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Libertà di espressione: le critiche nei confronti dei personaggi pubblici hanno limiti di tollerabilità più ampi rispetto a quanto accade per i privati
(CEDU, sez. V, sent. 18 aprile 2019, ric. n. 14904/11)

La Corte si pronuncia sul caso di un giornalista e scrittore, condannato dai giudici nazionali al pagamento di un cospicuo risarcimento del danno per le dichiarazioni contenute all'interno di un proprio libro in relazione ad un personaggio pubblico (KT), noto uomo politico a capo di un sindacato nazionale, tacciato di essere un massone, un comunista collegato agli ex servizi segreti, nonché uno "pseudo sindacalista".
La Corte Edu chiarisce subito che il suo compito consiste nel verificare l'effettiva idoneità di tali dichiarazioni ad imputare al ricorrente la responsabilità per danni riconosciuta dai giudici nazionali. Al riguardo, per i Giudici di Strasburgo tali dichiarazioni, certamente discutibili, non si rivelano particolarmente offensive ed idonee a superare il livello di critica che una figura pubblica deve tollerare.
Ed infatti, la Corte coglie l'occasione per ribadire che la libertà di espressione si applica non solo alle informazioni e alle idee accolte favorevolmente o considerate inoffensive o indifferenti, ma anche a quelle che offendono, turbano o disturbano. Peraltro, il capo di un sindacato nazionale, nonché figura politica di rilievo, deve essere considerato un pubblico ufficiale e la medesima Corte ha già avuto modo di affermare che le critiche nei confronti dei personaggi pubblici hanno limiti di tollerabilità più ampi rispetto a quanto accade per i privati. Certamente un pubblico ufficiale ha diritto alla protezione della sua reputazione, ma i requisiti di tale tutela devono essere valutati in rapporto all'interesse pubblico ad una discussione aperta su questioni politiche e sociali, poiché le eccezioni alla libertà di espressione devono essere interpretate in senso stretto.
Pertanto, indipendentemente dal fatto che l'interferenza delle autorità nazionali con il diritto alla libertà di espressione del ricorrente avrebbe potuto essere giustificata, in linea di principio, al fine di proteggere il buon nome e la reputazione di KT, una sanzione come quella imposta (16.000 euro, pari a cinquantasette salari minimi mensili in Bulgaria) era manifestamente sproporzionata rispetto allo scopo legittimo perseguito.
Di qui la conclusione per l'avvenuta violazione dell'articolo 10 della Convenzione.
Si osserva, infine, che l'atteggiamento della ricorrente, che aveva continuamente stigmatizzato in maniera irriverente l'operato dei giudici nazionali sui suoi blog, è stato determinante nella scelta della Corte Edu di non riconoscere alla medesima un risarcimento del danno, ritenendo di per sé satisfattiva la dichiarazione di avvenuta violazione dell'art.10 Cedu.

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

FIFTH SECTION

CASE OF IFANDIEV v. BULGARIA

(Application no. 14904/11)

JUDGMENT

STRASBOURG

18 April 2019

This judgment is final but it may be subject to editorial revision.

In the case of Ifandiev v. Bulgaria,

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

Ganna Yudkivska, President,
Síofra O'Leary,
Lado Chanturia, judges,
and Milan Blaško, Deputy Section Registrar,

Having deliberated in private on 26 March 2019,

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

PROCEDURE

1. The case originated in an application (no. 14904/11) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Bulgarian national, Mr Georgi Menelaev Ifandiev ("the applicant"), on 15 February 2011.

2. The applicant was represented by Ms E. Stoeva, a lawyer practising in Sofia. The Bulgarian Government ("the Government") were represented by their Agent, Ms I. Stancheva-Chinova, from the Ministry of Justice.

3. On 22 January 2018 notice of the complaint concerning the applicant's right to freedom of expression was given to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1950 and lives in Sofia. He is a journalist and a writer.

5. K.T., a popular figure of Bulgarian politics, has for many years been the leader of a trade union. He has in addition been a member of the managing bodies of the International Confederation of Free Trade Unions and the European Trade Union Confederation. According to information submitted by the Government, the trade union formerly headed by K.T. is the second largest in Bulgaria, with a membership of about 150,000.

A. The applicant's book

6. In 2003 the applicant published a book called "the Shadow of Zion", dealing with Judaism, Zionism, Freemasonry and their impact on world history.

7. On pp. 69-70 the book contained a paragraph comparing communists and Nazis to Freemasons, stating that, in a Freemason manner, the Nazis had "dreamt to perfect the man", and also that communists had been "doing that in practice", including in Bulgaria. The text then continued:

"And after the 'democratic changes' who became a Freemason? All were communists and people connected with their gloomy secret services."

The names of a number of persons were listed after that, including the "pseudo trade unionist" K.T. The list ended with a reference to a footnote which quoted a 2002 article by another author published in a news magazine.

B. The tort proceedings brought by K.T.

8. On 28 September 2005 K.T. brought a tort action against the applicant, stating that the allegations contained in the book, namely that he was a Freemason, a communist connected with the former secret services and a "pseudo trade unionist", were untrue and defamatory. He stated that he was a fervent Christian, which meant that he could not be a Freemason, as the Church had condemned Freemasonry, that he had never been a member of the Bulgarian Communist Party or the youth communist organisation, and that he had not been connected with the communist secret services, but had, on the contrary, all his life fought for human rights and democracy. K.T. argued that the applicant's allegations had humiliated and defamed him, presenting him as an immoral and unscrupulous person, and that they sought to lower his prestige at the national level and internationally.

9. The applicant objected to the action. He stated that when calling K.T. a Freemason he had relied on earlier publications by other authors, one of which was expressly cited in a footnote to the disputed paragraph. Moreover, K.T. had himself stated in a newspaper interview that he was a member of the Maltese Order. As to the allegation that K.T. had been connected with the communist secret services, the applicant intended to prove this through witness testimony. He pointed out in addition that K.T. had himself bragged about being related to leading figures of the communist regime. The applicant argued that in any event the expressions complained of had not been offensive or defamatory, and that K.T. had not shown that he had indeed suffered non-pecuniary damage as a result.

10. The applicant was legally represented throughout the proceedings that ensued.

11. In a judgment of 10 July 2008 the Sofia City Court (hereinafter "the City Court") allowed the action and ordered the applicant to pay K.T. 15,000 Bulgarian levs (BGN, the equivalent of 7,670 euros – EUR) in moral damage, plus default interest as of 28 September 2005.

12. The City Court referred to the applicant's right to freedom of expression under Article 10 of the Convention, but considered that in the case he had overstepped the limits of acceptable criticism. It analysed the allegations made by him and concluded that they had been untrue. As to the applicant describing K.T. as a Freemason, this had been refuted by the fact that K.T. was a fervent Orthodox Christian, whereas the Church was known to reject Freemasonry. As to K.T.'s affiliation with the communist secret services, this allegation had been disproved by the official attestations of the specialised body dealing with those services' archives, and the witnesses brought by the applicant to prove this point had been unconvincing. Lastly, the expression "pseudo trade unionist" amounted to a gratuitous offence, aimed solely at discrediting K.T.

13. The City Court pointed out further that an insult was a "subjective notion", which meant that if K.T. felt offended by the applicant's allegations, that sufficed. In particular, being an Orthodox Christian, it was "logical" for him to feel offended by the Freemasonry allegations.

14. Lastly, justifying the amount of damage to be awarded, the City Court noted that the applicant's publication had "seriously impinged" upon K.T.'s honour and dignity and had defamed him, both "within the whole trade union community in Bulgaria" and internationally. The distress suffered by K.T. had in addition aggravated his health problems, leading to his hospitalisation.

15. Upon appeal by the applicant, on 23 October 2009, the City Court's judgment was upheld by the Sofia Court of Appeal. It endorsed the lower court's reasoning, adding the following: even if K.T. had said that he was a member of the Maltese Order, the applicant had not shown that this was equivalent to Freemasonry; it was irrelevant that the allegations made by the applicant had already been made in earlier publications, as this did not make them "less defamatory or truer"; the fact that K.T. was a public figure justified a higher award of damages such as the one made by the City Court.

16. The applicant lodged an appeal on points of law. In a final decision of 17 August 2010 the Supreme Court of Cassation refused to accept the appeal for examination. In particular, it confirmed that whether or not an allegation was to be considered offensive depended on the manner in which it was perceived by the addressee and his social circle, even if this did not conform "to the common understanding of the facts".

17. K.T. instituted subsequently enforcement proceedings. In October 2011 a bailiff calculated the total amount due by the applicant, including the principal award of BGN 15,000 (see paragraph 11 above), the default interest accrued by that time and the costs and expenses, at BGN 31,549 (EUR 16,100). The enforcement proceedings were discontinued in 2016 after K.T. abandoned his attempts to obtain payment, with the sum seized from the applicant amounting to merely BGN 4.55 (EUR 2.32).

C. The applicant's publication in relation to the present proceedings

18. After the communication of the present application, on 23 May 2018 the Government submitted their observations, which were forwarded to the applicant.

19. On 30 June 2018 the applicant published a comment on these observations on his personal blog. As to the Government and the position defended by them, he wrote in particular the following paragraphs:

"To be able to understand human rights, including freedom and in particular freedom of expression but also of education, every person has to study, to gather knowledge. Stigmatizing, pointing an accusing finger, uttering insults and putting labels are completely different things. These primitive tricks are far from any erudition, which would have made the respective person think, check, and then judge. Alas, the observations prepared by the governmental Agent ... cannot convince the erudite reader that this has been the case."

"Instead of [commenting on the case], the Governmental Agent discusses many other things. Often she utters lies and employs defamatory and offensive language."

"It is a pity and I have lost much of my time having to deal with so many and such rough and rude lies and perversions. What is sadder is that they come from the Government of a country which is a member of the European Union. Let the shame be for their bosses in Brussels."

20. The applicant also commented on the Court, calling the former Bulgarian Judge S. Botoucharova "communist" and "Muscovite", the next Judge Z. Kalaydjieva an agent of the former security services, and the current Bulgarian Judge – a "communist infant". He also wrote:

"You will ask me why I have addressed this court of yours. To walk this road to the end and to drain the bitter cup. And to show convincingly one more time that the world is communist. I do not suppose even for a moment that those bolshevized mass idiots with their washed brains in which they still hear the unfired volleys of the Aurora cruiser, and their imbecile heirs, can ever understand this."

II. RELEVANT DOMESTIC LAW

21. The relevant domestic law has been summarised in Yordanova and Toshev v. Bulgaria (no. 5126/05, §§ 23-24, 2 October 2012).

THE LAW

I. PRELIMINARY ISSUE

22. The Government urged the Court to dismiss the present application on the ground of Article 17 of the Convention, considering that the applicant's book "The Shadow of Zion" and other materials he had published preached anti-Semitism. They argued that the applicant's statements which were the subject of the present application had to be seen within the overall context of his writings.

23. The applicant objected, pointing out that any other views expressed by him were irrelevant in the case, which concerned the tort proceedings brought by K.T. in relation to the allegations about him contained in the book "The Shadow of Zion".

24. The purpose of Article 17, in so far as it refers to groups or to individuals, is to make it impossible for them to derive from the Convention a right to engage in any activity or perform any act aimed at destroying any of the rights and freedoms set forth in the Convention (see, Paksas v. Lithuania [GC], no. 34932/04, § 87, ECHR 2011 (extracts)). In cases concerning Article 10 of the Convention, that provision should be resorted to if it is immediately clear that the impugned statements sought to deflect this Article from its real purpose by employing the right to freedom of expression for ends clearly contrary to the values of the Convention (see Perinçek v. Switzerland [GC], no. 27510/08, § 114, ECHR 2015 (extracts)).

25. Turning to the present case, seeing that the Government's Article 17 allegations did not concern "the impugned statements", namely the ones concerning K.T. which

resulted in the applicant's liability for damage, the Court sees no ground to apply Article 17 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

26. The applicant complained of a breach of his right to freedom of expression, as guaranteed under Article 10 of the Convention, which reads as follows:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

A. Admissibility

27. The Court observes that the domestic decisions finding the applicant liable to pay damages to K.T. amounted to interference with his right to freedom of expression. Accordingly, Article 10 of the Convention is applicable to the case.

1. Abuse of the right of individual application

28. Referring to the language used by the applicant to comment on the current proceedings (see paragraphs 19-20 above), the Government urged the Court to dismiss the application as inadmissible in accordance with Article 35 § 3 (a) of the Convention, on the ground of abuse of the right of individual application.

29. The Court has held that the persistent use of insulting or provocative language by an applicant may be considered an abuse of the right of individual application (see, for example, Manoussos v. the Czech Republic and Germany (dec.), no. 46468/99, 9 July 2002). However, it has specified that an applicant cannot be said to have flouted the right of individual application for having used exaggerations or provocative expressions when discussing the Court proceedings, unless such statements are made regularly and either call into question the impartiality of the Court, constitute a gratuitous attack upon the Government agency responding in the proceedings or otherwise make it intolerable for the Court to handle the application (see Georgian Labour Party v. Georgia (dec.), no. 9103/04, 22 May 2007).

30. Turning to the present case, the Court observes that the expressions used by the applicant and cited in paragraphs 19 and 20 above are, indeed, exaggerated and provocative. They may also be seen as disrespectful both of the Court and of past and

present individual judges. Yet, assessed as a whole, those statements are not such so as to make it intolerable for the Court to handle the application. Nor has it been shown that such expressions have been uttered on a regular basis. Lastly, it should be noted that they were not made in the applicant's submissions and the applicant cannot be said to genuinely question the impartiality of the Court.

31. In these circumstances, the Court finds that there are insufficient grounds to reject the present application as an abuse of the right of individual application. It thus dismisses the Government's objection, noting nevertheless that this does not mean that the applicant's behaviour in relation to the present proceedings need have no consequences (see paragraph 54 below).

2. No significant disadvantage

32. Lastly, the Government considered that applicant had not suffered any significant disadvantage as a result of the alleged violation of his rights, seeing that he had only paid to K.T. BGN 4.55. On that ground the Government urged the Court to dismiss the application as inadmissible under Article 35 § 3 (b) of the Convention.

33. The applicant pointed out that even though K.T. had abandoned the enforcement proceedings, there was no obstacle preventing him from instituting fresh proceedings. In addition, the case was not merely about the money paid, but most of all about an infringement of the applicant's right to freedom of expression. Lastly, the applicant considered that he had otherwise suffered pecuniary loss as a result of the proceedings against him, in particular when incurring expenses for legal representation.

34. The Court observes that, indeed, the applicant has paid only about EUR 2 of the much higher sum he had been ordered to pay to K.T. (see paragraph 17 above). It will not deal with the applicant's argument that he has suffered further pecuniary loss, since his claims in that regard will be dealt with later (see paragraph 59 below). It suffices to note here that the Government have not shown that the applicant's debt has become prescribed, and the applicant is apparently still liable to pay it. Additionally, the Court takes note of the applicant's subjective perception of the importance of the case (he pursued the domestic proceedings to their conclusion, commented on them in detail on his blog) and of what is at stake, namely the right to freedom of expression of a writer and journalist.

35. Having regard to the foregoing and the principles established in its case-law (see Sylka v. Poland (dec.), no. 19219/07, §§ 27-28, 3 June 2014), the Court considers that the requirements of Article 35 § 3 (b) of the Convention have not been satisfied, in that it cannot be said that the applicant has not suffered any significant disadvantage as a result of the alleged breach of his rights (see, mutatis mutandis, Eon v. France, no. 26118/10, §§ 30-36, 14 March 2013). Accordingly, the Government's objection should be dismissed.

3. Conclusion as to admissibility

36. The Court notes further that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Arguments of the parties

37. The Government pointed out that the interference with the applicant's rights had been lawful and had aimed at protecting the rights and the reputation of K.T. In addition, it had been "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention for the following reasons: the article expressly cited by the applicant when making his impugned statement about Freemasonry only presumed K.T.'s affiliation with the Freemason order; as to K.T.'s connections with the former secret services, the applicant's allegation had been disproved by official documents; the above meant that the applicant had clearly made untrue statements, without having genuinely tried to verify them; he had, in addition, not sought K.T.'s preliminary opinion; the domestic courts had given sufficient reasons when establishing the untruthfulness of the applicant's allegations and the damage suffered by K.T. on that account; they had, moreover, conducted a balancing exercise, taking into account the applicant's right to freedom of expression; the applicant had not been prosecuted for having committed the criminal offenses of insult or libel, but had only been held civilly liable; and finally, the domestic proceedings had been adversarial and the applicant had been legally represented.

38. The applicant stated that he had never called K.T. a communist, that his impugned statements were not offensive, and that they nevertheless remained true. He submitted copies of two magazine articles, one of which the one cited in his book, which, in his view, proved the truthfulness of his allegations. The applicant argued that the domestic courts had not properly analysed the necessity of the interference with his rights, and that the damages he had been ordered to pay had been excessively high.

2. The Court's assessment

39. The Court notes that the interference with the applicant's rights was "prescribed by law", namely section 45 of the Obligations and Contracts Act (see Yordanova and Toshev v. Bulgaria, no. 5126/05, §§ 24 and 40, 2 October 2012). Moreover, it pursued a legitimate aim, namely the protection of the rights and reputation of K.T.

40. The salient question is whether the interference was "necessary in a democratic society", that is to say whether it corresponded to a pressing social need, whether it was proportionate to the legitimate aim pursued and whether the reasons given by the national authorities were relevant and sufficient (see Janowski v. Poland [GC], no. 25716/94, § 30, ECHR 1999-I).

41. The applicant was held civilly liable for having made two statements of facts – that K.T. was a Freemason and that he was a communist connected with the former secret services. The parties made submissions – the Government contesting the truthfulness

of these statements and the applicant reiterating it (see paragraphs 37-38 above). The Court, however, sees no reason to question the well-reasoned findings of the national courts as to the untruthfulness of the statements at issue (see paragraphs 12 and 15 above). It accepts therefore that the applicant made untrue statements of fact.

42. The applicant's liability was in addition based on his calling K.T. a "pseudo trade unionist" – a value judgment, which the domestic courts saw as a gratuitous offence, aimed at discrediting K.T. (see paragraph 12 above).

43. The Court's task is to verify whether the statements at issue were such as to justify the applicant's liability for damage as ordered by the national courts.

44. The Court points out that the statements above, while objectionable, were not particularly scandalous, shocking or calumnious. The domestic courts considered that the qualification of K.T. as Freemason had been offensive for him because he was a devout Orthodox Christian, but did not conclude that it carried with it, in principle, a particularly negative connotation (see paragraphs 12-13 and 16 above). As to the statement that K.T. had been affiliated with the communist secret services, it has been noted that, in the Bulgarian context, such affiliation did not necessarily carry a social stigma (see Anchev v. Bulgaria (dec.), nos. 38334/08 and 68242/16, 5 December 2017). Lastly, the Court does not consider that the qualification of K.T. as a "pseudo trade unionist" was excessively scandalous or offensive, surpassing the level of criticism which a public figure might have to tolerate.

45. The Court reiterates that freedom of expression is applicable not only to information and ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb (see, for example, Hertel v. Switzerland, 25 August 1998, § 46, Reports of Judgments and Decisions 1998-VI). In addition, K.T. – the leader of a national trade union and a political figure (see paragraph 5 above) – must be considered a public official. The Court has held that the limits of acceptable criticism are wider with regard to public officials than in relation to a private individual, and that, while a public official is certainly entitled to have his reputation protected, the requirements of that protection have to be weighed against the interests of open discussion of political and social issues, since exceptions to freedom of expression must be interpreted narrowly (see, for example, Janowski, cited above, § 33).

46. Despite what was said above, the Court is prepared to assume that the applicant's liability for the statements he made concerning K.T. may have met a "pressing social need", as required by its case law (see paragraph 40 above). What is decisive for it are the following considerations.

47. The nature and severity of a penalty imposed are factors to be taken into account when assessing the proportionality of an interference with the freedom of expression (see Cumpănă and Mazăre v. Romania, no. 33348/96, § 111, 10 June 2003, and Rumyana Ivanova v. Bulgaria, no. 36207/03, § 69, 14 February 2008). In the case at hand, the applicant was ordered to pay damages which by October 2011, together with the interest accrued and the relevant costs and expenses, amounted to more than

EUR 16,000 (see paragraph 17 above). As already noted (see paragraph 34 above), while the applicant has only paid an insignificant part of that amount, it has not been shown that he could not still be held liable for the remainder. Furthermore, in cases involving freedom of expression of writers and, particularly, journalists, the Court has accorded considerable importance to the chilling effect of the impugned interferences (see, for example, Cumpănă and Mazăre, cited above, §§ 114-16).

48. The Court has not been informed of the applicant's financial situation at the time when he was found liable to pay damages to K.T. Nevertheless, it notes that the sum due by him was equivalent of about a hundred and seventeen minimum monthly salaries (BGN 270 (EUR 138) at the relevant time).

49. The Court finds such a sanction clearly excessive (see, for example, Bozhkov v. Bulgaria, no. 3316/04, § 55, 19 April 2011, where the amount the applicant had had to pay and which was found to be disproportionately high equalled fifty-seven minimum monthly salaries). The national courts justified it by accepting, in particular, that the distress caused by the applicant's publication had aggravated K.T.'s health problems and pointing to the fact that he was a public figure (see paragraphs 14-15 above). However, for the Court such considerations do not sufficiently justify the quantum of damages awarded in the circumstances of the case. It is thus of the view that, whether or not the national authorities' interference with the applicant's right to freedom of expression might have been justified, in principle, to protect K.T.'s good name and reputation, a sanction such as the one imposed on the applicant was manifestly disproportionate to the legitimate aim pursued.

50. There has accordingly been a violation of Article 10 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

51. 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

52. In respect of pecuniary damage, the applicant claimed: 1) the BGN 4.55 (EUR 2.32) he had actually paid to K.T.; 2) EUR 9,000, representing a compensation for loss of income; the applicant argued that this was the result of the national courts' finding him liable to pay damages to K.T., since, in order to avoid the seizure of any assets, subsequently he had accepted unpaid jobs; and 3) EUR 14,400 to compensate the reduced pension the applicant is currently receiving and would be receiving until the age of 74, as a result of not earning sufficiently in the years preceding his retirement, for the above-mentioned reasons. The applicant claimed additionally BGN 10,000 (EUR 5,100) in respect of non-pecuniary damage.

53. The Government contested the claims described under 2) and 3) in the paragraph above, considering them arbitrary and pointing out that any losses such as the ones alleged by the applicant were not the direct and proximate result of any possible violation of his rights.

54. Noting that the applicant's first claim in respect of pecuniary damage concerns a token sum, and also that no causal link can be discerned between the violation found in the case and the remaining pecuniary damage alleged, the Court dismisses all claims in that regard. In addition, in the circumstances of the case and considering the applicant's own behaviour (see paragraphs 19-20 and 31 above), it is of the view that the finding of a violation of Article 10 of the Convention constitutes in itself sufficient just satisfaction in respect of non-pecuniary damage.

B. Costs and expenses

55. The applicant claimed BGN 3,000 (EUR (1,530) for his legal representation before three levels of court in the domestic proceedings. In support of this claim he submitted contracts with his representative, setting the amount of remuneration. The applicant claimed another BGN 354 (EUR 180) paid in court fees in the domestic proceedings, presenting the relevant invoices. He claimed additionally BGN 500 (EUR 255) for legal representation in the enforcement proceedings initiated by K.T., presenting a contract dated 2016, and BGN 40.30 (EUR 21) paid for certified copies of documents. For the proceedings before the Court, the applicant claimed BGN 1,000 (EUR 510) for legal representation. In support of this claim he presented an invoice and a contract with his legal representative dated 20 March 2018 and stating that she would assist him "in the preparation of an initial application form" and for his observations and claims for just satisfaction following the communication.

56. The Government contested the claims. They argued in particular, as concerns the claims for expenses in the current proceedings, that it was "evident" that the applicant's submissions had been prepared by himself, having regard to the similar contents and style of the publication on his blog parts of which are quoted in paragraphs 19-20 above.

57. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum.

58. Regard being had to the documents in its possession and the above criteria, the Court awards the applicant the expenses made for legal representation and court fees in the domestic judicial proceedings, totalling EUR 1,710. It notes that the applicant was legally represented throughout those proceedings (see paragraph 10 above), and it has no reason to question the amount he claimed to have paid, which appears reasonable. The Court rejects the remaining claims concerning the domestic proceedings, since they are unrelated to the violation found in the case. As to the current proceedings, noting that the applicant was not represented when submitting his initial application, and that part of the expenses claimed have not thus been actually incurred, the Court awards him EUR 400. Despite acknowledging some

similarities between the style of the applicant's submissions after the communication and that of his blog as cited in paragraphs 19-20 above, the Court sees no reason to doubt that the applicant was actually assisted by a lawyer when preparing those submissions. The total amount awarded under the present head is thus EUR 2,110.

C. Default interest

59. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. Declares the application admissible;

2. Holds that there has been a violation of Article 10 of the Convention;

3. Holds

(a) that the respondent State is to pay the applicant, within three months, EUR 2,110 (two thousand one hundred and ten euros), plus any tax that may be chargeable to the applicant, to be converted into Bulgarian levs at the rate applicable at the date of settlement, in respect of costs and expenses:

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 18 April 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Deputy Registrar

Ganna Yudkivska
President