



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

FOURTH SECTION

**CASE OF DIMITROV AND HAMANOV v. BULGARIA**

*(Applications nos. 48059/06 and 2708/09)*

JUDGMENT

STRASBOURG

10 May 2011

*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 Dimitrov and Hamanov v. Bulgaria,**

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

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

Päivi Hirvelä,

Ledi Bianku,

Zdravka Kalaydjieva,

Nebojša Vučinić, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 3 May 2011,

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

**PROCEDURE**

1. The case originated in two applications (nos. 48059/06 and 2708/09) 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, Mr Stoyan Tsochev Dimitrov and Mr Nikolay Tomov Hamanov (“the applicants”), on 10 November 2006 and 6 January 2009 respectively.

2. The first applicant was represented by Mr A. Atanasov, a lawyer practicing in Plovdiv. The second applicant was represented by Mr M. Ekimdzhev and Ms K. Boncheva, also lawyers practising in Plovdiv. The Bulgarian Government (“the Government”) were represented by their Agents, Ms M. Kotseva and Ms N. Nikolova, of the Ministry of Justice.

3. Both applicants alleged, in particular, that the criminal charges against them had not been determined within a reasonable time, and that they had not had at their disposal effective remedies in that regard.

4. On 23 February 2010 the Court (Fifth Section) decided to grant priority to the applications under Rule 41 of its Rules. It declared application no. 2708/09 partly inadmissible and decided to give the Government notice of the complaints concerning the length of the criminal proceedings against the two applicants and the alleged lack of remedies in that regard. It also invited the parties to comment on whether the case was suitable for a pilot judgment procedure (see *Broniowski v. Poland* [GC], 31443/96, §§ 189-94 and points 3 and 4 of the operative provisions, ECHR 2004-V, and *Hutten-Czapska v. Poland* [GC] no. 35014/97, §§ 231-39 and points 3 and 4 of the operative provisions, ECHR 2006-VIII, as well as the

newly adopted Rule 61 of the Rules of Court, which was inserted by the Court on 21 February 2011 and came into force on 1 April 2011).

5. The application was later transferred to the Fourth Section of the Court, following the re-composition of the Court's sections on 1 February 2011.

## THE FACTS

### I. THE CIRCUMSTANCES OF THE CASE

6. The applicants were born in 1977 and 1963 respectively and live in Plovdiv.

#### **A. The criminal proceedings against Mr Dimitrov**

7. On 21 September 1995 Mr Dimitrov was arrested by the police while trying to break into a car with two other individuals, M.M. and S.D. He was taken to a police station, where he made a written confession. M.M., who was apparently also taken into custody, made a confession as well and turned over to the police two radio cassette players stolen from two cars which he had broken into earlier. On the same day a police officer drew up a report on the incident.

8. On 1 November 1995 a police investigator interviewed S.D. who confessed that he had committed the offence in concert with Mr Dimitrov and M.M.

9. On an unspecified date in 1995 the case was given the number 1074/95.

10. On 19 February 2002 the investigator in charge of the case interviewed one of the police officers who had arrested Mr Dimitrov. On 21 February 2002 he interviewed the owner of one of the cars, and on the same day ordered an expert report on the value of the stolen goods. The report was ready the same day. On 1 March 2002 the investigator interviewed the owner of another car.

11. On 4 March 2002 Mr Dimitrov was formally charged with attempted theft committed in concert with M.M. and S.D. He was interviewed in the presence of his counsel and pleaded guilty. On the same day the investigator interviewed S.D. as a witness. It seems that neither M.M. nor S.D. were charged.

12. On 22 May 2002 the Plovdiv District Prosecutor's Office, noting that in January 2000 M.M. had left Bulgaria and was in Spain, that it was impossible to establish the facts without interviewing him, and it was

necessary to charge him as well, decided to stay the proceedings pending his return. On 11 April 2005, noting that on 28 March 2005 M.M. had come back from Spain, the same Public Prosecutor's Office decided to resume the proceedings.

13. On 18 April 2005 M.M. was interviewed as a witness. He was interviewed again on 15 June 2005 in the presence of a judge. S.D. was also interviewed as a witness in the presence of the judge. It seems that neither M.M. nor S.D. were charged.

14. On 11 July 2005 Mr Dimitrov was allowed to acquaint himself with the case file. On 19 July 2005 the investigator recommended that he be brought for trial, and on 25 August 2005 the Plovdiv District Prosecutor's Office indicted him.

15. The Plovdiv District Court (*Пловдивски районен съд*) heard the case on 18 May 2006. The prosecution and Mr Dimitrov stated that they had entered into a plea bargain. The court approved the bargain, sentenced the applicant to five months' imprisonment, suspended, and terminated the proceedings.

## **B. The criminal proceedings against Mr Hamanov**

16. On 11 March 1996 a criminal investigation was opened against Mr Hamanov, a bank branch manager, and several other individuals in connection with a number of financial transactions. After March 1996 the case went through a preliminary investigation, trial and appeal. Following a remittal to the preliminary investigation stage in June 2000, in April 2003 it was again pending before the prosecuting authorities. The detailed course of the proceedings up to April 2003 has been set out in paragraphs 11-32 of the Court's judgment in the case of *Hamanov v. Bulgaria* (no. 44062/98, 8 April 2004).

17. In September 2003 one of Mr Hamanov's co-accused made a request under the new Article 239a of the 1974 Code of Criminal Procedure (see paragraphs 38-40 below). On 31 October 2003 the Plovdiv District Court requested the Plovdiv District Prosecutor's Office to send it the case file. On 6 November 2003 that Office forwarded the request to the Plovdiv Regional Prosecutor's Office, which was dealing with the case.

18. Apparently as a result of the above, on 10 November 2003 the Plovdiv Regional Prosecutor's Office submitted to the Plovdiv Regional Court (*Пловдивски окръжен съд*) an indictment against Mr Hamanov and seven other accused. Mr Hamanov was accused of breaching his duties as bank branch manager by making thirty-five unauthorised bank transfers, in breach of the applicable financial regulations, and by guaranteeing nine promissory notes, in breach of a resolution of the bank's management board prohibiting branch managers from issuing such guarantees, and thereby causing the bank a pecuniary loss. The offences were characterised by the

prosecution as abuse of office under Article 282 of the Criminal Code. Mr Hamanov was additionally charged with unlawfully acquiring and possessing ammunition.

19. On 30 January 2004 the court set the case down for trial.

20. Two hearings, listed for 26 April and 15 June 2004, were adjourned, the first because the State had not been properly summoned as a civil party, and the second because Mr Hamanov was ill and could not attend.

21. A hearing was held from 25 to 28 October 2004. On the last-mentioned date the court adjourned the case, finding that this was necessary in order to obtain the testimony of certain witnesses and experts who had failed to show up, and to hear additional witnesses called by the prosecution and the defence.

22. Three hearings, fixed for 23 February, 14 April and 13 June 2005, failed to take place, the first because Mr Hamanov's counsel was absent, the second because another accused's counsel had to be replaced, and the third because another accused was ill and could not attend.

23. A hearing was held from 26 to 30 September 2005. On the last-mentioned date the court adjourned the case, finding that this was necessary in order to obtain the testimony of certain witnesses and experts who had failed to show up, to hear additional witnesses called by the prosecution and the defence, and to obtain certain documents.

24. Two hearings, listed for 19 December 2005 and 23 February 2006, were adjourned because other accused and their counsel were ill and could not attend.

25. Two hearings were held from 25 to 28 April and from 26 to 28 June 2006.

26. The Plovdiv Regional Court gave its judgment on 29 June 2006, and handed down the reasons for it in March 2007. It convicted Mr Hamanov of guaranteeing the promissory notes, holding that this had amounted to wilful mismanagement contrary to Article 219 of the Criminal Code (see paragraph 51 below), not abuse of office contrary to Article 282 of the Code. It acquitted him of the charge relating to the making of the thirty-five bank transfers. In addition, it found Mr Hamanov guilty of possession of ammunition, but not guilty of acquiring it. In connection with the mismanagement, the court sentenced Mr Hamanov to four years and four months' imprisonment and barred him from acting as a director of a commercial bank for four years and six months. In connection with the possession of ammunition, it sentenced him to a fine of ten Bulgarian leva. In determining the quantum of the punishment to be imposed in relation to the mismanagement, the court noted the following:

“Bearing in mind the legal characterisation of the [offence] committed by [Mr Hamanov] ..., [his] dangerousness, [his] personality, the long period during which [he] was criminally prosecuted, and the need to attain the aims of the punishment ..., the court considers that [he] should be sentenced in line with Article 54 of the [1968

Criminal Code – see paragraph 50 below], under predominantly mitigating circumstances. The court finds that those circumstances were [the applicant’s] clean criminal record, his good character, the fact that [he] is in employment at the time of delivery of this judgment, [his] stable family and social situation, [and] the partial confession that he made during the trial. The aggravating circumstances [consist in] the perseverance, determination and coordination displayed by [Mr Hamanov] in carrying out [his] criminal acts.

...

In view of the established case-law that, when accompanying a sentence of imprisonment, [occupational debarment] cannot be shorter than that imprisonment, and bearing in mind the significant amount of time which has elapsed since the commission of the offence ... the court considers that it must bar [Mr Hamanov] from acting as a director of a commercial bank for a period of four years and six months...”

27. Between 10 and 13 July 2006 Mr Hamanov and the other accused, as well as the prosecution, appealed against the judgment.

28. On 17 May 2007 the Plovdiv Court of Appeal (*Пловдивски апелативен съд*) set the appeals down for hearing on 28 June 2007. However, the hearing failed to take place on that date because another accused did not have legal representation. It was held on 27 September 2007.

29. The Plovdiv Court of Appeal gave its judgment on 23 October 2007, fully upholding the lower court’s judgment.

30. Mr Hamanov and the other accused appealed on points of law.

31. The hearing before the Supreme Court of Cassation (*Върховен касационен съд*) was fixed for 4 April 2008, but was adjourned because the civil party had not been properly summoned and because another accused who wished to be present was prevented from attending. It took place on 9 May 2008.

32. The Supreme Court of Cassation gave its judgment on 9 July 2008, upholding the part of the lower court’s judgment concerning Mr Hamanov in its entirety.

## II. RELEVANT DOMESTIC LAW

### A. The 1991 Constitution

33. Article 31 § 1 of the 1991 Constitution provides as follows:

“Anyone charged with an offence shall be brought before a court within the time established by law.”

34. Under Article 130 of the Constitution, the Supreme Judicial Council is the principal body concerned with the administration of the judiciary (which, in Bulgaria, comprises the courts, the prosecutor’s offices and the

investigation services). It has the power to, *inter alia*, appoint, promote, demote and dismiss judges, prosecutors and investigators (Article 129 § 1 and Article 130 § 6 (1)) and impose the harshest disciplinary punishments (Article 130 § 6 (2)).

35. A 2007 amendment to the Constitution added a new Article 132a, which envisaged the creation of an Inspectorate attached to the Supreme Judicial Council. The Inspectorate, which consists of a chief inspector and ten inspectors, is tasked with checking the work of the judiciary without infringing the independence of judges, prosecutors or investigators (Article 132a § 6). It can act either of its own motion or pursuant to reports by private individuals, legal persons or State authorities (Article 132a § 7). It has the power to refer matters to the appropriate authorities, or make suggestions or reports to them (Article 132a § 9).

### **B. The 2007 Judiciary Act**

36. Section 7(1) of the 2007 Judiciary Act provides that “[e]veryone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal”.

37. Sections 40-60 of the Act govern the structure, powers and operations of the Inspectorate attached to the Supreme Judicial Council (see paragraph 35 above). One of the Inspectorate’s tasks is to check the processing of cases and their completion within the prescribed time-limits (section 54(1)(2)). It carries out planned annual checks or unplanned checks prompted by reports (section 56(1)). After carrying out a check of the work of an individual judge, prosecutor or investigator, the Inspectorate draws up a report containing its findings and recommendations, if any (section 58(2)). That report is presented to the judge, prosecutor or investigator concerned and to his or her hierarchical superior (section 58(3)). The hierarchical superior must then, within the time set in the report, inform the chief inspector about the implementation of the recommendations (section 58(4)).

### **C. The 1974 Code of Criminal Procedure**

38. An amendment to the 1974 Code of Criminal Procedure that came into force in June 2003 introduced the possibility for accused persons to request that their case be brought for trial if the investigation had not been completed within two years in cases concerning serious offences and one year in all other cases (new Article 239a). Paragraph 140 of the amendment’s transitional provisions provided that that possibility applied with immediate effect in respect of investigations opened before June 2003.

39. The procedure under that Article was as follows. The accused person had to submit a request to the relevant court, which then had seven days to examine the file and rule on the request. It could refer the case back to the

prosecuting authorities, giving them two months to submit an indictment against the accused or, alternatively, to drop the charges against him or her. If the prosecuting authorities failed to do so, the court was bound to discontinue the criminal proceedings against the person who had made the request. If the prosecuting authorities did submit an indictment, but the court found that the pre-trial investigation had been tainted by serious breaches of the rules of procedure, the court had to refer the case back to the prosecuting authorities, which then had one month to rectify those breaches and re-submit the indictment. If they failed to re-submit the indictment or to rectify the breaches highlighted by the court, or committed fresh breaches of the rules of procedure, the court had to discontinue the criminal proceedings.

40. The 2003 amendment was put before Parliament with the reasoning that it was necessary in order to secure observance of the right to a hearing within a reasonable time guaranteed by the Convention.

41. In a judgment of 1 July 2010 (реш. № 340 от 1 юли 2010 г. по к. н. д. № 271/2010 г. ВКС, I н. о.), the Supreme Court of Cassation analysed in detail the manner in which Article 239a was to be applied and held that a failure to finalise the procedure under that provision did not automatically put in jeopardy the fairness of the ensuing trial. It was precisely during that trial – as opposed to the pre-trial phase of the proceedings – that the accused would be able to obtain a determination of the criminal charges against him or her in fully adversarial proceedings conducted in line with the requirements of, *inter alia*, the Convention.

#### **D. The 2005 Code of Criminal Procedure**

42. The 2005 Code of Criminal Procedure came into force on 29 April 2006, superseding the 1974 Code. Its Article 22 provides as follows:

“1. The court shall examine and decide cases within a reasonable time.

2. The prosecutor and the investigating authorities must ensure that the pre-trial proceedings are conducted within the time-limits laid down in this Code.

3. Cases in which the accused is remanded in custody shall be investigated, examined and disposed of as a matter of priority.”

43. Articles 368 and 369 of the 2005 Code, which superseded Article 239a of the 1974 Code, provided as follows:

##### **Article 368 – Request by the accused to the court**

“1. If, in pre-trial proceedings, more than two years have passed since a person has been charged with a serious offence, or one year in the case of other offences, the accused may request that his or her case be examined by the court.

2. In the cases envisaged in subparagraph 1 the accused shall file a request with the relevant first-instance court, which shall request the case file immediately.”

### **Article 369 – Examination of the request**

“1. The court, consisting of a single judge, shall rule on the request within seven days. If it finds that the requirements of Article 368 § 1 are in place, it shall return the case to the prosecutor and give him or her two months within which he or she must submit an indictment, a proposal for the imposition of an administrative punishment, or a plea agreement, or discontinue the criminal proceedings and inform the court accordingly.

2. If, within the above-mentioned period of two months, the prosecutor does not carry out any of the measures referred to in subparagraph 1 or if the court does not approve the proposed plea bargain, the court, sitting as a single judge and in private, shall request the case file and shall discontinue the criminal proceedings by means of a decision. After the delivery of the decision the criminal proceedings shall continue with regard to the other accused as well as with regard to the other offences with which the accused has been charged.

3. If the prosecutor carries out [one of] the steps referred to in subparagraph 1, but the pre-trial proceedings have been tainted by substantive breaches of the rules of procedure, the court, sitting as a single judge and in private, shall discontinue the judicial proceedings and refer the case back to the prosecutor for rectification of the breaches and re-submission of the case to the court within one month.

4. If within the time-limit referred to in subparagraph 3 the prosecutor does not submit the case to the court or the substantive breaches of the rules of procedure have not been made good, or further ones have been committed, the court, sitting as a single judge and in private, shall discontinue the criminal proceedings by means of a decision.

5. The decisions referred to in subparagraphs 2 and 4 shall be final.”

44. On 25 March 2010 Parliament repealed Articles 368 and 369 with effect from 28 May 2010.

45. On 29 April 2010 the President of the Republic challenged the repeal, along with certain other amendments to the 2005 Code of Criminal Procedure, before the Constitutional Court. In a decision of 28 September 2010 (реш. № 10 от 28 септември 2010 г., по к. д. № 10/2010 г., обн., ДВ, бр. бр. 80 от 12 октомври 2010 г.) that court examined the repeal by reference to, *inter alia*, Article 13 of the Convention. It noted that, unlike Article 6 § 1 of the Convention, the Bulgarian Constitution did not explicitly lay down as a basic right the right of those charged with criminal offences to have the charges against them examined and to have the criminal proceedings against them finalised within a reasonable time. However, it analysed in detail the terms of Article 31 § 1 of the Constitution (see paragraph 33 above) and held that that provision was to be construed as containing a procedural obligation to comply with the statutory time-limits

for conducting and finalising the pre-trial phase of criminal proceedings, with a view to bringing those charged with criminal offences to trial. It thus served the same purpose as Article 6 § 1 of the Convention, albeit only in relation to the first phase of criminal proceedings. The court continued:

“As noted above, the [abolished remedy] was intended to serve as an effective remedy within the meaning of Article 13 of the Convention in order to ensure the right to have a criminal case examined within a ‘reasonable time’ during the pre-trial phase of the proceedings. The Constitutional Court finds that the repeal of that remedy is not unconstitutional, because it does not remove the disciplining procedural time-limits envisaged under Article 31 § 1 of the Constitution. Statutory limitations on the duration of the two parts of the pre-trial phase of criminal proceedings – ‘investigation’ and ‘steps to be taken by the prosecutor after the investigation has been completed’ – still exist and continue to be applied. ...

The repealed ... Articles 368 and 369 of the Code contained the implicit assessment of the legislature that, in view of the need to complete criminal proceedings within a reasonable time, it was unacceptable for a person to remain charged in pre-trial proceedings for more than two years in cases of serious offences and for more than one year in cases of lesser offences. In most cases those time-limits would be longer than the sum of the time-limits under Article 234 §§ 1-5 and Article 242 § 3 of the Code. An exception could occur only if the duration of the investigation was extended, exceptionally, to more than six months by the head of a regional or higher prosecutor’s office or a person designated by him or her (Article 234 § 3 of the Code). Only then would the repeal lead to a restriction of a procedural right and raise the question whether, in the light of Article 31 § 4 of the Constitution and Article 18 of the Convention, that restriction did not exceed what was required for the administration of justice.

The Constitutional Court does not accept the argument that the legislative change destroys the right of the accused to have their cases examined within a ‘reasonable time’, as required under Article 6 § 1 of the Convention. The [2005] Code of Criminal Procedure laid down the basic principle that cases are to be examined and decided within a reasonable time, requiring the authorities in charge of pre-trial investigations to comply with procedural time-limits (Article 22 of the Code). The constitutional amendments in 2006 and the new [Judiciary Act], adopted in 2007, put in place additional safeguards for the faster examination of cases and for avoiding their undue protraction. The repeal of [Articles 368 and 369 of the Code] does not affect that system of rules. Its aim was to improve the law in order to ensure good justice, which is [a legitimate aim].

The main weakness of the repealed procedure was that it used a formal, purely quantitative criterion to measure ‘reasonable time’ during the pre-trial phase of the proceedings. It is true that in most cases such an approach would lead to a correct assessment – something fully logical in view of the fact that under the rules of procedure a person can be charged only if there already exists ‘enough evidence’ that he or she is guilty. However, in some complex cases that criterion might, contrary to the public interest that all offenders be brought to justice, give the accused an undue advantage – for instance in cases in which it proves to be genuinely difficult to trace and charge accomplices, cases in which the need arises to gather additional evidence, including through letters rogatory, cases in which the accused has slowed down the proceedings, etc. It is no wonder that the case-law of the European Court of Human

Rights under Article 6 § 1 of the Convention is quite flexible. That Court uses three criteria to assess the relevant period: the factual and legal complexity of the case, the conduct of any authorities involved and the conduct of the person concerned [(see *Eckle v. Germany*, 15 July 1982, Series A no. 51; *Zimmermann and Steiner v. Switzerland*, 13 July 1983, Series A no. 66; *Kreps v. Poland*, no. 34097/96, 26 July 2001; and *S.H.K. v. Bulgaria*, no. 37355/97, 23 October 2003)]. It is equally possible to exceed a reasonable time while formally complying with the applicable time-limits and to comply with the ‘reasonable time’ requirement while exceeding the applicable time-limits. The European Court of Human Rights finds breaches of the ‘reasonable time’ requirement only on the basis of delays attributable to the authorities. In view of that, the Constitutional Court considers that by repealing [Articles 368 and 369] of the [2005] Code of Criminal Procedure the legislature sought to achieve a constitutionally legitimate aim – to ensure the interests of justice while taking into account the right to ‘a hearing within a reasonable time’, as construed by the European Court of Human Rights. In so far as in exceptional cases the new legal framework could restrict the rights of the accused, one should take into account that there exists a balancing mechanism, namely the requirement under Article 234 §§ 8 and 9 of the [Code] for all preventive measures [such as pre-trial detention or house arrest] to be set aside after the expiry of time-limits that are identical to those under the repealed provisions.

It is also important to examine whether the repeal of the possibility for accused persons to request that their case be brought for trial does not create a lacuna in the law, in breach of the requirement of Article 13 of the Convention for effective remedies in respect of the rights and freedoms enshrined in the Convention and in particular the right of those charged with criminal offences to have their cases examined within a reasonable time. In its case-law the European Court of Human Rights has held that remedies are effective if they can prevent the alleged violation or its continuation, or provide adequate redress for any violation that has already occurred [(see *Kudla v. Poland* [GC], no. 30210/96, § 158, ECHR 2000-XI)]. In a number of judgments, that Court has noted that before the introduction of Article 239a of the [1974] Code of Criminal Procedure our State did not make available a remedy complying with the requirements of Article 13, read in conjunction with Article 6 § 1 of the Convention and capable of ensuring that the pre-trial phase of criminal proceedings does not exceed a reasonable time [(see *Osmanov and Yuseinov v. Bulgaria*, nos. 54178/00 and 59901/00, 23 September 2004; *Mitev v. Bulgaria*, no. 40063/98, 22 December 2004; and *Sidjimov v. Bulgaria*, no. 55057/00, 27 January 2005)]. In those circumstances, the answer to the above question depends on whether, from the creation of that remedy in 2003 until its abolition in 2010, the State has created alternative mechanisms ensuring the availability of effective remedies in respect of the right to have charges examined within a reasonable time during the pre-trial phase of criminal proceedings. In [our] view, that has been done, as far as rules are concerned. An amendment to the Constitution [which came into force in February 2007] created a new independent body, the Inspectorate attached to the Supreme Judicial Council, which may act pursuant to requests by the persons concerned, a category which includes those charged with a criminal offence. That Inspectorate checks the work of the judicial authorities and has the power to report and make proposals to all State authorities, including the competent judicial authorities (Article 132a §§ 6 and 9 of the Constitution). The Inspectorate’s powers have been laid down in more detail in the new [Judiciary Act]. It may now check ‘the way in which judicial, prosecutorial and investigation case files are being opened and processed, as well as their completion within the prescribed time-limits’ (section 54(1)(2) of the Act). Under section 58(3) of the Act, the results of such checks have to be made available not only to the judge, prosecutor or investigator

concerned, but also to the head of the relevant department of the judiciary. That head must then inform the chief inspector whether any recommendations given have been complied with within the time-limit set in the Inspectorate's report (section 58(4) of the Act). If it is necessary to prevent or overcome an undue delay during the pre-trial phase of criminal proceedings, the authority in charge of ensuring compliance with the Inspectorate's directions is the head of the relevant department of the prosecuting authorities. He or she has the power to take various measures: organisational (under section 136(4) of the Act), disciplinary (to impose certain light sanctions under section 311(1) of the Act or to initiate disciplinary proceedings before the Supreme Judicial Council) and procedural (to set aside or vary the decisions of the lower prosecutors, to give mandatory directions or personally to take the necessary procedural steps, as possible under Article 46 § 3 of the [2005] Code of Criminal Procedure, [or] to exercise control over the activities of the investigating authorities in line with Articles 196 and 197 of the [same Code]). It can therefore be accepted that the repeal of [Articles 368 and 369 of the Code] does not lead to a legal vacuum incompatible with Article 13 of the Convention. Naturally, the mere existence of rules does not preclude the risk of future judgments in which the European Court of Human Rights will find violations in respect of Bulgaria. All State authorities must take into account the general statement made in *Kudla*, cited above, namely that the remedy required by Article 13 must be effective in practice as well as in law."

#### **E. The 1988 State Responsibility for Damage Act**

46. Section 1 of the 1988 State and Municipalities Responsibility for Damage Act ("the 1988 Act"), as in force since July 2006, provides as follows:

"The State and the municipalities shall be liable for damage caused to individuals and legal persons by unlawful decisions, actions or omissions by their organs and officials, committed in the course of or in connection with the performance of administrative action."

47. Section 2(1)(2) of the Act provides as follows:

"The State shall be liable for damage caused to individuals by organs of [the investigation], the prosecution and the courts through unlawful:

...

2. bringing of criminal charges, if the person concerned has been acquitted or if the criminal proceedings are discontinued because the offence was not committed by the person concerned, or [that person's] act does not constitute a criminal offence..."

48. Individuals who have been acquitted or had the proceedings against them discontinued on one of the grounds set forth in section 2(1)(2) – which, according to an interpretative decision of the Supreme Court of Cassation (тълк. реш. № 3 от 22 април 2005 г. по тълк. гр. д. № 3/2004 г., ОСГК на ВКС), include discontinuance because the charges have not been made out – can obtain compensation for the mere fact that criminal proceedings have been instituted against them. According to the same decision, compensation is due in respect of the proceedings

themselves and in respect of any incidental measures, such as pre-trial detention. The decision also says that compensation is due in cases of partial acquittal, where there is an established causal link between the charges in respect of which a person has been acquitted and the damage sustained.

49. In several judgments given between 2005 and 2008 the Supreme Court of Cassation, when fixing the amount of damages it awarded pursuant to such claims, had regard to, among other factors, the length of the proceedings (реш. № 1599 от 22 юни 2005 г. по гр. д. № 876/2004 г., ВКС, IV г. о.; реш. № 1017 от 15 декември 2005 г. по гр. д. № 524/2004 г., ВКС, IV г. о.; реш. № 2851 от 23 януари 2006 г. по гр. д. № 2252/2004 г., ВКС, IV г. о.; реш. № 429 от 30 март 2006 г. на гр. д. № 3163/2004 г., ВКС, IV г. о.; реш. № 156 от 10 май 2006 г. по гр. д. № 2633/2004 г., ВКС, IV г. о.; реш. № 1557 от 27 декември 2006 г. по гр. д. № 2800/2005 г., ВКС, IV г. о.; реш. № 1323 от 27 ноември 2007 г. по гр. д. № 1400/2006 г., ВКС, I г. о.; реш. № 148 от 11 февруари 2008 г. по гр. д. № 1518/2007 г., ВКС, V г. о.; реш. № 692 от 12 май 2008 г. по гр. д. № 2394/2007 г., ВКС, IV г. о.). The examination of those claims lasted between three and seven years in total.

## **F. The 1968 Criminal Code**

50. Under Article 54 § 1 of the 1968 Criminal Code, when sentencing a convicted offender the court has to fix the punishment within the limits set by law, by reference to the Code's general rules and taking into account the dangerousness of the offence and of the offender, the motives, as well as all other aggravating and mitigating circumstances.

51. Article 219 § 1 of the Code makes it an offence for officials or managers to fail to take due care in managing or keeping secure the assets entrusted to them, where such failure results in substantial losses, destruction or dissipation of such assets, or other substantial damage to the undertaking or the economy. The punishment can be up to three years' imprisonment. Article 219 § 3 provides that if the offence has been committed wilfully, it is punishable by up to eight years' imprisonment. Article 219 § 4 provides that if the offence is particularly serious, the punishment ranges between one and five years if the offence has been committed negligently, and one and ten years if it has been committed wilfully.

### III. RELEVANT COUNCIL OF EUROPE MATERIAL

#### A. Committee of Ministers

52. On 2 December 2010, during its 1100th meeting, the Committee of Ministers of the Council of Europe adopted an Interim Resolution on the execution of the judgments of the European Court of Human Rights concerning the excessive length of judicial proceedings in eighty-four cases against Bulgaria (CM/ResDH(2010)223). The resolution reads:

“The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter “the Convention”),

Having regard to the number of judgments of the European Court of Human Rights (“the Court”) finding Bulgaria in violation of Article 6, paragraph 1 and Article 13 of the Convention on account of the excessive length of judicial proceedings and the absence of an effective remedy in this regard (see Appendix III to this resolution);

Recalling that excessive delays in the administration of justice constitute a serious danger, in particular to respect for the rule of law and access to justice;

Recalling also its Recommendation Rec(2010)3 to member states on the need to improve the effectiveness of domestic remedies for excessive length of proceedings, and emphasising the importance of this question where judgments reveal structural problems likely to give rise to a large number of further similar violations of the Convention;

Having examined the information supplied by the Bulgarian authorities concerning the measures taken or envisaged in response to those judgments (see Appendix I), including the statistical data on the length of judicial procedures (see Appendix II);

#### **Assessment of the Committee of Ministers**

##### **I. Individual measures**

Having noted the individual measures taken by the authorities to provide the applicants redress for the violations found (*restitutio in integrum*), in particular the acceleration, as far as possible, of proceedings which were still pending after the findings of violations by the Court;

Noting however with concern that the domestic proceedings in seven cases are still pending before the domestic courts and that the authorities have been unable to provide information about two other cases (see Appendix I);

**CALLED UPON** the Bulgarian authorities to provide for acceleration as much as possible of the proceedings pending in these cases, in order to bring them to an end as soon as possible, and to inform it of the progress of proceedings in the two aforementioned cases;

## **II. General measures**

### **1) Measures aimed at reducing the length of judicial proceedings**

Noting the numerous violations found by the Court on account of the excessive length of civil and criminal proceedings in Bulgaria, revealing certain structural problems in the administration of justice at the time of the relevant facts;

Welcoming the numerous legislative reforms adopted by the authorities in order to remedy these structural problems and in particular the adoption of the new codes of criminal and civil procedure (see Appendix I);

Welcoming likewise the other measures taken by the authorities to increase the efficiency of the judicial system, and in particular the establishment of assessment and monitoring mechanisms, including the collection and analysis of statistical data;

Noting that the 2009 statistics show a reduction in the backlog in the Bulgarian courts as a whole, and an increase in the number of cases dealt with in the space of 3 months (see Appendix II);

Noting however that, according to the statistics, the backlog in the district courts located in regional centres has increased slightly by reason of the substantial rise in the number of cases registered, and that those courts were responsible for examining half the cases pending in the country in 2009 (see Appendix II);

Noting also that the legislative reforms introduced between 2006 and 2010 have not yet produced their full impact on the length of proceedings and that a longer period of time is needed before the effectiveness of all the measures taken can be fully and completely assessed;

**ENCOURAGED** the Bulgarian authorities to pursue their efforts in following up the reforms introduced, in order to consolidate their positive effects, in particular as regards the situation in the district courts located in regional centres;

**CALLED ON** the authorities to continue to monitor the effects of these reforms as it proceeds, with a view to adopting, if appropriate, any further measure necessary to ensure its effectiveness, and to keep the Committee informed of the developments in this regard;

### **2) Measures relating to the effectiveness of remedies**

Recalling that the Court has found numerous violations of the right to an effective remedy in contesting the excessive length of proceedings in Bulgaria, revealing certain structural problems in this field;

Recalling its Recommendation Rec(2010)3 encouraging states to introduce remedies making it possible both to expedite proceedings and to grant compensation to interested parties for damage suffered;

Noting with interest that Articles 255-57 of the Code of Civil Procedure provide that, if a court does not take a procedural step in due time, the parties may at any time apply to the superior court for a time-limit to be set for the taking of the procedural step in question, thus affording a remedy designed to speed up the civil proceedings (see Appendix I);

Noting also that there exist in criminal law certain forms of non-pecuniary redress, such as the possibility of reducing the sanction, where there is a finding of excessive length of proceedings;

Noting however that at the present time no domestic remedy is available for expediting excessively lengthy criminal proceedings or obtaining pecuniary compensation if appropriate (see Appendix I);

Welcoming in this context the reform undertaken by the authorities aimed at introducing into Bulgarian law a compensatory remedy where excessive length of judicial proceedings is alleged (see Appendix I);

**INVITED** the Bulgarian authorities to complete as soon as possible the reform undertaken in order to introduce a remedy whereby compensation may be granted for prejudice caused by excessive length of judicial proceedings, and to keep the Committee informed of its progress and of any other measure that may be envisaged in this field;

Having regard to the foregoing, the Committee of Ministers

**DECIDED** to resume its examination of progress made at the latest:

– by the end of 2011, with regard to the question of effective remedy;

– by mid-2012, with regard to the question of the excessive length of judicial proceedings.”

53. An appendix to the resolution summarised the information provided by the Bulgarian Government on the measures taken by the Bulgarian authorities in that domain. It reads:

**“I. Individual measures**

The proceedings which were still pending before the domestic courts at the time when the Court gave its judgments have been terminated in most of the cases. At the present time, the proceedings have not yet been terminated in the Belchev, Hamanov, Nedyalkov, Valkov, Kamburov, Kavalovi and Merdzhanov cases. Information is still awaited also on the state of progress in the proceedings in the Kolev and Sidjimov cases.

**II. General measures**

**1) Measures aimed at reducing the length of proceedings**

– **Legislative measures**

...

A new Code of Criminal Procedure (“CCrP”), adopted in 2005, came into force on 29 April 2006. Like the new CCvP, it aims in particular to speed up criminal proceedings. For example, it prescribes short time-limits for the examination of a case and for postponement of its examination (Articles 252, 271 and 345) and the more widespread use of simplified procedures (Articles 356-361, 362-367 and 370-374). According to the 2009 report of the president of the Supreme Court of Cassation on the work of the courts, the simplified judicial procedures most often used in 2009 in the field of criminal justice related to summary judicial investigation and plea bargaining between the accused and the prosecution (an agreement enabling the prosecution to be terminated provided the court approves).

The other important provisions of the CCrP provide for:

- the obligation on the courts and bodies responsible for the preliminary investigation to examine criminal cases within a reasonable time; in addition, cases in which the accused is held in detention must be given priority over other cases by the courts examining and judging them (Article 22);
- time-limits for termination of the preliminary investigation and prohibition on the use in court of any evidence obtained outside the time-limit (Article 234);
- the introduction of summary judicial investigation in courts of first instance; this procedure makes it possible for the accused to obtain a reduction of sentence if he admits the offence and relinquishes the production of evidence, provided he is assisted by counsel (where necessary appointed by the court);
- broader applicability of the simplified procedure whereby the accused may be absolved of his criminal responsibility and an administrative penalty imposed instead.

Furthermore, the 2005 CCrP was amended in 2010 for the purpose, in particular, of avoiding (a) unjustified referrals at the preliminary investigation stage (Article 249 § 3) and (b) postponement of the hearing where the representative of the accused fails to appear without good reason (Article 94). In addition, it is to be noted that now the possibility for the prosecution to bring further charges during the judicial investigation has been widened, even if those charges relate to different facts or an offence carrying a more severe penalty (Article 287 § 1).

Some other changes are aimed at reducing the excessive formalism of criminal procedure in Bulgaria (for example, the abrogation of the requirement that the investigator draws up a formal document setting out his conclusions – Articles 231-235).

**– Administrative measures designed to improve the organisation and management of the courts**

Among other reforms designed to improve the efficiency of the Bulgarian judicial system, should be mentioned the creation in 2007 of an electronic commercial register managed by an administrative agency (see the commercial register law in force since 1 July 2007). Thus the regional courts which were responsible for registering commercial companies in the past have been absolved of that responsibility.

Furthermore, following the adoption of the new Code of Administrative Procedure in 2006, 28 administrative courts were set up in 2007. These new administrative

courts have powers previously exercised by the regional courts. In addition, as an ad hoc measure aimed at lightening the workload of the Supreme Court of Cassation, labour disputes pending before it when the 2007 CCvP came into force have been transferred to the appeal courts.

It should also be pointed out that the judicial authorities now have access to the national database containing the population register, which should overcome certain delays arising from requests for information needed to take judicial proceedings forward.

Finally, Bulgaria has achieved a high level of computerisation designed to assist both judges and other personnel (for further details, see the 2010 report of the European Commission for the Efficiency of Justice – CEPEJ). Moreover, the courts are continuing their efforts to improve their IT equipment in order to communicate with parties. Those efforts were recently rewarded by the award of the 2010 “Crystal Scales of Justice” prize to the Yambol administrative court for the work it has done to improve users’ understanding of judicial procedure.

– **Mechanisms for periodic assessment and monitoring of the work of the courts**

Two bodies – the Supreme Judicial Council Inspectorate and the Ministry of Justice Inspectorate – have the main responsibility for monitoring and assessing the work of the courts, prosecution services and investigating magistrates.

The Supreme Judicial Council Inspectorate, established in 2007, comprises an inspector-general and ten inspectors elected by Parliament for terms of five and four years respectively (Article 132a of the Constitution). It oversees the administrative organisation of the courts, prosecution services and bodies in charge of preliminary investigations, together with the proper organisation of preliminary investigations and cases pending before prosecutors and courts. In particular, the inspectorate oversees compliance with the time-limits laid down by law for dealing with cases. It carries out its tasks (a) through planned regional inspections and (b) through inspections focussing on particular questions. It may also conduct inspections in response to reported irregularities ([sections] 54 and 56 of the [2007 Judiciary Act]).

Following inspections, it makes recommendations, particularly concerning compliance with the time-limits laid down by law for dealing with cases. Implementation of its recommendations is monitored in the course of follow-up inspections. The inspectorate may also make proposals to courts’ administrative authorities and to the Judicial Service Commission for the imposition of disciplinary penalties on judges, prosecutors and investigating magistrates (see “Disciplinary measures” below). The work of the inspectorate is covered in the progress report of the Supreme Judicial Council.

The Ministry of Justice Inspectorate oversees, among other things, the manner in which case registration and handling are managed, as well as closure of cases within the legal time-limits. This inspectorate organises thematic controls in accordance with a programme approved by the Ministry of Justice. It may make recommendations and supervises their implementation in the course of subsequent inspections.

The Ministry of Justice Inspectorate is also responsible for overseeing application of the new CCvP and CCrP. During inspections already carried out, it has observed some of the causes of procedural delays and made recommendations in this regard.

Furthermore, the presidents of the Supreme Court of Cassation and the Supreme Administrative Court are required to present annual reports on the functioning of trial and appeal courts, in addition to annual reports on their own activities ([sections 114(1) and (2) and 122(1) and (2)] of the [2007 Judiciary Act]). Lastly, each year the Supreme Judicial Council centralises and analyses the statistics on the work of all the country's courts (cf. Appendix II).

#### **– Disciplinary measures**

Under the [2007 Judiciary Act], systematic failure to comply with the time-limits laid down in procedural laws, and action or inaction such as to delay proceedings in an unjustified manner, are disciplinary offences ([section] 307 § 4). The Judicial Service Commission has the power to impose disciplinary penalties (other than comment and reprimand, which are imposed by the hierarchical superior) on judges, prosecutors and investigating judges. The public bodies responsible for enforcing judicial decisions and the bodies responsible for entries in the land registry may be sanctioned by the Ministry of Justice ([section] 311).

The authorities have stated that during the period 2007-2009 the number of disciplinary proceedings before the Supreme Judicial Council rose steadily (13 in 2007, 28 in 2008 and 83 in 2009). By way of example, in 2009 seven judges and one head of administration were sanctioned, mainly for systematic failure to comply with the time-limits laid down by law. Among them, three judges were dismissed and three others had their salaries reduced by 10 to 25% for periods of up to a year.

#### **– Long-term strategies**

The Bulgarian authorities have adopted several strategies on judicial reforms. For example, a criminal policy strategy for the period 2010-2014 has been adopted, the principal objective being to further reduce the excessive formalism of criminal procedure. It should be noted that the amendments to the 2010 CCrP were decided on the basis of this strategy (see above).

Further, in 2009 the government adopted a plan to eradicate the causes of violations of the Convention found by the European Court in its judgments concerning Bulgaria. That plan was drawn up by a working party which included representatives of the Ministry of Justice as well as human rights activists. Among the tangible results obtained on the basis of this plan, should be mentioned the working party set up to introduce an application for compensation in cases of excessive length of judicial proceedings (see below). In June 2010 the government adopted the strategy on continued judicial reforms in Bulgaria following its accession to the European Union.

## **2) Measures relating to the effectiveness of remedies**

...

– **Remedy concerning speeding up of criminal proceedings**

The provisions of Articles 368 and 369 of the new CCrP, which incorporated Article 239a of the 1974 CCrP, envisaged the possibility for the accused to request referral of his case to the competent court once a period of 1 to 2 years, depending on the gravity of the charges, had elapsed since the start of the preliminary inquiry. The court to which that request was submitted could order the prosecuting authority to complete the preliminary inquiry within a period of two months or else bring the criminal proceedings to an end.

In the *Ganchev* judgment (No. 57855, §§ 26-34, 12 July 2007), the European Court declared the complaint based on Article 6 § 1 inadmissible for failure to exhaust the domestic remedies, because the applicant had not availed himself of the remedy provided for in Article 239a of the 1974 CCrP. However, it should be noted that in another case examined by the European Court (*Shishkovi against Bulgaria*, No. 17322/04, 25 March 2010), the application of Article 239a of the 1974 CCrP was the cause of the closure of a criminal inquiry into ill-treatment. In that case the European Court found a violation of Article 3 of the Convention.

Articles 368 and 369 were abrogated as from 28 May 2010. The authorities indicated in this connection that the abrogated provisions had mainly served as a reason for terminating the criminal proceedings, without guaranteeing a full inquiry. They consider that new provisions relating to the possibility of imposing disciplinary penalties for systematic failure to comply with time-limits or for unjustified delays could be seen as a guarantee of expeditious criminal proceedings (for more details, see the Government's reply to one NGO's observations on this point on the Committee of Ministers website: DH-DD(2010)335).

– **Compensatory remedy**

The European Court has consistently pointed to the absence in Bulgarian law of a remedy enabling compensation to be obtained for excessive length of judicial proceedings (see, for example, the *Mincheva against Bulgaria* judgment cited above, § 107).

In this connection the Government has indicated that, in the context of implementing a plan to eradicate the causes of the violations found by the European Court in judgments concerning Bulgaria, it has set up a working party to prepare a bill amending the law on the responsibility of the state and municipalities for prejudice caused to individuals. This bill envisages, in particular, the introduction of an application for compensation in cases of unjustified delay in the proceedings. This working party has drafted a bill providing that the state may be held responsible, in addition to the cases already settled, where unjustified delay in civil, criminal and administrative proceedings are attributable to the judicial authorities.

As regards criminal proceedings, it should also be noted that certain forms of non-pecuniary redress exist in cases of excessive length of proceedings, such as the possibility of reducing the penalties. This form of redress has been recognised by the European Court as an effective remedy in certain circumstances (*Bochev against Bulgaria* judgment of 13 November 2008, § 83)."

54. A second appendix to the resolution contained statistical data on the processing of cases in the Bulgarian courts. It reads (footnotes omitted):

## **I. Statistics on length of judicial proceedings before the Bulgarian courts**

### **1) Data for Bulgarian courts as a whole**

The general trend which emerges from the data available shows that, despite a resurgence in the number of cases registered, the number of cases terminated for all courts is on the increase (in 2009 it was 4.59% higher than in 2007, and 15.46% higher than in 2008). Similarly, the backlog facing the courts as a whole decreased for the second year running. Thus the decrease in the number of cases pending at the end of 2009 is of 10.26% as compared with 2007 and of 2.35% as compared with 2008.

The number of judges, taking all courts together, was 2,162 in 2009, 1.45% more than in 2007 and 1.74% more than in 2008.

### **2) Supreme Court of Cassation**

#### *– Criminal bench*

One consequence of the entry into force of the 2005 CCrP was a fall in the number of cases registered, since judgments delivered on appeal upholding the judgments delivered at first instance are now not subject to review by the Supreme Court of Cassation. Thus, while the criminal bench had examined 3,950 cases at public hearings in 2006, the corresponding figures for 2008 and 2009 were 2,081 and 1,955 cases respectively.

In 2009 the criminal bench registered 131 cases more than in 2008, and its backlog also increased (from 279 cases at the end of 2008 to 383 cases at the end of 2009). However, that increase in the backlog had no major effect on the length of proceedings before the criminal bench. Indeed, in 2009, the proceedings following appeals in cassation and applications for reopening of procedures took between 3 and 4 months, as in 2008.

...

### **4) Appeal courts**

The backlog in the appeal courts is constantly decreasing. The number of cases pending at the end of 2009 (1,713) decreased by 45.89% as compared with 2007 and by 22.28% as compared with 2008.

### **5) Military [courts]**

The same trend is observed in military [courts]. In 2009, the backlog decreased by 52.07% as compared with 2007 and by 35.20% as compared with 2008.

### **6) Regional courts and the Sofia City [C]ourt**

The creation in 2007 of 28 administrative courts, as well as an agency responsible for entries in the commercial register, led to a significant decrease in the number of cases registered by regional courts in 2009 (42.73% fewer than in 2007 and 2.64% fewer than in 2008). Cases pending at the end of 2009 numbered 23,392, a figure 31.76% lower than in 2007 and 15.99% lower than in 2008.

### **7) District courts located in regional centres**

The backlog in these courts at the end of 2009 had grown by 1.05% as compared with 2007 and by 7.03% as compared with 2008. This increase is due to the rise in the number of cases they had to deal with in 2009 (23.05% more than in 2007 and 18.29% more than in 2008), and despite a larger number of cases terminated during that year (28.36% more than in 2007 and 20.70% more than in 2008).

In 2009 the district courts located in regional centres registered 285,547 cases; 94,317 cases were registered by the Sofia district court, i.e. 33% of all cases newly registered with the courts in this category.

### **8) District courts located outside regional centres**

The backlog in these courts at the end of 2009 had fallen (by 12.64% as compared with 2007 and by 7.54% as compared with 2008) notwithstanding an increase in the number of cases they had to deal with (11.30% more than in 2007 and 15% more than in 2008).

This trend was due to the increase in the number of cases terminated in 2009 (16.47% more than in 2007 and 19.72% more than in 2008). It is also to be noted that in 2009, 92,541 cases were concluded within three months, a figure 22.88% higher than for 2007 and 25.71% higher than for 2008.

...

## **II. Statistics for the length of preliminary investigations**

In 2009, cases in which the preliminary investigation was under way numbered 213,151, a figure 4% higher than for 2008. Investigations started during 2009 numbered 139,894, 6% more than for 2008. Investigations initiated during the year represented 66% of investigations under way in 2009. The backlog at the start of 2009 consisted of 73,257 cases being investigated. The backlog at the end of 2009 consisted of 52,511 cases being investigated (as against 59,048 in 2007).

As regards cases in which the investigation was suspended, their number fell from 961,713 in January 2007 to 654,334 at the end of 2009. In 98% of these cases, the reason for suspension is the impossibility of identifying the perpetrator of the criminal offence.”

## **B. Parliamentary Assembly**

55. In Resolution 1787 (2011) on the implementation of the Court’s judgments, adopted on 26 January 2011, the Parliamentary Assembly of the Council of Europe noted “with grave concern” the continuing existence of “major systemic deficiencies which cause large numbers of repetitive findings of violations of the Convention and which seriously undermine the rule of law” in some Member States of the Council of Europe. One of those was the “excessive length of judicial proceedings” (paragraph 5.1). The Assembly, in particular, urged Bulgaria to, *inter alia*, “pursue its efforts to

solve the problem of excessive length of court proceedings” (paragraph 7.1 *in fine*).

## THE LAW

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

56. The applicants complained that the criminal charges against them had not been determined within a reasonable time. They relied on Article 6 § 1 of the Convention, which provides, in so far as relevant:

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

#### A. Admissibility

##### 1. *Mr Dimitrov's complaint*

57. The Government drew attention to the fact that Mr Dimitrov had entered into a plea agreement with the prosecution, thus profiting from the more favourable treatment that such an agreement entailed. They pointed out that plea agreements were intended to prevent lengthy proceedings, and required the express waiver by the accused of his right to be tried.

58. The applicants submitted that there was no indication that the duration of the proceedings had played any part in the conclusion of the case by means of a plea bargain or had been taken into account by the Plovdiv District Court in approving the bargain.

59. The Court observes that a decision or measure favourable to an applicant is not in principle sufficient to deprive him of his status as a victim unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see, among many other authorities, *Scordino v. Italy (no. 1)* [GC], no. 36813/97, § 180, ECHR 2006-V). The Court does not doubt that the plea bargain between Mr Dimitrov and the prosecution (see paragraph 15 above) prevented further delay in the determination of the criminal charges against him. It also probably led to a more lenient punishment than the one that he might have received if his case had gone to trial. It is a common feature of European criminal justice systems for a criminal defendant to receive a reduction in his or her sentence for a guilty plea in advance of trial (see *Babar Ahmad and Others v. the United Kingdom (dec.)*, nos. 24027/07, 11949/08 and 36742/08, § 168, 6 July 2010, with further references).

However, the plea bargain cannot be regarded as amounting to an acknowledgement of a failure on the part of the authorities to determine the criminal charges against Mr Dimitrov within a reasonable time, or as having afforded him express and measurable redress in relation to that (see, *mutatis mutandis*, *Kozarov v. "the former Yugoslav Republic of Macedonia"* (dec.), no. 64229/01, 10 November 2005).

60. Mr Dimitrov may therefore still be regarded as a victim of an alleged breach of his right to a hearing within a reasonable time.

61. The Court further considers that Mr Dimitrov's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

## 2. *Mr Hamanov's complaint*

62. The Government submitted that Mr Hamanov could no longer claim to be a victim of a violation of his right to a hearing within a reasonable time. They pointed out that when sentencing the applicant, the Plovdiv Regional Court had mentioned, as a mitigating circumstance, the long time during which he had been criminally prosecuted. Taking into account all aggravating and mitigating circumstances, the court had imposed a sentence below the mean envisaged in respect of the chief offence of which Mr Hamanov had been convicted. That approach had been representative of a steady practice of the Bulgarian courts in recent years. In the Government's view, this case could be distinguished from the cases of *Mladenov v. Bulgaria* (no. 58775/00, § 32, 12 October 2006) and *Sheremetov v. Bulgaria* (no. 16880/02, § 34, 22 May 2008), where the Court had not been satisfied that the authorities had acknowledged the breach of the reasonable-time requirement of Article 6 § 1, in three respects. First, the Court had already found, in *Hamanov* (cited above), that the proceedings had been unreasonably long, and that finding had been taken into account by the domestic courts. Secondly, the criminal case against Mr Hamanov had been of considerable complexity. Thirdly, the part of the proceedings which post-dated the Court's judgment in *Hamanov* (cited above) had not been unreasonably long.

63. The applicants replied that the brief and general statement made by the Plovdiv Regional Court had not amounted to an acknowledgement that Article 6 § 1 of the Convention had been breached. In particular, the court had not said that the length of the proceedings had been attributable to the conduct of the authorities, and had not specified what weight it had given to that length when reducing Mr Hamanov's sentence. Applicants should not be stripped of their victim status as a result of a mere mention of the duration of the proceedings in the domestic courts' reasoning concerning the determination of their sentence, because the Court would be unable to assess the extent to which that factor had been taken into account. In the

applicants' view, loss of victim status in such circumstances should be predicated on a clear indication by the national courts as to the weight of the length factor in the reduction of the sentence, and a clear recognition by those courts that Article 6 § 1 has been breached.

64. According to the Court's case-law, mitigation of sentence granted on account of the excessive length of proceedings may deprive the individual concerned of his or her status as a victim when the national authorities acknowledge in a sufficiently clear way the failure to observe the reasonable-time requirement of Article 6 § 1 and afford redress by reducing the sentence in an express and measurable manner (see *Eckle v. Germany*, 15 July 1982, § 66, Series A no. 51, and, more recently, *Bochev v. Bulgaria*, no. 73481/01, § 81, 13 November 2008, with further references).

65. In the instant case, the Court is not satisfied that the statement of the Plovdiv Regional Court amounted to such an acknowledgement. That court did not analyse the point in any detail, did not make reference to Article 6 § 1, and did not find that the excessive length of the proceedings had infringed Mr Hamanov's right to a trial within a reasonable time (see paragraph 26 above). Although it acknowledged that the criminal prosecution against Mr Hamanov had lasted a long time and mentioned that a long period had elapsed since the commission of the offence, it did not specify whether this had been attributable to the authorities' conduct (see *Mladenov*, § 32, and *Sheremetov*, § 34, both cited above, and contrast *Hadjiiski and Iliev v. Bulgaria* (dec.), nos. 68454/01 and 68456/01, 2 June 2005; *Terziiski and Others v. Bulgaria* (dec.), no. 1509/05, 30 September 2008; *Bochev*, cited above, §§ 16, 18 and 82; and *Pfeifer v. Bulgaria* (dec.), no. 24733/04, 10 November 2009).

66. Nor is the Court persuaded that the Plovdiv Regional Court's finding concerning the length of the proceedings against Mr Hamanov had a decisive and measurable impact on his sentence. As evident from its reasoning, that court took the length of the proceedings into account amongst a number of other mitigating circumstances (see paragraph 26 above). While it is true that Mr Hamanov's sentence was below the mean punishment envisaged by the 1968 Criminal Code for the chief offence of which he was convicted (see paragraph 51 above), it is not clear from the court's reasoning whether the time/delay element amounted to a primary ground to mitigate the sentence. The Court cannot therefore find that the reduction on account of the length factor was measurable and had a decisive impact on Mr Hamanov's sentence. He cannot therefore be regarded as having been afforded quantifiable redress for the alleged breach of his right to a hearing within a reasonable time (see *Jensen v. Denmark* (dec.), no. 48470/99, ECHR 2001-X; *Lehtonen v. Finland*, no. 11704/03, § 16, 13 June 2006; *Donner v. Austria*, no. 32407/04, § 27, 22 February 2007; *Taavitsainen v. Finland*, no. 25597/07, §§ 30 and 31, 8 December 2009, and contrast *Dželili v. Germany*, no. 65745/01, §§ 101-03, 10 November 2005;

*Cordier v. Germany* (dec.), no. 71741/01, 19 January 2006; *Bochev*, cited above, § 83; *Kaletsch v. Germany* (dec.), no. 31890/06, 23 June 2009; and *Stein v. Germany* (dec.), no. 12895/05, 7 July 2009). Moreover, the question whether the alleged redress was sufficient to make good a violation resulting from the entire length of the proceedings can be decided only at their close. The reduction of Mr Hamanov's sentence by the first-instance court could not remedy any delays that occurred later, when the case was heard on appeal (see *Uoti v. Finland*, no. 61222/00, § 31, 9 January 2007).

67. The fact this Court has already found a breach of the reasonable-time requirement of Article 6 § 1 in relation to an earlier phase of the criminal proceedings against Mr Hamanov is irrelevant in this context. The same goes for the assertions that the case was complex and that the proceedings post-dating the Court's judgment in *Hamanov* (cited above) were not unreasonably lengthy. They concern the merits of the complaint and are of no significance for determining the applicant's continuing victim status (see, *mutatis mutandis*, *Corigliano v. Italy*, 10 December 1982, § 31, Series A no. 57).

68. It follows that the Government's objection must be rejected.

69. The Court further considers that Mr Hamanov's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

## **B. Merits**

### *1. General principles*

70. The "reasonable time" guarantee of Article 6 § 1 serves to ensure public trust in the administration of justice. The other purpose of the guarantee is to protect all parties to court proceedings against excessive procedural delays; in criminal matters, especially, it is designed to avoid that a person charged with a criminal offence should remain too long in a state of uncertainty about his or her fate (see *Stögmüller v. Austria*, 10 November 1969, p. 40, § 5, Series A no. 9). It underlines the importance of administering justice without delays which might jeopardise its effectiveness and credibility (see *Guincho v. Portugal*, 10 July 1984, § 38 *in fine*, Series A no. 81; *H. v. France*, 24 October 1989, § 58, Series A no. 162-A; *Moreira de Azevedo v. Portugal*, 23 October 1990, § 74, Series A no. 189; *Katte Klitsche de la Grange v. Italy*, 27 October 1994, § 61, Series A no. 293-B; *Bottazzi v. Italy* [GC], no. 34884/97, § 22, ECHR 1999-V; *Niederböster v. Germany*, no. 39547/98, § 44, ECHR 2003-IV (extracts); and *Scordino (no. 1)*, cited above, § 224).

71. The reasonableness of the duration of proceedings must be assessed in the light of the particular circumstances of each case and with reference

to the following criteria: the complexity of the case, the conduct of the applicant and the relevant authorities, and what was at stake for the applicant in the litigation (see, among many other authorities, *Scordino (no. 1)*, cited above, § 177).

72. The States have the duty to organise their judicial systems in such a way that their courts can meet each of the requirements of Article 6 § 1 of the Convention, including the obligation to hear cases within a reasonable time (see, among many other authorities, *Bottazzi*, § 22, and *Scordino (no. 1)*, § 183, both cited above). They are responsible for delays attributable to the conduct of their judicial or other authorities (see, by way of example, *Foley v. the United Kingdom*, no. 39197/98, §§ 38-39, 22 October 2002). They are also responsible for delays in the presentation of the opinions of court-appointed experts (see *Capuano v. Italy*, 25 June 1988, § 32, Series A no. 119, and *Nibbio v. Italy*, 26 February 1992, § 18, Series A no. 228 A). A State may thus be found liable not only for delay in the handling of a particular case, but also for a failure to increase resources in response to a backlog of cases, or for structural deficiencies in its judicial system that cause delays (see *Zimmermann and Steiner v. Switzerland*, 13 July 1983, §§ 29-32, Series A no. 66; *Guincho*, cited above, §§ 39-41; and *Pammel v. Germany*, 1 July 1997, §§ 69-72, *Reports of Judgments and Decisions 1997-IV*). Tackling the problem of unreasonable delay in judicial proceedings may thus require the State to take a range of legislative, organisational, budgetary and other measures.

73. In that connection, it should be emphasised that a failure to deal with a particular case within a reasonable time is not necessarily the result of omissions on the part of individual judges, prosecutors or investigators. For instance, while in some cases delays may result from the lack of diligence on the part of the investigator, prosecutor or judge in charge of a particular case (see, by way of example, *B. v. Austria*, cited above, §§ 52-54, and *Reinhardt and Slimane-Kaïd v. France*, 31 March 1998, § 100, *Reports 1998-II*), in others the delays may stem from the State's failure to place sufficient resources at the disposal of its judicial system (see, by way of example, *Zimmermann and Steiner*, cited above, §§ 30-32), or allocate cases in an efficient manner (see, by way of example, *Georgiadis v. Cyprus*, no. 50516/99, § 46, 14 May 2002).

## 2. *Mr Dimitrov's case*

74. Mr Dimitrov was subject to a "charge" from the day when he was arrested and confessed to taking part in the commission of the offence – 21 September 1995 (see paragraph 7 above; and, as regards arrest as a starting point, see *Ewing v. the United Kingdom*, no. 11224/84, Commission's report of 6 October 1987, *Decisions and Reports (DR) 56*, p. 71, at pp. 84-85, § 145, and *Crowther v. the United Kingdom*, no. 53741/00, §§ 8 and 26, 1 February 2005; as regards police interview and

confession as a starting point, see *Howarth v. the United Kingdom*, no. 38081/97, §§ 8, 9 and 20, 21 September 2000; *Martins and Garcia Alves v. Portugal*, no. 37528/97, §§ 9, 10 and 20, 16 November 2000; *Myashev v. Bulgaria*, no. 43428/02, § 15, 8 January 2009; *Yankov and Manchev v. Bulgaria*, nos. 27207/04 and 15614/05, §§ 18 and 24, 22 October 2009; *Stefanov and Yurukov v. Bulgaria*, no. 25382/04, §§ 4 and 14, 1 April 2010; and *Rangelov and Stefanov v. Bulgaria*, no. 23240/04, §§ 5 and 14, 1 April 2010). The proceedings ended on 18 May 2006 (see paragraph 15 above). The period to be considered thus lasted ten years and almost eight months, for a preliminary investigation and one level of court.

75. The criteria for assessing the reasonableness of that period have been set out in paragraph 71 above.

76. The applicants presented a number of arguments as to the way in which those criteria should apply in the present case. The Government, for their part, acknowledged that the criminal proceedings against Mr Dimitrov had been excessively lengthy, chiefly as a result of delays attributable to the authorities.

77. The Court observes that, at least between 1995 and 2002, the criminal proceedings against Mr Dimitrov apparently did not have a significant impact on him: there is no indication that he suffered any practical consequences or damage as a result of the fact that there were outstanding criminal charges against him. It does not appear that he risked a serious sentence either. However, it cannot be overlooked that the case was very simple, that Mr Dimitrov's conduct was not the source of any delays, and the authorities were responsible – directly or indirectly – for all the delays. Between November 1995 and February 2002 the case remained dormant for no apparent reason (see paragraphs 8, 9 and 10 above). The period of inactivity between May 2002 and March 2005, while at first sight due to an objective reason – a key witness and possible co-accused being abroad – cannot be considered justified, given that that individual could have been interviewed during the five years between the opening of the proceedings in 1995 and the time when he left Bulgaria in 2000 (see paragraphs 12 and 13 above). Lastly, almost ten months passed between the submission of the indictment and the first trial hearing, at which the court approved the plea bargain between Mr Dimitrov and the prosecution (see paragraphs 14 and 15 above). The Government have not put forward any explanation for that gap.

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

### 3. *Mr Hamanov's case*

79. This is a second application by Mr Hamanov. His first one concerned, among other things, the length of the criminal proceedings against him. It resulted in a judgment in which the Court found, among

other things, a breach of Mr Hamanov's right to a hearing within a reasonable time. The Court's conclusion was based on the length of the proceedings from when they started in March 1996 until the latest information from the parties in April 2003 (see *Hamanov*, cited above, §§ 11-32 and 102-07). While as a rule, when assessing whether proceedings are reasonable in length, the Court looks at their actual duration up to the adoption of its judgment (see *Pailot v. France*, 22 April 1998, § 57, *Reports* 1998-II; *S.A.GE.MA S.N.C. v. Italy*, no. 40184/98, § 11, 27 April 2000; *Rotondi v. Italy*, no. 38113/97, § 13, 27 April 2000; *S.A. v. Portugal*, no. 36421/97, § 22, 27 July 2000; and *Geraldes Barba v. Portugal*, no. 61009/00, § 32, 4 November 2004), in that case it did not consider the period between May 2003, the date of the latest information from the parties, and 18 March 2004, the date of the adoption of its judgment (see *Hamanov*, cited above, §§ 102-03). The period to be considered in the present case thus started in April 2003 (see paragraph 16 above). The proceedings ended on 9 July 2008 (see paragraph 32 above). The period to be taken into account in this case is therefore five years and approximately three months, for three levels of jurisdiction.

80. The criteria for assessing the reasonableness of that period have been set out in paragraph 71 above.

81. The parties presented a number of arguments as to the way in which those criteria should apply in this case.

82. The Court starts by noting that the importance of what was at stake for the applicant, a serious criminal conviction and a long sentence of imprisonment, is not in doubt. It also seems that the proceedings had an impact on the applicant's ability to practise his profession.

83. On the other hand, the Court observes that in *Hamanov* (cited above, § 104), it noted that the case, which involved several persons accused of having committed offences in relation to a number of financial transactions, was factually and legally complex. In view of that, a period of just over five years and three months for three levels of jurisdiction does not appear *prima facie* unreasonable.

84. However, it cannot be overlooked that that period came after the criminal proceedings against Mr Hamanov had already lasted more than seven years, and had been found by the Court to be unreasonably lengthy by reason of a number of unjustified delays (see *Richard v. France*, 22 April 1998, § 66, *Reports* 1998-II; *Leterme v. France*, 29 April 1998, § 70, *Reports* 1998-III; *Henra v. France*, 29 April 1998, § 70, *Reports* 1998-II; *Ada Maccari v. Italy*, no. 44464/98, § 11, 1 March 2001; *S.A.GE.MA S.N.C.*, cited above, § 12, *Rotondi*, cited above § 14; *Lutz v. France (no. 2)*, no. 49531/99, § 22, 17 June 2003; and *Geraldes Barba*, cited above, § 38). There were no serious delays in the proceedings before the Supreme Court of Cassation (see paragraphs 29-32 above). However, the same cannot be said of the proceedings before the Plovdiv Regional Court and the Plovdiv

Court of Appeal. The Plovdiv Regional Court held eleven hearings. One of those was adjourned for reasons attributable to the authorities, four for reasons attributable to Mr Hamanov's co-accused, two for reasons attributable to Mr Hamanov, and two because of the need to gather additional evidence, with the result that the case remained pending before that court for more than two and a half years (see paragraphs 18-25 above). After that, there was a gap of about fourteen months between the filing of the appeals against the Plovdiv Regional Court's judgment and the time when the Plovdiv Court of Appeal heard those appeals (see paragraph 28 above). Part of that delay was apparently due to the late handing down of the reasons for the Plovdiv Regional Court's judgment (see paragraph 26 *in limine* above). The Court considers that the authorities could have done more to expedite the examination of the case, which had started as early as March 1996 and had already been beset by considerable delays (see *Hamanov*, cited above, § 105).

85. Having regard to the foregoing, the Court concludes that the criminal charges against Mr Hamanov were not determined within a reasonable time. There has therefore been a violation of Article 6 § 1 of the Convention.

## II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

86. The applicants complained that they had not had effective remedies in respect of the excessive length of the criminal proceedings against them. They relied on Article 13 of the Convention, which provides 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.”

### A. The parties' submissions

87. The Government did not address that complaint in their observations.

88. The applicants submitted that at the material time Bulgarian law did not provide any remedies allowing them to speed up the proceedings against them or obtain appropriate redress in respect of their excessive duration. Unlike the 1952 Code of Civil Procedure, the 1974 Code of Criminal Procedure did not envisage a “complaint about delays”. There was no possibility to claim compensation under section 2 of the 1988 Act, because it did not envisage the excessive duration of criminal proceedings as a cause of action. The Bulgarian courts construed the causes of action under that provision strictly; that was evident from the Supreme Court of Cassation's interpretative decision no. 3 of 2005.

## **B. The Court's assessment**

### *1. Admissibility of the complaints*

89. The Court considers that the applicants' complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. They must therefore be declared admissible.

### *2. General principles*

90. The application of Article 13 of the Convention in this context began with the Court's judgment in *Kudła v. Poland* ([GC], no. 30210/96, §§ 146-60, ECHR 2000-XI). A comprehensive restatement of the relevant principles, as established in *Kudła* and its progeny, may be found in the Court's judgment in the case of *Sürmeli v. Germany* ([GC], no. 75529/01, §§ 97-101, ECHR 2006-VII, with further references):

(a) Under Article 1 of the Convention, which provides that "[t]he High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention", the primary responsibility for implementing and enforcing the rights and freedoms guaranteed by the Convention is laid on the national authorities. The machinery of complaint to the Court is thus subsidiary to national systems safeguarding human rights. This subsidiary character is articulated in Article 13 and Article 35 § 1 of the Convention;

(b) 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. The effectiveness of a remedy within the meaning of Article 13 does not depend on the certainty of a favourable outcome for the applicant. Also, even if a single remedy does not by itself entirely satisfy the requirements of Article 13, the aggregate of remedies provided for under domestic law may do so. It is therefore necessary to determine in each case whether the means available to litigants in domestic law are "effective" in the sense either of preventing the alleged violation or its continuation, or of providing adequate redress for any violation that has already occurred;

(c) 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 of the Convention if they prevent the alleged violation or its continuation, or provide adequate redress for any violation that has already occurred. A remedy is therefore 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 (on that point, see also *Mifsud v. France* (dec.) [GC], no. 57220/00, ECHR 2002-VIII);

(d) The best solution in absolute terms is indisputably, as in many spheres, prevention. Where the judicial system is deficient with regard to the reasonable-time requirement in Article 6 § 1 of the Convention, a remedy designed to expedite the proceedings in order to prevent them from becoming excessively lengthy is the most effective solution. Such a remedy offers an undeniable advantage over a remedy affording only compensation since it also prevents a finding of successive violations in respect of the same set of proceedings and does not merely repair the breach *a posteriori*, as does a compensatory remedy. Some States have understood the situation perfectly by choosing to combine two types of remedy, one designed to expedite the proceedings and the other to afford compensation (on that point, see also *Scordino (no. 1)*, cited above, § 186);

(e) Where a domestic legal system has made provision for bringing a claim against the State, such a claim must remain an effective, sufficient and accessible remedy in respect of the excessive length of judicial proceedings, and its sufficiency may be affected by excessive delays and depend on the level of compensation.

### 3. Application of those principles to the present case

91. In view of its findings under Article 6 § 1 (see paragraphs 78 and 85 above), the Court considers that the applicants' complaints concerning the length of the criminal proceedings against them were arguable. They were therefore entitled to an effective remedy in that regard.

92. The possibility for an accused to have his or her case brought to trial or obtain a discontinuance of the proceedings if the preliminary investigation is taking too long (see paragraphs 38-40 above) is the only remedy that the Court has found, in certain situations, to be effective in relation to the length of criminal proceedings in Bulgaria (see *Ganchev v. Bulgaria*, no. 57855/00, §§ 23-34, 12 April 2007; *Iordan Iordanov and Others v. Bulgaria*, no. 23530/02, §§ 65-67, 2 July 2009; and *Gerdzhikov v. Bulgaria*, no. 41008/04, § 31, 4 February 2010). However, it would not have been able to provide adequate redress to either applicant.

93. The bulk of the delay in Mr Dimitrov's case took place before the introduction of that remedy in June 2003 (see paragraphs 8-10 above), and could not have been remedied through it (see *Mitev v. Bulgaria*, no. 40063/98, § 158, 22 December 2004; *Sidjimov v. Bulgaria*, no. 55057/00, § 40, 27 January 2005; *Karov v. Bulgaria*, no. 45964/99, § 74 *in fine*, 16 November 2006; *Vasilev and Others v. Bulgaria*, no. 61257/00, §§ 29 and 37-40, 8 November 2007; *Atanasov and Ovcharov v. Bulgaria*, no. 61596/00, §§ 57-58, 17 January 2008; *Yankov v. Bulgaria (no. 2)*, no. 70728/01, § 57, 7 February 2008; *Gavazov v. Bulgaria*, no. 54659/00,

§§ 164-65, 6 March 2008; *Ivan Hristov v. Bulgaria*, no. 32461/02, §§ 36-37 and 45-48, 20 March 2008; *Balabanov v. Bulgaria*, no. 70843/01, § 30, 3 July 2008; *Yankov and Manchev v. Bulgaria*, nos. 27207/04 and 15614/05, § 32, 22 October 2009; *Rumen Georgiev v. Bulgaria*, no. 27240/04, § 17, 14 October 2010; *Kashavelov v. Bulgaria*, no. 891/05, § 51, 20 January 2011; and *Makedonski v. Bulgaria*, no. 36036/04, § 58, 20 January 2011). Nor was the procedure capable of remedying delays occurring during the judicial phase of the proceedings against Mr Dimitrov.

94. The same goes for Mr Hamanov, whose case is a good illustration of the remedy's potential and limitations. One of his co-accused used the remedy shortly after it was introduced, and his request served as a stimulus for the prosecuting authorities promptly to submit an indictment against all eight accused (see paragraph 17 above). However, that did not provide Mr Hamanov any redress in respect of the delays which occurred before that, and did not – indeed, could not – accelerate the proceedings or prevent delays during the ensuing trial and appeals.

95. The Court has found in a number of judgments that, apart from the above-mentioned remedy, there are no acceleratory remedies in respect of the length of criminal proceedings in Bulgaria (see *Osmanov and Yuseinov v. Bulgaria*, nos. 54178/00 and 59901/00, § 38, 23 September 2004; *Mitev*, cited above, §§ 158-59; *Sidjimov*, cited above, §§ 40-41; *Popov v. Bulgaria*, no. 48137/99, § 91, 1 December 2005; *Nalbantova v. Bulgaria*, no. 38106/02, § 34, 27 September 2007; *Karamitrov and Others v. Bulgaria*, no. 53321/99, § 58, 10 January 2008; *Atanasov and Ovcharov*, cited above, §§ 56 and 57; *Krasimir Yordanov v. Bulgaria*, no. 50899/99, § 35, 15 February 2007; *Gavazov*, cited above, §§ 164-65; *Petrov v. Bulgaria*, no. 15197/02, § 62, 22 May 2008; *Kirov v. Bulgaria*, no. 5182/02, § 81, 22 May 2008; *Sheremetov*, cited above, § 52; *Balabanov*, cited above, §§ 30 and 32; *Myashev*, cited above, § 22; *Valentin Ivanov v. Bulgaria*, no. 76942/01, § 36, 26 March 2009; and *Yankov and Manchev*, cited above, § 32).

96. The Court has also many times noted the lack of compensatory remedies (see *Osmanov and Yuseinov*, § 41; *Mitev*, § 160; *Sidjimov*, § 42; and *Popov*, § 91, all cited above; *Karov v. Bulgaria*, no. 45964/99, § 74 *in limine*, 16 November 2006; *Nalbantova*, § 35; *Karamitrov and Others*, §§ 59 and 60; and *Atanasov and Ovcharov*, §§ 59 and 60; *Yankov (no. 2)*, §§ 58 and 59; *Krasimir Yordanov*, § 35; *Gavazov*, § 166; *Petrov*, § 63; *Kirov*, § 80; *Sheremetov*, § 53; *Balabanov*, § 31; *Myashev*, § 22; *Valentin Ivanov*, § 36; and *Yankov and Manchev*, § 33, all cited above). In a number of cases the Bulgarian Government argued that the 1988 Act can provide an effective remedy in that regard. However, that Act does not explicitly envisage liability of the authorities for excessively lengthy proceedings (see paragraph 47 above). The Court has therefore in a number of cases rejected the Government's argument, noting that they were unable

to cite any domestic case-law in support of their assertion (see *Nalbantova*, cited above, §§ 25 and 35; *Doinov v. Bulgaria*, no. 68356/01, §§ 31-37, 27 September 2007; *Karamitrov and Others*, §§ 47, 59 and 60; *Atanasov and Ovcharov*, § 44, 59 and 60; *Kirov*, § 80; and *Balabanov*, §§ 20 and 31, all cited above; as well as *Mirchev and Others v. Bulgaria*, no. 71605/01, §§ 16-18, 27 November 2008; *Gerdzhikov*, cited above, § 31; *F.G. v. Bulgaria*, no. 17911/03, §§ 22 and 32, 4 March 2010; *Filipov v. Bulgaria*, no. 40495/04, §§ 32 and 44, 10 June 2010; *Konovski v. Bulgaria*, no. 33231/04, § 31, 2 September 2010; and *Makedonski*, cited above, §§ 28-29 and 59).

97. Naturally, the Court cannot overlook that in its recent case-law the Supreme Court of Cassation, when it allows claims for compensation brought under section 2(1)(2) of the 1988 Act by persons who have been acquitted or the proceedings against whom have been discontinued, in fixing the amount of damages takes into account, among other factors, the length of the proceedings (see paragraph 49 above). However, the Court does not consider that such claims can be regarded as an effective remedy in respect of the excessive length of criminal proceedings, for several reasons. First, the cause of action underlying such claims is not a breach of the right to a hearing within a reasonable time, but the fact that the proceedings have resulted in an acquittal or have been discontinued (see paragraph 48 above and contrast *Gonzalez Marín v. Spain* (dec.) no. 39521/98, ECHR 1999-VII; *Mifsud*, cited above; and *Paulino Tomás v. Portugal* (dec.), no. 58698/00, ECHR 2003-VIII). Therefore, it cannot be regarded as an avenue whereby persons charged with criminal offences can vindicate, as such, their right to a hearing within a reasonable time (see *Ommer v. Germany* (no. 1), no. 10597/03, §§ 41-43 and 75, 13 November 2008, and *Ommer v. Germany* (no. 2), no. 26073/03, §§ 37-40 and 62, 13 November 2008, as well as, *mutatis mutandis*, *Peev v. Bulgaria*, no. 64209/01, §§ 72-73, 26 July 2007). Secondly – and this point is closely related with the first – it is unclear what weight the domestic courts, when calculating the amount of damages to be awarded to a successful claimant, accord to the length of the proceedings vis-à-vis other relevant factors, such as the length of any related pre-trial detention or the impact of the proceedings on the individual's private or family life (see paragraph 48 above). It is thus impossible to ascertain whether the level of compensation afforded to the applicant in relation to the length of the proceedings is reasonable (see *Scordino* (no. 1), cited above, § 206, and *Simaldone v. Italy*, no. 22644/03, § 30, 31 March 2009). Thirdly, those claims do not fall to be examined under a streamlined procedure, but under the general rules of civil procedure, by at least two, and possibly three, levels of court, with the result that the proceedings can last several years (see paragraph 49 in fine above). Such a lapse of time is not reconcilable with the requirement that a remedy for delay be sufficiently swift (see *McFarlane*, cited above, § 123). Fourthly, such claims can be

brought only after the criminal proceedings have ended and not while they are still pending (see *Robert Lesjak v. Slovenia*, no. 33946/03, §§ 52-53, 21 July 2009). Lastly, such claims may come for hearing before the courts against which they are directed, and any awards that the courts make pursuant to such claims must be paid out of their budget. Both of those facts may raise serious issues in relation to the lack of objective impartiality of the courts hearing such claims (see *Mihalkov v. Bulgaria*, no. 67719/01, §§ 45-51, 10 April 2008). Therefore, claims under section 2(1)(2) of the 1988 Act cannot be taken into account for the purposes of Article 13 of the Convention, but any awards made in such proceedings may be relevant in respect of an award of just satisfaction under Article 41 of the Convention (see, mutatis mutandis, *Hornsby v. Greece*, 19 March 1997, § 37 in fine, Reports of Judgments and Decisions 1997-II, and *Iatridis v. Greece* [GC], no. 31107/96, § 47, ECHR 1999-II).

98. Lastly, it should be mentioned – and welcomed – that the 2007 Judiciary Act expressly recognises, in its section 7(1), the right to a “hearing within a reasonable time” (see paragraph 36 above), and that the 2005 Code of Criminal Procedure lays down, in its Article 22, an obligation for the courts to “examine and decide cases within a reasonable time”, and for prosecutors and the investigating authorities to ensure that “pre-trial proceedings are conducted within the time-limits laid down in [the] Code” (see paragraph 42 above). However, it does not seem that there exists a mechanism whereby the individuals concerned may vindicate that right or obtain redress for a failure to comply with that obligation.

99. In view of the foregoing considerations, the Court concludes that the applicants did not have at their disposal effective remedies in respect of their complaints about the length of the criminal proceedings against them. There has therefore been a violation of Article 13 of the Convention.

### III. APPLICATION OF ARTICLE 46 OF THE CONVENTION

100. The Court finds it appropriate to consider the present case under Article 46 of the Convention, which reads as follows:

“1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.”

## A. The parties' submissions

### 1. The Government

101. The Government submitted that the problems illustrated by the two sets of criminal proceedings at issue in the present case were not such as to call for the adoption of a pilot judgment. The mere fact that there had been many judgments in which the Court had found Bulgaria in breach of its obligation to provide applicants with proceedings within a reasonable time did not show the existence of a systemic problem. It had to be borne in mind that the two applications concerned proceedings which had taken place between 1996 and 2009. The assessment whether they were indicative of a structural problem called for the consideration of the reform of the criminal justice system which had taken place during that period. Many of those reforms, which had started in 1999, had been a result of rulings made by the Court. The increasing incidence of adverse rulings against Bulgaria and the high number of pending applications evinced not only problems with the Bulgarian criminal justice system, but also the increasing popularity of the Court. Another fact showing the lack of a structural problem was that the Committee of Ministers had not adopted an interim resolution in relation to the group of Bulgarian cases concerning length of proceedings. More time was therefore needed to assess the effect of the ongoing reform of the judicial system and the impact of the newly adopted rules of procedure.

102. The statistics compiled by the Supreme Judicial Council for 2009 were very encouraging in that respect. Those statistics showed that in 2009 the number of new cases in the judicial system had increased by 12.04% compared with 2008, even though 71,000 company registration cases had been taken out of the system following the reform of the register of companies. The number of cases completed in 2009 had increased by 15.46% in relation to those completed in 2008; that figure was chiefly due to the number coming from the district courts, where the increase had been upwards of 20%. The number of cases processed in less than three months had also increased in 2009, being 22.62% higher than in 2008. In 2009, the number of cases resulting in a judicial decision had increased by 19%. In spite of the huge increase in the incoming cases, the number of unfinished cases at the end of 2009 had diminished by 2,500 compared with the previous year.

103. Further measures taken by the authorities to tackle the problem were reflected in the recent adoption of a "Blueprint" for the Penal Policy of the Republic of Bulgaria for the Period 2010-14 (*"Концепция за наказателната политика на Република България за периода 2010-2014 г."*), and a "Blueprint" for Overcoming the Causes for the Adverse Rulings of the Court Against Bulgaria (*"Концепция за преодоляване на причините за осъдителните решения на Европейския"*

*съд по правата на човека срещу България и за решаване на проблемите, произтичащи от тях*”), adopted by the Government in March 2009. One of the aims of the former had been a reduction of the formalities in criminal proceedings. The aim of the latter had been the creation of a roadmap for overcoming the problems leading to judgments in which the Court finds that Bulgaria is in breach of its Convention obligations. That Blueprint had been drawn up by a working group comprising senior State officials and prominent human-rights activists. It had specifically addressed the issue of unreasonable length of proceedings and had proposed solutions for overcoming it and for putting in place effective remedies in respect of it. Based on that Blueprint, a working group had been asked to propose amendments to the 1988 Act. In May 2010 that group had drawn up a draft bill, but work on it was still under way. That bill specifically envisaged adding undue delay in criminal, civil and administrative cases as a cause of action entailing State liability.

104. Other factors were the comprehensive monitoring carried out by the inspectorate of the Ministry of Justice and by the newly created inspectorate of the Supreme Judicial Council, the increased use of disciplinary sanctions against judges, and the improved continuing legal training provided to judges.

105. In the Government’s view, all of the above showed that the Bulgarian authorities were taking effective measures to prevent repetitive breaches of the right to a hearing within a reasonable time. The Government nonetheless stated that they would welcome any recommendations made by the Court with a view to overcoming the issues raised by the case.

## *2. The applicants*

106. The applicants submitted that the excessive length of proceedings in Bulgaria was a systemic problem requiring an appropriate response from the Court. They pointed out that the Court had found breaches of the reasonable-time requirement of Article 6 § 1 in a number of cases relating to proceedings which had taken place between 1993 and 2009. Despite that, the Bulgarian State had not done enough to tackle the problem. Mr Hamanov’s case was a telling example. Legislative reforms had been somewhat chaotic, as evidenced by the changes in policy in that domain from one government to the next. The statistics provided by the Government were incomplete; they did not show whether undue delays had occurred and could not serve as a basis to conclude that the problem had been resolved. It was unclear whether and when the measures envisaged in the two blueprints mentioned by the Government would be implemented. The fact that the draft bill for the amendment of the 1988 Act had not been put before Parliament for more than a year showed the lack of political will to see those measures through. It could not be accepted that the inspectorates of the Ministry of Justice and of the Supreme Judicial Council

would provide a solution to the problem. The Government had not pointed to specific examples in which interventions by those bodies had led to an acceleration of the proceedings. Those bodies were only competent to analyse the work of the courts and make suggestions for disciplinary action, not to give binding instructions for the faster processing of individual cases.

107. The applicants further submitted that it was clear that Bulgarian law did not provide any remedies in respect of the excessive length of criminal proceedings. There was no possibility to claim compensation in respect of such matters under the 1988 Act, which the Bulgarian courts construed strictly.

## **B. The Court's assessment**

### *1. Applicable principles*

108. A summary of the principles applicable to pilot judgments may be found in the Court's judgments in the cases of *Broniowski* (cited above, §§ 188-94), *Burdov v. Russia (no. 2)* (no. 33509/04, §§ 125-28, ECHR 2009-...), *Olaru and Others v. Moldova* (nos. 476/07, 22539/05, 17911/08 and 13136/07, §§ 49-49, 28 July 2009), *Rumpf v. Germany* (no. 46344/06, §§ 59-61, 2 September 2010) and *Vassilios Athanasiou and Others v. Greece* (no. 50973/08, §§ 39-42, 21 December 2010), as well as in the newly adopted Rule 61 of the Rules of Court (which was inserted by the Court on 21 February 2011 and came into force on 1 April 2011).

### *2. Application of those principles to the present case*

#### **(a) Suitability of the pilot procedure in the present context**

109. The present case is similar to other cases, such as *Scordino (no. 1)*, *Vassilios Athanasiou* and *Rumpf* (all cited above), which also concerned the unreasonable length of proceedings and the lack of effective remedies in that regard. Moreover, the recurrent and persistent nature of the underlying problem, the large number of persons in Bulgaria who are liable to be affected by it, and the need to grant those persons appropriate redress at the domestic level are all factors militating in favour of applying the pilot judgment procedure in this case.

#### **(b) Existence of a practice incompatible with the Convention**

110. Since its first judgment concerning the length of criminal proceedings in Bulgaria (see *Ilijkov v. Bulgaria*, no. 33977/96, §§ 111-18, 26 July 2001), the Court has found breaches of the reasonable-time requirement in criminal proceedings in more than eighty cases (see Annex 1). Forty-one cases concerning such complaints have resulted in

friendly settlements or have been struck out of the Court's list on the basis of unilateral declarations by the Government (see Annex 2). According to the information in the Court's case management database, there are at present approximately two hundred cases against Bulgaria awaiting first examination which contain a complaint concerning the length of criminal proceedings. The above numbers show the existence of a systemic problem (see, among other authorities, *Bottazzi v. Italy* [GC], no. 34884/97, § 22, ECHR 1999-V; *Lukenda v. Slovenia*, no. 23032/02, §§ 90-93, ECHR 2005-X; and *Rumpf*, cited above, §§ 64-70). Indeed, as recently as 26 January 2011 the issue was noted "with grave concern" by the Parliamentary Assembly of the Council of Europe, which urged Bulgaria to "pursue its efforts to solve the problem of excessive length of court proceedings" (see paragraph 55 above).

111. The Government argued that the problem had recently been overcome, as a result of the adoption of new legislation and a range of organisational measures. The Court welcomes all measures capable of preventing delays in future proceedings, but must also make two points in connection with that assertion.

112. First, in its recent Interim Resolution of 2 December 2010 the Committee of Ministers, having examined the information – including statistics – supplied by the Bulgarian authorities, noted that the legislative reforms introduced between 2006 and 2010 had not yet produced their full impact on the length of proceedings and that a longer period was needed before the effectiveness of the measures taken could be fully assessed (see paragraph 52 above). Since the statistics on which the Government relied before the Court to prove that the problem of the excessive length of proceedings in Bulgaria has been resolved are largely identical to those that they provided to the Committee of Ministers, the Court sees no reason to come to a conclusion that differs from that of the Committee. It also considers that it is too early to find that the measures taken by the Bulgarian State to prevent unreasonably lengthy proceedings, while certainly to be encouraged, have produced tangible results. Indeed, the statistics supplied by the Government contain no data about the average duration of criminal proceedings in Bulgaria (see paragraphs 54 and 102 above).

113. Secondly, in view of the nature of the problem, the introduction of measures designed to ensure that the examination of criminal cases will not be unduly delayed in the future cannot remedy the problems engendered by delays accrued before the introduction of such measures.

114. For those reasons, the Court, while welcoming the Bulgarian State's continued efforts to improve the speed with which criminal cases are dealt with and the Government's willingness to conclude friendly settlements in respect of such complaints, finds that the problem of the excessive length of criminal proceedings in Bulgaria cannot at this stage be regarded as having been fully resolved.

115. It is not the Court's function to express an opinion on the Bulgarian criminal justice system. The Contracting States enjoy considerable freedom in the choice of the means calculated to ensure that their judicial systems are in compliance with the requirements of Article 6 of the Convention (see *König v. Germany*, 28 June 1978, § 100, Series A no. 27, and, more recently, *Taxquet v. Belgium* [GC], no. 926/05, §§ 83 and 84, 16 November 2010). Moreover, the unreasonable length of proceedings is a multifaceted problem which may be due to a large number of factors, of both a legal and logistical character. Some of those – such as an insufficient number of judges, prosecutors, investigators or administrative staff, inadequate court premises, overly complex procedures, procedural loopholes allowing unjustified adjournments, or poor case management – may be internal to the judicial system, whereas others – such as the belated submission of expert reports and failures by the authorities to provide in a timely manner documents needed as evidence – may be extrinsic to that system. The Court will therefore abstain from indicating any specific measures to be taken by the respondent State to tackle the problem. The Committee of Ministers is better placed and equipped to monitor the measures that need to be adopted by Bulgaria in that respect (see, *mutatis mutandis*, *Burdov (no. 2)*, §§ 136 and 137, and *Olaru and Others*, § 57, both cited above, as well as *Yuriy Nikolayevich Ivanov v. Ukraine*, no. 40450/04, §§ 90-92, ECHR 2009-... (extracts)). Indeed, as evident from its Interim Resolution of 2 December 2010 and the first Appendix to it, the Committee is already doing so and will continue, in cooperation with the national authorities (see paragraphs 52 and 53 above). By way of example, the Court would point to the recent adoption of statutory provisions proclaiming the right to a “hearing within a reasonable time” (see paragraph 36 above) and the obligation for the courts to “examine and decide cases within a reasonable time” (see paragraph 42 above).

116. However, there remains the question of the existence – or lack – of effective remedies in that respect (see, *mutatis mutandis*, *Burdov (no. 2)*, § 138, and *Olaru and Others*, § 58, both cited above). In its Interim Resolution the Committee of Ministers gave consideration to the point and found that there existed “certain structural problems in this field” (see paragraph 52 above). Indeed, less than full application of the guarantees of Article 13 would undermine the operation of the subsidiary character of the Court in the Convention system and, more generally, weaken the effective functioning, on both the national and international level, of the scheme of human rights protection set up by the Convention (see *McFarlane v. Ireland* ([GC], no. 31333/06, § 112, ECHR 2010-..., with further references).

117. The Court has already found that in Bulgaria there is no remedy whereby defendants aggrieved by the excessive length of criminal proceedings against them can obtain compensation (see paragraphs 96-98

above). It has also noted that there are no acceleratory remedies (see paragraph 95 above).

118. Nor is there a remedy allowing a reduction of sentence on account of accumulated delays. In some cases, the Bulgarian courts mitigate sentences on the basis of the general provisions of the Criminal Code governing the individualisation of punishment (see paragraph 50 above). However, that practice is often a result of the courts' view that long after the commission of an offence the aims of the punishment and the public interest do not require harsh sentences. Thus, while in some cases the courts spell out clearly that the reduction is meant as redress for a breach of the right to trial within a reasonable time, in others, such as Mr Hamanov's, they do not (see paragraphs 26, 65 and 66 above). Since that practice is not based on express statutory language or established case-law, usually does not make clear that the sentence is reduced in an express and measurable manner so as to make good any undue delays, and, most importantly, is not a possibility available as of right to those concerned, it cannot for the time being be regarded as an effective remedy. In addition, it should be pointed out that it is obviously available only if the proceedings result in a conviction (see *Ommer (no. 1)*, cited above, § 71).

119. The only remedy found by the Court to be effective, at least in some limited situations, was the procedure under Article 239a of the 1974 Code of Criminal Procedure, introduced in June 2003 (see paragraphs 38-40 and 92 above). In April 2006 that procedure was superseded by an almost identical procedure, governed by Articles 368-69 of the 2005 Code of Criminal Procedure (see paragraph 43 above). That remedy could function either as an acceleratory one (it could expedite the bringing of a case to trial) or as a compensatory one (it could lead to a discontinuance of proceedings). However, it had certain limitations. When operating as an acceleratory remedy, it could prevent further delay only in the pre-trial proceedings, and was available only to persons who had been formally charged. That is well illustrated by the proceedings in Mr Hamanov's case (see paragraph 17 above). In addition, it does not seem that it could prevent delays resulting from repeated referrals of cases back to the pre-trial stage – a major source of delay in some Bulgarian criminal cases (see *Yankov (no. 2)*, cited above, § 51). When functioning as a compensatory remedy, it could not make up for delays accrued before its introduction in June 2003 (see the cases cited in paragraph 93 above). Lastly, as correctly pointed out by the Bulgarian Constitutional Court (see paragraph 45 above), that remedy used a formal criterion to measure "reasonable time", which in some cases could, contrary to the public interest that offenders be brought to justice, result in the undue discontinuance of criminal prosecutions. It could also, as pointed out by the Supreme Court of Cassation, come into conflict with the right to a fair trial (see paragraph 41 above).

120. In any event, that procedure was abolished with effect from 28 May 2010 (see paragraphs 44 and 45 above). It does not therefore seem that at present there exists in Bulgaria any remedy in respect of the excessive length of criminal proceedings.

121. Concerning the possibility for checks by the Inspectorate attached to the Supreme Judicial Council pursuant to reports by private individuals (see paragraphs 35, 37 and 45 above), the Court welcomes the introduction of such machinery – in particular, the Inspectorate’s capacity to check whether judges, prosecutors and investigators have processed the cases assigned to them within the statutory time-limits. However, according to the Court’s established case-law, such mechanisms cannot be regarded as an effective remedy because they do not give the individuals concerned a personal right to compel the State to exercise its supervisory powers (see *Gibas v. Poland*, no. 24559/94, Commission decision of 6 September 1995, DR 82, p. 76, at p. 82; *Kuchař and Štis v. the Czech Republic* (dec.), no. 37527/97, 23 May 2000; *Horvat v. Croatia*, no. 51585/99, § 47, ECHR 2001-VIII; *Hartman v. the Czech Republic*, no. 53341/99, § 66, ECHR 2003-VIII (extracts); *Djangozov*, cited above, § 56; *Osmanov and Yuseinov*, cited above, § 39; *Rachevi v. Bulgaria*, no. 47877/99, § 101, 23 September 2004; *Sidjimov*, cited above, § 41; and *Sürmeli*, cited above, § 109).

122. There is thus a clear need for the introduction of a remedy or a range of remedies in respect of the excessive length of criminal proceedings. However, the introduction of an acceleratory remedy alone would not be sufficient. Indeed, in *Scordino (no. 1)* (cited above, § 186) the Court observed that “some States, such as Austria, Croatia, Spain, Poland and Slovakia, have understood the situation perfectly by choosing to combine two types of remedy, one designed to expedite the proceedings and the other to afford compensation”. It also stated that it is clear that for countries where length-of-proceedings problems already exist, a remedy designed to expedite the proceedings – although desirable for the future – may not be adequate to redress a situation in which proceedings have clearly already been excessively long (*ibid.*, § 185). It confirmed this position in three subsequent cases against Slovenia (see *Žunič v. Slovenia* (dec.), no. 24342/04, 18 October 2007; *Tomažič v. Slovenia*, no. 38350/02, § 37 *in fine*, 13 December 2007; and *Robert Lesjak*, cited above, § 36). In view of what has been said above, Bulgaria can be considered as a country in which length-of-proceedings problems already exist. It must therefore put in place a remedy which can provide redress for past delays. Indeed, the Committee of Ministers very recently invited the Bulgarian authorities “to complete as soon as possible the reform undertaken in order to introduce a remedy whereby compensation may be granted for prejudice caused by excessive length of judicial proceedings” (see paragraph 52 above), and the Bulgarian authorities are now working on a draft bill in that domain (see

paragraphs 53 and 103 above). The Court would add that the introduction of effective domestic remedies in this domain would be particularly important in view of the subsidiarity principle, so that individuals are not systematically forced to refer to the Court in Strasbourg complaints that could otherwise, and in the Court's opinion more appropriately, have been addressed in the first place within the national legal system (see *Kudla*, § 155, and *Scordino (no. 1)*, § 188, both cited above).

123. That makes it appropriate for the Court to provide guidance to the Government, in order to assist them in the performance of their duty under Article 46 § 1 of the Convention.

**(c) General measures to be adopted**

124. The Court observes at the outset that, subject to monitoring by the Committee of Ministers, the respondent State is free to choose the means by which it will discharge its duty under Article 46 § 1 of the Convention. However, those means must be compatible with the conclusions set out in the Court's judgment (see, among other authorities, *Burdov (no. 2)*, § 136; *Rumpf*, § 71; and *Vassilios Athanasiou and Others*, § 54, all cited above).

125. In view of the similarity of the situations obtaining in the present case and in *Vassilios Athanasiou and Others* (cited above, § 55, with further references), the Court would refer to the description it gave in that judgment of the key features of an effective compensatory remedy:

- the procedural rules governing the examination of such a claim must conform to the principle of fairness enshrined in Article 6 of the Convention;

- the rules governing costs must not place an excessive burden on litigants where their claim is justified;

- a claim for compensation must be heard within a reasonable time. In that connection, consideration may be given to subjecting the examination of such claims to special rules that differ from those governing ordinary claims for damages, to avert the risk that, if examined under the general rules of civil procedure, the remedy may not be sufficiently swift (see *Scordino (no. 1)*, cited above, § 200; *Vidas v. Croatia*, no. 40383/04, §§ 36-37, 3 July 2008; and *McFarlane*, cited above, § 123);

- the level of compensation must not be unreasonable in comparison with the awards made by the Court in similar cases (on this point, see also *Magura v. Slovakia*, no. 44068/02, § 34, 13 June 2006; *Riškova v. Slovakia*, no. 58174/00, § 89, 22 August 2006; *Šidlová v. Slovakia*, no. 50224/99, § 58, 26 September 2006; and *Simaldone*, cited above, § 30). In relation to this criterion, it should be noted that the domestic authorities or courts are clearly in a better position than the Court to determine the existence and quantum of pecuniary damage. In relation to non-pecuniary damage, there exists a strong but rebuttable presumption that excessively lengthy proceedings will cause such damage. Although in some cases the length of

proceedings may result in only minimal non-pecuniary damage or no non-pecuniary damage at all, the domestic authority or court dealing with the matter will have to justify its decision to award lower or no compensation by giving sufficient reasons, in line with the criteria set out in this Court's case-law;

– the compensation must be paid promptly and generally no later than six months from the date on which the decision that awards it becomes enforceable (on that point, see, as a recent authority, *Gaglione and Others v. Italy*, no. 45867/07, §§ 34-44, 21 December 2010).

126. The Court would further emphasise that, to be truly effective and compliant with the principle of subsidiarity, a compensatory remedy needs to operate retrospectively and provide redress in respect of delays which predate its introduction, both in proceedings which are still pending and in proceedings which have been concluded but in which the persons charged with a criminal offence have already applied to the Court or may do so (see *Brusco v. Italy* (dec.), no. 69789/01, ECHR 2001-IX; *Nogolica v. Croatia* (dec.), no. 77784/01, ECHR 2002-VIII; *Charzyński v. Poland* (dec.), no. 15212/03, §§ 20, 23, 36 and 40, ECHR 2005-V; *Michalak v. Poland* (dec.), no. 24549/03, §§ 20, 23, 37 and 41, 1 March 2005; *Vokurka v. the Czech Republic* (dec.), no. 40552/02, §§ 11 *in fine* and 62, 16 October 2007; *Grzinčič v. Slovenia*, no. 26867/02, § 48 and 57-68, ECHR 2007-V (extracts); and *Korenjak v. Slovenia* (dec.), no. 463/03, § 39 and 63-71, 15 May 2007).

127. By way of example, the Court would point to remedies introduced in recent years in Poland (see *Charzyński*, cited above, §§ 12-23), the Czech Republic (see *Vokurka*, cited above, § 11), Slovenia (see *Grzinčič*, cited above, §§ 36-48), and Croatia (see *Nogolica*, cited above).

128. Another measure that can, in certain situations, make good past delays is the possibility to obtain a reduction in the penalty imposed on a convicted defendant (see *Scordino (no. 1)*, cited above, § 186). The effectiveness of such a measure does not depend on whether it is the product of legislative changes or of well-established case-law of the domestic courts. However, to be able to redress the breach of the defendant's right to a hearing within a reasonable time, such a measure must meet three conditions. First, the courts must acknowledge the failure to observe the reasonable-time requirement of Article 6 § 1 in a sufficiently clear way. Secondly, they must afford redress by reducing the sentence in an express and measurable manner. Lastly, the opportunity to request such a reduction, whether based on express statutory language or clearly established case-law, must be available to the convicted defendant as of right. Naturally, that does not mean that the courts must as a rule accede to such requests; in situations where a reduction of sentence would not be an appropriate measure, they may refuse to do so, and it will then be for the defendant to seek other forms of redress, such as pecuniary compensation.

129. Conversely, in cases of extreme delay or delay which has been exceptionally prejudicial to the accused, consideration may even be given to discontinuing the proceedings altogether (see *Sprotte v. Germany* (dec.), no. 72438/01, 17 November 2005), provided that the public interest is not adversely affected by such a discontinuance.

130. Similar measures may also be envisaged in the context of plea bargaining between the accused and the prosecution.

131. The Court concludes that Bulgaria must introduce a remedy or a combination of remedies in respect of the unreasonable length of criminal proceedings. Those remedies must conform to the principles set out above and become available within twelve months from the date on which the present judgment becomes final.

**(d) Procedure to be followed in similar cases**

132. One of the goals of the pilot judgment procedure is to allow the speediest possible redress to be given at the domestic level to persons affected by the structural problem identified in the pilot judgment. Therefore, in a pilot judgment the Court is in a position to decide on the procedure to be followed in cases stemming from the same systemic problem (see *Burdov* (no. 2), § 142; *Olaru and Others*, § 59; *Yuriy Nikolayevich Ivanov*, § 95; and *Rumpf*, § 74, all cited above).

133. In the present case, the Court does not consider it appropriate to adjourn the examination of similar cases pending the implementation of the relevant measures by the respondent State. Continuing to process all length of proceedings cases in the usual manner will not interfere with the respondent State's duty to comply with its obligations under the Convention and in particular those resulting from this judgment (see *Rumpf*, § 75, and *Vassilios Athanasiou and Others*, § 58, both cited above).

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

134. 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**

135. Mr Dimitrov claimed 10,000 euros (EUR) in respect of the non-pecuniary damage occasioned by the violation of Article 6 § 1 of the Convention, and EUR 3,000 in respect of the non-pecuniary damage caused by the violation of Article 13 of the Convention.

136. Mr Hamanov claimed EUR 6,000 in respect of the non-pecuniary damage occasioned by the violation of Article 6 § 1 of the Convention, and EUR 3,000 in respect of the non-pecuniary damage caused by the violation of Article 13 of the Convention.

137. The Government submitted that the claims were exorbitant, and pointed out that the applicants were entitled to compensation only for the damage suffered as a result of the length of the proceedings against them. They referred to the awards made in previous similar cases against Bulgaria, and invited the Court to make similar awards.

138. The Court considers that the applicants must have suffered certain non-pecuniary damage as a result of the excessive length of the criminal proceedings against them and the lack of an effective remedy in that respect. Taking into account the particular circumstances of the two cases, the fact that Mr Hamanov has already been awarded compensation for the non-pecuniary damage suffered as a result of the excessive length of the criminal proceedings against him prior to April 2003 (see *Hamanov*, cited above, § 111), and the awards made in previous similar cases, and ruling on an equitable basis, as required under Article 41, the Court awards EUR 6,400 to Mr Dimitrov and EUR 600 to Mr Hamanov. To those sums is to be added any tax that may be chargeable.

## **B. Costs and expenses**

139. Mr Dimitrov sought reimbursement of EUR 2,683 incurred in lawyers' fees for thirty-eight hours and twenty minutes of work on the proceedings before the Court, billed at EUR 70 per hour, and EUR 52 for other expenses, such as postage, office consumables and photocopying. He requested that any sum awarded under this head be paid directly to his legal representative, Mr A. Atanasov. He submitted a fee agreement between him and his legal representatives, a time sheet, and a contract for translation services.

140. Mr Hamanov sought reimbursement of EUR 1,820 incurred in lawyers' fees for twenty-six hours of work on the proceedings before the Court, billed at EUR 70 per hour, and EUR 322.64 for other expenses, such as postage, office consumables, translation of documents and photocopying. He requested that EUR 153 of the lawyers' fees be paid directly to him (since he had already paid that sum to his lawyers), and the remaining EUR 1,667 to his legal representatives, Mr M. Ekimdzhiev and Ms K. Boncheva. He also requested that the award in respect of the other expenses be made payable to his lawyers. He submitted a time sheet for the work carried out by his legal representatives, a contract for translation services, and postal receipts.

141. The Government did not dispute the number of hours billed by the applicants' lawyers, but submitted that the hourly rate charged by them was several times higher than those usually charged in Bulgaria.

142. According to the Court's case-law, costs and expenses claimed under Article 41 must have been actually and necessarily incurred and be reasonable as to quantum.

143. When considering a claim for just satisfaction, the Court is not bound by domestic scales or standards (see, as a recent authority, *Mileva and Others v. Bulgaria*, nos. 43449/02 and 21475/04, §§ 123 and 125, 25 November 2010). Moreover, the hourly rate charged by the applicants' lawyers is comparable to those charged in recent cases against Bulgaria having a similar complexity (see *Velikovi and Others v. Bulgaria*, nos. 43278/98, 45437/99, 48014/99, 48380/99, 51362/99, 53367/99, 60036/00, 73465/01 and 194/02, §§ 268 and 274, 15 March 2007; *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria*, nos. 412/03 and 35677/04, § 183, 22 January 2009; *Bulves AD v. Bulgaria*, no. 3991/03, § 85, 22 January 2009; *Kolevi v. Bulgaria*, no. 1108/02, § 221, 5 November 2009; and *Mutishev and Others v. Bulgaria*, no. 18967/03, § 160, 3 December 2009). It can thus be regarded as reasonable. In view of that and bearing in mind that the case, due to its pilot character, raised a range of issues which surpass the complexity of those usually raised by a normal length-of-proceedings case, the Court awards the applicants the full sums claimed in respect of legal fees: EUR 2,683 to Mr Dimitrov and EUR 1,820 to Mr Hamanov. The sum awarded to Mr Dimitrov is to be paid into the bank account of his legal representative, Mr A. Atanasov. EUR 1,667 of the sum awarded to Mr Hamanov is to be paid into the bank account of his legal representatives, Mr M. Ekimdzhev and Ms K. Boncheva, and the remaining EUR 153 is to be paid to the applicant himself.

144. Having regard to the documents in its possession, the Court awards Mr Hamanov EUR 260 in respect of other expenses, and awards Mr Dimitrov EUR 40 in respect of other expenses.

### **C. Default interest**

145. 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 the length of the criminal proceedings against the two applicants and the alleged lack of effective remedies in that regard admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of Mr Dimitrov;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of Mr Hamanov;
4. *Holds* that there has been a violation of Article 13 of the Convention in respect of both applicants;
5. *Holds* that the violations of Article 6 § 1 and Article 13 of the Convention originated in a practice incompatible with the Convention which consists in the unreasonable length of criminal proceedings in Bulgaria and in Bulgaria's failure to introduce an effective remedy allowing persons charged with criminal offences to obtain appropriate redress in that regard;
6. *Holds* that the respondent State must set up, within twelve months from the date on which this judgment becomes final in accordance with Article 44 § 2 of the Convention, an effective remedy which complies with the requirements set out in this judgment;
7. *Holds*
  - (a) that the respondent State is to pay the applicants, within three months of 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 on the date of settlement:
    - (i) to Mr Dimitrov, EUR 6,400 (six thousand four hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (ii) to Mr Hamanov, EUR 600 (six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
    - (iii) to Mr Dimitrov, EUR 2,723 (two thousand seven hundred and twenty-three euros), plus any tax that may be chargeable to him, in respect of costs and expenses, to be paid into the bank account of his legal representative, Mr A. Atanasov;

(iv) to Mr Hamanov, EUR 2,080 (two thousand and eighty euros), plus any tax that may be chargeable to him, in respect of costs and expenses, EUR 153 (one hundred and fifty-three euros) of which are to be paid to the applicant himself, and the remaining EUR 1,927 (one thousand nine hundred and twenty-seven euros) are to be paid into the bank account of his legal representatives, Mr M. Ekimdzhiev and Ms K. Boncheva;

(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;

8. *Dismisses* the remainder of the applicants' claims for just satisfaction.

Done in English, and notified in writing on 10 May 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı  
Deputy Registrar

Nicolas Bratza  
President

## ANNEX 1

(judgments against Bulgaria in which the Court has found breaches of the “reasonable time” requirement in relation to the determination of criminal charges against the applicants):

1. *Ilijkov v. Bulgaria*, no. 33977/96, §§ 111-18, 26 July 2001
2. *Kitov v. Bulgaria*, no. 37104/97, §§ 66-75 and 78-85, 3 April 2003
3. *Hristov v. Bulgaria*, no. 35436/97, §§ 123 and 124, 31 July 2003
4. *Al Akidi v. Bulgaria*, no. 35825/97, §§ 92 and 93, 31 July 2003
5. *S.H.K. v. Bulgaria*, no. 37355/97, §§ 26-39, 23 October 2003
6. *Yankov v. Bulgaria*, no. 39084/97, §§ 204-07, 11 December 2003
7. *Belchev v. Bulgaria*, no. 39270/98, §§ 99-104, 8 April 2004
8. *Hamanov v. Bulgaria*, no. 44062/98, §§ 102-07, 8 April 2004
9. *Vachev v. Bulgaria*, no. 42987/98, §§ 84-97, 8 July 2004
10. *Zhbanov v. Bulgaria*, no. 45563/99, §§ 34-41, 22 July 2004
11. *Osmanov and Yuseinov v. Bulgaria*, nos. 54178/00 and 59901/00, §§ 23-30, 23 September 2004
12. *Kuibishev v. Bulgaria*, no. 39271/98, §§ 82-87, 30 September 2004
13. *Nikolova v. Bulgaria (no. 2)*, no. 40896/98, §§ 79-90, 30 September 2004
14. *Mitev v. Bulgaria*, no. 40063/98, §§ 143-52, 22 December 2004
15. *Iliev v. Bulgaria*, no. 48870/99, §§ 53 and 56-62, 22 December 2004
16. *E.M.K. v. Bulgaria*, no. 43231/98, §§ 139-45, 18 January 2005
17. *Sidjimov v. Bulgaria*, no. 55057/00, §§ 34-36, 27 January 2005
18. *Kolev v. Bulgaria*, no. 50326/99, §§ 91-99, 28 April 2005
19. *Asenov v. Bulgaria*, no. 42026/98, §§ 91-98 and 101-08, 15 July 2005
20. *Nedyalkov v. Bulgaria*, no. 44241/98, §§ 85-95, 3 November 2005
21. *Popov v. Bulgaria*, no. 48137/99, §§ 82-86, 1 December 2005
22. *Iovchev v. Bulgaria*, no. 41211/98, §§ 115-20, 2 February 2006
23. *Vasilev v. Bulgaria*, no. 59913/00, §§ 89-96, 2 February 2006
24. *Pekov v. Bulgaria*, no. 50358/99, §§ 101-08, 30 March 2006
25. *Vasko Yordanov Dimitrov v. Bulgaria*, no. 50401/99, §§ 32-42, 3 May 2006
26. *Toshev v. Bulgaria*, no. 56308/00, §§ 84-92, 10 August 2006
27. *Sodadjiev v. Bulgaria*, no. 58733/00, §§ 18-22, 5 October 2006
28. *Mladenov v. Bulgaria*, no. 58775/00, §§ 38-45, 12 October 2006
29. *Kalpachka v. Bulgaria*, no. 49163/99, §§ 64-67, 71-74, 77-78 and 82-85, 2 November 2006
30. *Karov v. Bulgaria*, no. 45964/99, §§ 58-66, 16 November 2006
31. *Yosifov v. Bulgaria*, no. 47279/99, §§ 63-74, 7 December 2006
32. *Hristova v. Bulgaria*, no. 60859/00, §§ 144-57, 7 December 2006

33. *Rezov v. Bulgaria*, no. 56337/00, §§ 49-52 and 56-61, 15 February 2007
34. *Krasimir Yordanov v. Bulgaria*, no. 50899/99, §§ 29-33, 15 February 2007
35. *Dimov v. Bulgaria*, no. 56762/00, §§ 131-42, 8 March 2007
36. *Terziev v. Bulgaria*, no. 62594/00, §§ 29-36, 12 April 2007
37. *Vasil Angelov v. Bulgaria*, no. 61662/00, §§ 20-30, 12 April 2007
38. *Ivanov v. Bulgaria*, no. 67189/01, §§ 38-47, 24 May 2007
39. *Nikola Nikolov v. Bulgaria*, no. 68079/01, §§ 67-75, 14 June 2007
40. *Doinov v. Bulgaria*, no. 68356/01, §§ 28-30 and 40-41, 27 September 2007
41. *Nalbantova v. Bulgaria*, no. 38106/02, §§ 30 and 31, 27 September 2007
42. *Karagyozev v. Bulgaria*, no. 65051/01, §§ 38-40, 25 October 2007
43. *Vasilev and Others v. Bulgaria*, no. 61257/00, §§ 31-41, 8 November 2007
44. *Karmo v. Bulgaria*, no. 76965/01, §§ 22 and 23, 6 December 2007
45. *Karamitrov and Others v. Bulgaria*, no. 53321/99, §§ 54-56, 10 January 2008
46. *Atanasov and Ovcharov v. Bulgaria*, no. 61596/00, §§ 52-54, 17 January 2008
47. *Yankov v. Bulgaria (no. 2)*, no. 70728/01, §§ 44-52, 7 February 2008
48. *Gavazov v. Bulgaria*, no. 54659/00, §§ 158-61, 6 March 2008
49. *Ivan Hristov v. Bulgaria*, no. 32461/02, §§ 40-55, 20 March 2008
50. *Sheremetov v. Bulgaria*, no. 16880/02, §§ 37-45, 22 May 2008
51. *Kirov v. Bulgaria*, no. 5182/02, §§ 65-72, 22 May 2008
52. *Petrov v. Bulgaria*, no. 15197/02, §§ 30-34, 22 May 2008
53. *Rashid v. Bulgaria (no. 2)*, no. 74792/01, §§ 78-83, 5 June 2008
54. *Balabanov v. Bulgaria*, no. 70843/01, §§ 23-26, 3 July 2008
55. *Vasil Petrov v. Bulgaria*, no. 57883/00, §§ 94-98, 31 July 2008
56. *Stoine Hristov v. Bulgaria (no. 2)*, no. 36244/02, §§ 27-36, 16 October 2008
57. *Mirchev and Others v. Bulgaria*, no. 71605/01, §§ 20-22, 27 November 2008
58. *Myashev v. Bulgaria*, no. 43428/02, §§ 14-18, 8 January 2009
59. *Valkov v. Bulgaria*, no. 72636/01, §§ 46-52, 8 January 2009
60. *Lisev v. Bulgaria*, no. 30380/03, §§ 37-42, 26 February 2009
61. *Valentin Ivanov v. Bulgaria*, no. 76942/01, §§ 28 and 30-33, 26 March 2009
62. *Rangelov v. Bulgaria*, no. 14387/03, §§ 52-57, 23 April 2009
63. *Iordan Iordanov and Others v. Bulgaria*, no. 23530/02, §§ 57-61, 2 July 2009
64. *Yankov and Manchev v. Bulgaria*, nos. 27207/04 and 15614/05, §§ 17-26, 22 October 2009

65. *Spas Todorov v. Bulgaria*, no. 38299/05, §§ 34 and 36-47, 5 November 2009
66. *Maxim Dimitrov v. Bulgaria*, no. 36552/03, §§ 20-28, 7 January 2010
67. *Gerdzhikov v. Bulgaria*, no. 41008/04, §§ 20-27, 4 February 2010
68. *F.G. v. Bulgaria*, no. 17911/03, §§ 24-27, 4 March 2010
69. *Rangelov and Stefanov v. Bulgaria*, no. 23240/04, §§ 14-17, 1 April 2010
70. *Stefanov and Yurukov v. Bulgaria*, no. 25382/04, §§ 14-17, 1 April 2010
71. *Kostov and Yankov v. Bulgaria*, no. 1509/05, §§ 18-21, 22 April 2010
72. *Filipov v. Bulgaria*, no. 40495/04, §§ 34-39, 10 June 2010
73. *Konovski v. Bulgaria*, no. 33231/04, §§ 22-25, 2 September 2010
74. *Yankov and Others v. Bulgaria*, no. 4570/05, §§ 20-24 and 26-28, 23 September 2010
75. *Rumen Georgiev v. Bulgaria*, no. 27240/04, §§ 22-28, 14 October 2010
76. *Doron v. Bulgaria*, no. 39034/04, §§ 38 and 40-45, 14 October 2010
77. *Angelov and Others v. Bulgaria*, no. 43586/04, §§ 18-23, 4 November 2010
78. *Nachev v. Bulgaria*, no. 27402/05, §§ 36-42, 21 December 2010
79. *Arabadzhiev and Alexiev v. Bulgaria*, no. 20484/05, §§ 11-15, 21 December 2010
80. *Kashavelov v. Bulgaria*, no. 891/05, §§ 44-47, 20 January 2011
81. *Makedonski v. Bulgaria*, no. 36036/04, §§ 49 and 51-55, 20 January 2011

## ANNEX 2:

(applications concerning alleged breaches of the “reasonable time” requirement in relation to the determination of criminal charges against the applicants which have been struck out of the Court’s list following friendly settlements or unilateral declarations by the Government):

1. *Petkov v. Bulgaria* (dec.), no. 10786/02, 9 May 2007
2. *Yakimov v. Bulgaria* (dec.), no. 22124/02, 4 September 2007
3. *Piryankov v. Bulgaria* (dec.), no. 74481/01, 4 September 2007
4. *Georgiev v. Bulgaria* (dec.), no. 70721/01, 27 November 2007
5. *Ivan Ivanov v. Bulgaria*, no. 53746/00, 10 January 2008
6. *Stanev v. Bulgaria* (dec.), no. 1115/03, 15 January 2008
7. *Tatarov v. Bulgaria* (dec.), no. 19189/03, 15 January 2008
8. *Ivanov v. Bulgaria* (dec.), no. 21560/03, 18 March 2008
9. *Kondev v. Bulgaria* (dec.), no. 21533/03, 1 April 2008
10. *Trifonov v. Bulgaria* (dec.), no. 39049/03, 22 April 2008
11. *Karamanova v. Bulgaria* (dec.), no. 579/03, 29 April 2008
12. *Nayden Kostov v. Bulgaria* (dec.), no. 11063/03, 20 January 2009
13. *Kiskinov v. Bulgaria* (dec.), no. 36051/03, 3 March 2009
14. *Tzvetkova v. Bulgaria* (dec.), no. 16501/04, 10 March 2009
15. *Stoimenov v. Bulgaria* (dec.), no. 19351/04, 31 March 2009
16. *Iliev v. Bulgaria* (dec.), no. 11342/04, 16 June 2009
17. *Petkov v. Bulgaria* (dec.), no. 33733/04, 16 June 2009
18. *Radev v. Bulgaria* (dec.), no. 10909/04, 25 August 2009
19. *Bogoev v. Bulgaria* (dec.), no. 42025/04, 25 August 2009
20. *Tanova v. Bulgaria* (dec.), no. 30478/05, 13 October 2009
21. *Raykov v. Bulgaria* (dec.), no. 28990/04, 9 February 2010
22. *Genov v. Bulgaria* (dec.), no. 34675/04, 2 March 2010
23. *Andonov v. Bulgaria* (dec.), no. 34877/05, 23 March 2010
24. *Shterev v. Bulgaria* (dec.), no. 10353/05, 23 March 2010
25. *Lazarov v. Bulgaria* (dec.), no. 42923/04, 4 May 2010
26. *Srebarnov v. Bulgaria* (dec.), no. 36321/05, 4 May 2010
27. *Kiryakov v. Bulgaria* (dec.), no. 36504/05, 4 May 2010
28. *Antonov v. Bulgaria* (dec.), no. 43064/05, 18 May 2010
29. *Ivanov v. Bulgaria* (dec.), no. 27397/05, 18 May 2010
30. *Dukova v. Bulgaria* (dec.), no. 36318/05, 15 June 2010
31. *Lenko Yordanov v. Bulgaria* (dec.), no. 1143/03, 6 July 2010
32. *Ivanov v. Bulgaria* (dec.), no. 8930/05, 31 August 2010
33. *Ognyanov and Others v. Bulgaria* (dec.), no. 24572/05, 31 August 2010
34. *Yordanova and Others v. Bulgaria* (dec.), no. 8919/05, 31 August 2010
35. *Popov and Others v. Bulgaria* (dec.), no. 2042/05, 31 August 2010

36. *Kraev v. Bulgaria* (dec.), no. 43007/04, 5 October 2010
37. *Georgiev v. Bulgaria* (dec.), no. 38066/06, 5 October 2010
38. *Encho Petkov v. Bulgaria* (dec.), no. 30506/04, 2 November 2010
39. *Chervenyakova v. Bulgaria* (dec.), no. 42953/06, 2 November 2010
40. *Tanko Todorov v. Bulgaria* (dec.), no. 38454/04, 31 January 2011
41. *Dinchev v. Bulgaria* (dec.), no. 12109/06, 31 January 2011