No. 1 have not been met, and that accordingly there has been a violation of that provision.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

57. 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. Pecuniary damage

58. Under that head, the applicants claimed the value of their forfeited properties. They presented the reports of experts appointed in the domestic judicial proceedings, assessing, as of 2005, the value of the flat in Varna at BGN 71,800, the equivalent of approximately 36,630 euros (EUR), and the value of the properties in Sofia at BGN 601,400, the equivalent of EUR 306,840. Accordingly, the applicants claimed these amounts. As to the remaining properties, namely a holiday house in Borovets and a car, the applicants claimed the amount they had had to pay to the State budget for their monetary value, namely BGN 178,815, the equivalent of EUR 91,230, which also included the sums due for court fees and expenses (see paragraph 20 above).

59. The Government considered the claims above unjustified and urged the Court to dismiss them entirely.

60. The Court is of the view that the question of the application of Article 41, in so far as it concerns pecuniary damage, is not ready for decision (Rule 75 § 1 of the Rules of Court). Accordingly, the Court reserves that question and the further procedure and invites the Government and the applicants, within four months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, to submit their observations on the matter and, in particular, to inform it of any agreement that they may reach.

B. Non-pecuniary damage

61. The applicants claimed EUR 8,000 jointly under this head. They argued that they had suffered pain, anguish and frustration as a result of the violation of their rights.

62. The Government considered that claim exaggerated.

63. The Court is of the view that the applicants must have suffered non-pecuniary damage as a result of the forfeiture of their property, which breached their right to peaceful enjoyment of their possessions. Judging on the basis of equity, the Court considers it reasonable to award the two of them jointly EUR 3,000 under that head. To this should be added any tax that may be chargeable.

C. Costs and expenses

64. Lastly, the applicants claimed EUR 7,800 for seventy-eight hours of work performed by their representatives before the Court, Mr Grozev and Ms Dobreva, at an hourly rate of EUR 100. In support of this claim they presented a contract for legal representation and a time sheet. The applicants requested that any sum awarded under this head be transferred directly into the bank account of Mr Grozev.

65. As noted in paragraph 58 above, the applicants also claimed the fees and expenses they had been ordered to pay in the domestic proceedings. These amounted to BGN 14,019.34, the equivalent of EUR 7,150 (see paragraph 20 above).

66. The Government challenged the amount claimed for legal representation, and in particular the number of hours spent by the applicant's lawyers on the case.

67. According to the Court's case-law, an applicant is 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.

68. In the present case, the Court is of the view that the expenses for legal representation before the Court were actually and necessarily incurred. However, it considers the claim exaggerated, and finds it reasonable to award the applicants EUR 5,000 under this head. As requested by the applicants, this sum is to be transferred directly into the bank account of Mr Grozev.

69. The Court considers that the applicants' expenses in the domestic proceedings (see paragraph 65 above) were also actually and necessarily incurred, as in these proceedings the applicants were trying to prevent the violation of their rights found in the case. Accordingly, the Court awards the applicants the amount paid by them, namely EUR 7,150, in full.

70. To the above amounts should be added any tax that may be chargeable to the applicants.

C. Default interest

71. The Court considers it appropriate that the default interest rate 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 1 of Protocol No. 1;

3. *Holds* that the question of the application of Article 41, in so far as it concerns the claim for pecuniary damage, is not ready for decision; accordingly,
   (a) *reserves* the said question;
   (b) *invites* the Government and the applicants to submit, within four months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and to notify the Court of any agreement that they may reach;
   (c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be;

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) EUR 3,000 (three thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 12,150 (twelve thousand one hundred and fifty euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses, EUR 5,000 (five thousand euros) of which to be transferred directly into the bank account of Mr 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;

5. *Dismisses* the remainder of the applicants' claims for non-pecuniary damage and costs and expenses.

Done in English, and notified in writing on 3 March 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Registrar

Guido Raimondi
President