CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

FIFTH SECTION

CASE OF C.G. AND OTHERS v. BULGARIA

(Application no. 1365/07)

JUDGMENT

STRASBOURG

24 April 2008

FINAL

24/07/2008

This judgment may be subject to editorial revision.

In the case of C.G. and Others v. Bulgaria,

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

Peer Lorenzen, *President,*
Snejana Botoucharova,
Karel Jungwiert,
Rait Maruste,
Renate Jaeger,
Mark Villiger,
Isabelle Berro-Lefèvre, *judges,*
and Claudia Westerdiek, *Section Registrar*,

Having deliberated in private on 1 April 2008,

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

PROCEDURE

1. The case originated in an application (no. 1365/07) 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 Mr C.G., Mrs T.H.G. and Ms T.C.G. ("the applicants"), on 5 December 2006. The first applicant is a Turkish national born in 1968 and currently living in Turkey. The second and third applicants, Bulgarian nationals born respectively in 1968 and 1996 and living in Plovdiv, Bulgaria, are his wife and daughter.

2. The applicants were represented before the Court by Mr M. Ekimdzhiev and Ms K. Boncheva, lawyers practising in Plovdiv. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice. The Turkish Government, having been informed on 15 March 2007 of their right to intervene in the case (Article 36 § 1 of the Convention and Rule 44 § 1 of the Rules of Court), did not avail themselves of that opportunity.

3. The applicants alleged that the first applicant's expulsion from Bulgaria amounted to unjustified interference with their right to respect for their family life, enshrined in Article 8 of the Convention. They further argued that they had not had any effective domestic remedy in that respect, contrary to Article 13 of the Convention. Finally, the first applicant complained that his expulsion had been carried out in breach of Article 1 of Protocol No. 7.

4. On 13 March 2007 the Court decided to give priority to the application under Rule 41 of the Rules of Court. On the same date it declared the application partly inadmissible and decided to communicate to the Government the complaints concerning the interference with the

applicants' family life and the alleged lack of remedies in that respect, and the first applicant's complaint concerning the lawfulness of his expulsion. Under the provisions of Article 29 § 3 of the Convention, the Court decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The first applicant settled in Bulgaria in 1992. On 9 April 1996 he married the second applicant there. Shortly after the marriage he was granted a permanent residence permit. Their daughter, the third applicant, was born in Bulgaria on 24 May 1996. Before 2005 the first applicant worked as a driver for a limited liability company in Plovdiv.

A. The first applicant's expulsion

6. On 8 June 2005 the Regional Director of Internal Affairs in Plovdiv made an order for the first applicant's expulsion. He also deprived him of the right to reside in Bulgaria and excluded him from Bulgarian territory for a period of ten years, "on the ground that [he] present[ed] a serious threat to national security and in view of the reasons set out in proposal no. S-6923/ 08.06.2005 by the head of the security department of the Plovdiv Regional Directorate of Internal Affairs". The Director's decision relied on section 42(1) and (2) and section 42a(1) of the 1998 Aliens Act, taken in conjunction with section 10(1)(1) and (1)(3) (see paragraphs 18 and 20 below). No factual grounds were given, in accordance with section 46(3) of the Act (see paragraph 23 below). The order further provided that the first applicant was to be detained until it could be enforced. Finally, it stated that it was subject to appeal to the Minister of Internal Affairs, but not subject to judicial review, in line with section 46(2) of the Act, and that it was immediately enforceable, in accordance with section 44(4) of the Act (see paragraphs 19 and 22 below).

7. At 6.30 a.m. on 9 June 2005 the first applicant was summoned to a police station in Plovdiv, where he was served with the order and detained with a view to his expulsion. He was deported to Turkey the same day, without being allowed to get in touch with his wife and daughter or a lawyer.

B. The proceedings challenging the first applicant's expulsion

1. The appeal to the Minister of Internal Affairs

8. Once in Turkey, the first applicant hired a lawyer in Bulgaria with the help of his wife – the second applicant –, and on 16 June 2005 appealed to the Minister of Internal Affairs. He said that he had had an established family life in Bulgaria for many years and complained that while being held at the police station on 9 June 2005 he had not been informed why he was considered a threat to national security. Nor had this become apparent from the decision to expel him, which had merely referred to the legal grounds on which it was made. The first applicant further complained that he had not been apprised of the proposal which served as the basis for the decision. All of this amounted to a failure to give reasons, in breach of the rules of administrative procedure.

9. In a letter of 30 June 2005 sent to the first applicant's former address in Bulgaria, the head of the complaints department of the Ministry of Internal Affairs informed him that the Minister had dismissed the appeal in a decision of 29 June 2005, because the impugned order had been made by a competent authority, in due form, in compliance with the applicable substantive and procedural rules and in conformity with the aim of the law.

2. The judicial review proceedings

10. On 20 July 2005 the first applicant sought judicial review of the Minister's order by the Supreme Administrative Court. He argued that no reasons had been given for the order, depriving him of any protection against arbitrariness because he had been unable to discover which actions on his part had been deemed a threat to national security. He also argued that the measures against him had interfered with his family life. However, the authorities had disregarded this and had not examined whether a fair balance had been struck between his rights and the public interest, contrary to Article 8 of the Convention, which formed part of domestic law. In that connection he relied on the Court's judgment in the case of *Al-Nashif v. Bulgaria* (no. 50963/99, 20 June 2002), which had previously led the Supreme Administrative Court to change its case-law in this sphere (see paragraph 25 below).

11. On 10 August 2005 the Supreme Administrative Court informed the first applicant that the case had been transferred to the Plovdiv Regional Court.

12. A hearing listed for 9 December 2005 failed to take place because the Plovdiv Regional Directorate of Internal Affairs had not received a copy of the application for judicial review.

13. The hearing was held on 24 February 2006. The court admitted in evidence proposal no. S-6923/08.06.2005, which had served as the basis for

the decision against the first applicant. The first applicant was not allowed to familiarise himself with this document.

14. In a judgment of 8 March 2006 the Plovdiv Regional Court dismissed the application. To begin with, it held that the bar to judicial review set out in section 46(2) of the 1998 Aliens Act (see paragraph 22 below) was contrary to the Convention and was thus to be disregarded. It relied on *Al-Nashif* (cited above) and the relevant case-law of the Supreme Administrative Court (see paragraph 25 below). Examining the application on the merits, the court held:

> "The coercive measures are based ... on the ground that the [first applicant] represents a serious threat to national security, for the reasons set out in proposal no. S-6923/08.06.2005...
>
> In upholding the impugned order, the Minister of Internal Affairs states that the evidence gathered clearly establishes that the [first applicant] is a member of a criminal gang dealing in illicit narcotic drugs; this, on the one hand, constitutes grounds under section 10(1)(3) of the [1998 Aliens Act], and, on the other, is a circumstance requiring the administrative authority to take coercive measures. Under section 42 of the [1998 Aliens Act], 'the expulsion of an alien must be carried out if his or her presence in the country creates a serious threat to national security or public order'. On expulsion, the alien must also be deprived of the right to reside in the Republic of Bulgaria and be banned from entering it. The imposition of [these measures] is necessary in the cases set out in section 10 of the [1998 Aliens Act]. The order refers to the grounds set forth in section 10(1)(3), which [provides for the mandatory expulsion of] 'an alien who is known to be a member of a criminal gang or organisation or to be engaged in terrorist activities, smuggling or unlawful transactions with arms, explosives, ammunitions, strategic raw materials, goods and technologies with a possible dual use, or in the unlawful trafficking of intoxicating or psychotropic substances or precursors or raw materials for their production'. The order states that there is information to the effect that the [first applicant] has participated in the unlawful trafficking of intoxicating and psychotropic substances and precursors and raw materials for their production. This has been established from the enclosed secret file (classified in accordance with section 25 and [Schedule 1], Part 2, point 22 of the [Protection of Classified Information Act of 2002 – see paragraphs 27 and 28 below]) containing the proposal to impose coercive measures to which the impugned order refers. According to this proposal, the data come from secret surveillance measures and information from operative sources gathered by the National Service for Combating Organised Crime in April 2005, showing that [the first applicant] has acted as an intermediary in the supply of narcotic drugs and maintains regular contacts with Bulgarian citizens who distribute narcotic drugs and intoxicating substances in the territory of the towns of Plovdiv and Asenovgrad.
>
> The three measures imposed on the [first applicant] are based on section 42(2) of the [1998 Aliens Act]. ... According to section 46(2)(3) of [that Act] taken in conjunction with section 15(3) of the [1979 Administrative Procedure Act], such an order must refer only to the legal and not the factual grounds for imposition of the coercive measures. As may be seen from the order, it fully complies with the requirements of [these provisions].
>
> There is no dispute as to the competence of the authority which made the order. [The first applicant alleges] breaches of the rules of procedure, but none has been found by the court. Section 42 of the [1998 Aliens Act] does not lay down any special

rules of procedure... No procedural violations have been found in the fact that the proposal for coercive measures was made secret, as from its last page it may be seen that it was made on 7 June 2005 and was classified on the same day...

[The court will now examine t]he [first applicant]'s objections concerning the lack of factual grounds for imposition of the measures. The legal grounds cited in the order require the existence of information concerning the facts referred to in sections 42 and 42a of the [1998 Aliens Act], taken in conjunction with section 10(1)(3). Concerning the [first applicant's] objections in this regard, it must be stressed that the [law refers to] information relating to such facts rather than proof thereof. The availability of proof would produce different legal consequences for the [first applicant].

The impugned order imposes coercive measures which, according to section 22 of the [Administrative Offences and Penalties Act 1969], are applied in order to pre-empt and put an end to administrative and other offences, as well as to pre-empt and redress their harmful consequences.

The information was gathered through the use of secret surveillance measures and through operative sources of the National Service for Combating Organised Crime, as may be seen from the proposal cited in the order. According to the definition of the [Special Surveillance Means Act of 1997], the measures concerned comprise technical means (electronic and mechanical devices, as well as substances which are used for recording the activity of monitored persons and objects) and operative methods (surveillance, tapping, following, covert entry of premises, marking and checking of correspondence and computerised information, which are employed during the use of technical devices) used for the preparation of physical evidence in the form of videotapes, audiotapes, photographs and marked objects. Under section 3 of this Act, these may also be used for preventing offences... They are used against persons who are suspected of preparing or perpetrating or of having perpetrated serious crimes. The evidence thus obtained is kept either by the Ministry of Internal Affairs until the institution of a preliminary investigation, or by the respective judicial authorities. Any item not used for the preparation of evidence has to be destroyed.

The nature of the source of information which led to the issuing of the impugned order makes it impossible to adduce further evidence relating to the facts. However, this by no means leads to a finding that the coercive measures were unlawful. Moreover, the [first applicant] does not dispute the facts; he merely challenges the use of information concerning them as grounds for the coercive measures imposed. The [court] finds that the facts set out in the proposal can serve as the basis for application of sections 42 and 42a of the [1998 Aliens Act taken in conjunction with section 10(1)(3)]. In view of the foregoing, the [court] concludes that the impugned order was in accordance with the requirements of the substantive law.

The [first applicant]'s last objection concerns the non-compliance of the impugned order with the aim of the law. He relies on his long-standing family life in Bulgaria, his marriage to a Bulgarian citizen and the nine-year-old child born from this marriage (all facts which have been acknowledged by the parties and the court)...

However, all these circumstances have no bearing on the lawfulness of the order under section 42(1) and (2) of the [1998 Aliens Act], still less on its compliance with the aims of the law, as the law in question provides for the restriction of certain rights for the purpose of preventing the commission of offences.

In this context, the [first applicant]'s reliance on [*Al-Nashif*, cited above] is misplaced, as this case concerns the right to seek judicial review, which is available to the [first applicant]."

15. On 28 March 2006 the first applicant appealed to the Supreme Administrative Court. He argued that the police had not adduced any evidence that he had done anything to put national security in jeopardy. They had merely presented a document which recounted information whose source was unknown. The so-called "proposal" contained only general conclusions which were based on facts not made known to the court. This was problematic, as the court's task was to guarantee that the executive's discretion had not been exercised in an arbitrary fashion. Moreover, there were no objective facts showing that the first applicant had committed any offence. This had to be proved, not merely alleged. The first applicant further submitted that the impugned order had seriously infringed his right to respect for his family life, contrary to Article 8 of the Convention. He relied extensively on *Al-Nashif* (cited above) and *Berrehab v. the Netherlands* (judgment of 21 June 1988, Series A no. 138), and asserted that the existing legal framework did not provide sufficient guarantees against arbitrariness. Moreover, the lower court had not examined the proportionality of the interference, contrary to the approach of the European Court of Human Rights in all cases under Article 8 of the Convention. The impugned order had broken off the long-standing relationships with his wife and daughter. If there was reason to suspect that he had engaged in unlawful activities, it would have been more appropriate to prosecute and try him, which would have entailed the production of serious evidence of his alleged wrongdoing.

16. After holding a hearing on 12 September 2006, the Supreme Administrative Court upheld the lower court's judgment on 4 October 2006. Its opinion, in its relevant parts, reads as follows:

> "... [This court] finds that the conclusions of the first-instance court as to the lawfulness of the impugned order were correct and well-founded.
>
> According to section 42(1) of the [1998 Aliens Act], an alien's expulsion is necessary if his or her presence in the country puts national security or public order in serious jeopardy. Sub-section 2 of that section provides that whenever [a person is expelled] his or her right to reside in the Republic of Bulgaria is also revoked and he or she is prohibited from entering the country.
>
> According to section 42a of the same Act, the prohibition on entering the country is imposed under the circumstances set out in section 10 [of the Act]. The impugned order by the director of the Plovdiv Regional Directorate of Internal Affairs states that the [first applicant's case] falls under points 1 and 3 of section 10 of the [1998 Aliens Act], in that through his actions he has jeopardised the security and the interests of the Bulgarian State or is known to have acted against the security interests of the country, to have been a member of a criminal gang or organisation or to have engaged in terrorist activities, smuggling or unlawful transactions with arms, explosives, ammunitions, strategic raw materials, goods or technologies with a possible dual use, or in the illicit trafficking of intoxicating or psychotropic substances or precursors or raw materials for their production.
>
> It has been established in the present case that [the first applicant] has acted as an intermediary for the supply of narcotics and maintains regular contacts with Bulgarian

citizens who distribute narcotics and intoxicating substances in the territory of the towns of Plovdiv and Asenovgrad.

The impugned order was issued on the basis of proposal no. S–6923/08.06.2005 by the head of Plovdiv Regional Security Department, which contains data revealing that the presence of the alien in the [Republic of Bulgaria] puts national security in serious jeopardy.

The provisions of sections 42 and 42a of the [Aliens Act] are mandatory. If the conditions referred to in these texts are in place, the administrative authority is required to use coercion and order the expulsion of the alien concerned, and at the same time to withdraw his or her residence permit and prohibit him or her from entering the Republic of Bulgaria. The administrative authority has no discretion as to whether or not to make the order. As the law does not provide for exceptions which might allow [the authority not to make an order for expulsion], the expulsion is lawful provided the required conditions are in place.

The impugned order was made in accordance with the purpose of the law and in accordance with the [applicable] substantive and procedural rules. The administrative authority elucidated the relevant facts and specified the legal grounds for making the order. ..."

C. Subsequent meetings between the first applicant and the second and third applicants

17. After the first applicant's expulsion, the second and third applicants travelled a few times a year to Turkey to meet him. On each occasion they remained there for about two or three days. Between visits they maintained contact by telephone.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. The 1998 Aliens Act and developments in its interpretation and application

18. Section 42(1) of the 1998 Aliens Act (*Закон за чужденците в Република България*) provides that the expulsion of aliens must be carried out when their presence in the country creates a serious threat to national security or public order. Section 42(2) states that expulsion is mandatorily accompanied by withdrawal of the alien's residence permit and the imposition of a ban on entering the country.

19. Section 44(4)(1) and (3) of the Act provides that expulsion orders and orders withdrawing aliens' residence permits are immediately enforceable.

20. Under section 42a(1) (currently section 42h(1)) of the Act, a ban on entering the country has to be ordered if the grounds set forth in section 10 are in place. Section 10(1)(1) and (1)(3) of the Act, as in force at the relevant time, defined these grounds as information revealing that

(i) "through his or her actions the alien ha[d] jeopardised the security or the interests of the Bulgarian State or ha[d] acted against the country's security", or (ii) he or she [was] a "member of a criminal gang or organisation, or [was] engaged in terrorist activities, smuggling or unlawful transactions with arms, explosives, ammunitions, strategic raw materials, goods or technologies with a possible dual use, or in the illicit trafficking of intoxicating and psychotropic substances or precursors or raw materials for their production".

21. Section 46(1) of the Act provides that orders imposing coercive measures may be appealed before the Minister of Internal Affairs or the competent regional court.

22. However, under section 46(2) of the Act as in force until March 2007, orders withdrawing aliens' residence permits and banning them from entering the country for the reasons set out in section 10(1)(1), or orders expelling them, were not subject to judicial review.

23. Under section 46(3) of the Act, these orders do not indicate the factual grounds for imposing the relevant coercive measure.

24. The relevant legal developments in the interpretation and application of the Act before 2002 are set out in paragraphs 71-78 of the Court's judgment in the case of *Al-Nashif*, cited above.

25. Following this judgment, the Bulgarian Supreme Administrative Court changed its case-law. In a number of judgments and decisions delivered between 2003 and 2006 it held, by reference to *Al-Nashif*, that the ban on judicial review in section 46(2) of the Act was to be disregarded as it contravened the Convention, and that expulsion orders relying on national security considerations were amenable to judicial review (реш. № 4332 от 8 май 2003 по адм. д. № 11004/2002 г.; реш. № 4473 от 12 май 2003 г. по адм. д. № 3408/2003 г.; опр. № 706 от 29 януари 2004 г. по адм. д. № 11313/2003 г.; опр. № 4883 от 28 май 2004 г. по адм. д. № 3572/ 2004 г.; опр. № 8910 от 1 ноември 2004 г. по адм. д. № 7722/2004 г.; опр. № 3146 от 11 април 2005 по адм. д. № 10378/2004 г.; опр. № 3148 от 11 април 2005 по адм. д. № 10379/2004 г.; опр. № 4675 от 25 май 2005 г. по адм. д. № 1560/2005 г.; опр. № 8131 от 18 юли 2006 г. по адм. д. № 6837/2006 г.).

26. Subsequently, in April 2007, section 46(2) of the Act was amended. It now provides that orders withdrawing aliens' residence permits and banning them from entering the country for the reasons set out in section 10(1)(1), or orders for their expulsion, may be challenged before the Supreme Administrative Court, which rules by means of a final judgment.

B. The Protection of Classified Information Act 2002 (*Закон за защита на класифицираната информация*)

27. According to section 25 of this Act, the information listed in Schedule No. 1 thereto, unregulated access to which could jeopardise Bulgarian national security, defence, foreign policy or constitutional interests, is a State secret.

28. Part 2, point 22 of Schedule No. 1 to the Act provides that the information in question is that which is "gathered, checked and analysed by the security services and the law-enforcement agencies concerning persons suspected of subversive, terrorist or other unlawful activities targeted against the public order, security, defence, independence, territorial integrity or international status of the State".

C. Narcotic drugs offences

29. Article 354a § 1 of the Criminal Code of 1968 makes it an offence to produce, process, acquire or possess narcotic drugs or similar with a view to distributing them, and also to distribute them. The offence is aggravated if committed by a member of a criminal gang (Article 354a § 2 (1) of the Code). Article 354b § 1 of the Code makes it an offence to incite or abet another to use narcotic drugs or similar. It is also an offence to be a founder member, leader or member of a criminal gang with intent to commit offences under Articles 354a § 1 or 354b § 1 of the Code (Article 321 § 3 of the Code).

D. Secret surveillance

30. The law regulating secret surveillance is described in detail in paragraphs 7-51 of the Court's judgment in the case of *Association for European Integration and Human Rights and Ekimdzhiev v. Bulgaria* (no. 62540/00, 28 June 2007).

III. RELEVANT COUNCIL OF EUROPE DOCUMENTS

31. The explanatory report to Protocol No. 7 (ETS No. 117) details the guarantees of Article 1 in the following manner:

> "... 15. As a rule, an alien should be entitled to exercise his rights under sub-paragraphs a, b and c of paragraph 1 before he is expelled. However, paragraph 2 permits exceptions to be made by providing for cases where the expulsion before the exercise of these rights is considered necessary in the interest of public order or when reasons of national security are invoked. These exceptions are to be applied taking into account the principle of proportionality as defined in the case-law of the European Court of Human Rights.

> The State relying on public order to expel an alien before the exercise of the aforementioned rights must be able to show that this exceptional measure was necessary in the particular case or category of cases. On the other hand, if expulsion is for reasons of national security, this in itself should be accepted as sufficient justification. In both cases, however, the person concerned should be entitled to exercise the rights specified in paragraph 1 after his expulsion. ...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

32. The applicants alleged that the first applicant’s expulsion had entailed a violation of their right to respect for their family life. They relied on Article 8 of the Convention, which provides, in so far as relevant:

> “1. Everyone has the right to respect for his ... family life, ...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. The parties’ submissions

33. The applicants said that they had had a genuine family life in Bulgaria, which had been disrupted by the first applicant’s expulsion. They conceded that this expulsion had been formally in line with the applicable provisions of the 1998 Aliens Act, but argued that domestic law had failed to provide sufficient safeguards against arbitrary action on ostensible national security grounds. In particular, while the first applicant had been able to institute judicial review proceedings against the order for his expulsion, the courts had not properly scrutinised this decision and had refused to examine its proportionality. The only piece of evidence used to justify the conclusion that he was a national security risk had been a “proposal” containing information allegedly gathered through secret surveillance. However, the primary material from that surveillance had not been made available to the courts. The courts had thus surrendered their function of reviewing the exercise of the executive’s discretion and the lawfulness of its actions, thereby depriving the applicants of the minimum degree of protection against arbitrariness.

34. The applicants further argued that the authorities and the courts had failed to give the slightest consideration to whether it had been necessary to expel the first applicant and thus destroy their family life. There were serious arguments militating against this, such as the applicants’

long-standing family life, the absence of any prior criminal convictions on the part of the first applicant and the fact that he had a permanent job and was a regular taxpayer. If the authorities had indeed had information that he had engaged in unlawful drug trafficking, the proportionate response would have been to charge and try him, not expel him on the basis of an unproven and anonymous allegation.

35. The Government submitted that following the Court's judgment in the case of *Al-Nashif* (cited above), the domestic courts had started examining applications for judicial review of expulsion orders. In the instant case the Plovdiv Regional Court and the Supreme Administrative Court had thoroughly assessed the factual and legal grounds for the orders made against the first applicant. Their analysis had been fully consistent with the principles of the Convention, and their judgments fully reasoned. The applicants' insinuations that these courts had examined the case in a formalistic fashion were groundless. The national courts' practice had later been confirmed by the April 2007 amendment to the 1998 Aliens Act.

B. The Court's assessment

1. Admissibility

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

2. Merits

37. The first applicant settled in Bulgaria in 1992. In 1996 he married the second applicant there. The same year they had a child – the third applicant. There is no indication that their relationship did not amount to a genuine family life within the meaning of Article 8 § 1. The second and third applicants are Bulgarian nationals who were born in Bulgaria and have been living there all their lives. From 1992 until his expulsion in 2005 the first applicant resided lawfully in Bulgaria, from 1996 onwards on the strength of a permanent residence permit. In June 2005 his expulsion was ordered by reference to national security considerations, and he was detained and removed from Bulgaria by force. After that he was able to see his wife and daughter only occasionally for brief periods of time (see paragraphs 5, 6, 7 and 17 above). The Court therefore concludes that the measures taken by the authorities against the first applicant amounted to interference with the applicants' right to respect for their family life (see *Al-Nashif*, cited above, §§ 112-15; *Lupsa v. Romania*, no. 10337/04, §§ 24, 26 and 27, ECHR 2006-VII; *Musa and Others v. Bulgaria*, no. 61259/00,

§ 58, 11 January 2007; and *Bashir and Others v. Bulgaria*, no. 65028/01, § 37, 14 June 2007).

38. Such interference will constitute a breach of Article 8 unless it is "in accordance with the law", pursues a legitimate aim or aims under paragraph 2, and is "necessary in a democratic society" for achieving those aims.

39. The Court has consistently held that the first of these requirements does not merely dictate that the interference should have a basis in domestic law, but also relates to the quality of that law, requiring it to be compatible with the rule of law. The phrase thus implies that domestic law must be accessible and foreseeable, in the sense of being sufficiently clear in its terms to give individuals an adequate indication as to the circumstances in which and the conditions on which the authorities are entitled to resort to measures affecting their rights under the Convention. The law must moreover afford a degree of legal protection against arbitrary interference by the authorities. In matters affecting fundamental rights it would be contrary to the rule of law for a legal discretion granted to the executive to be expressed in terms of unfettered power. Consequently, the law must indicate the scope of any such discretion conferred on the competent authorities and the manner of its exercise with sufficient clarity, so as to give the individual adequate protection against arbitrary interference (see, among many other authorities, *Malone v. the United Kingdom*, judgment of 2 August 1984, Series A no. 82, pp. 31-33, §§ 66-68).

40. The Court is naturally mindful of the fact that in the particular context of measures concerning national security, the requirement of foreseeability cannot be the same as in many other fields. In particular, the requirement of "foreseeability" of the law does not go so far as to compel States to enact legal provisions listing in detail all conduct that may prompt a decision to expel an individual on national security grounds. By the nature of things, threats to national security may vary in character and may be unanticipated or difficult to define in advance. However, even where national security is at stake, the concepts of lawfulness and the rule of law in a democratic society require that deportation measures affecting fundamental human rights be subject to some form of adversarial proceedings before an independent authority or a court competent to effectively scrutinise the reasons for them and review the relevant evidence, if need be with appropriate procedural limitations on the use of classified information. The individual must be able to challenge the executive's assertion that national security is at stake. While the executive's assessment of what poses a threat to national security will naturally be of significant weight, the independent authority or court must be able to react in cases where the invocation of this concept has no reasonable basis in the facts or reveals an interpretation of "national security" that is unlawful or contrary to common sense and arbitrary (see *Al-Nashif*, §§ 119-24, and *Lupsa*, §§ 33 and 34, both cited above).

41. In *Al-Nashif*, when examining the legal framework for the expulsion of aliens from Bulgaria on national security grounds by reference to the above criteria, the Court found that it fell short of them. This conclusion was based on several elements: the lack of any factual grounds given for the expulsion, the lack of any form of adversarial proceedings and the lack of any possibility of appealing to an independent authority competent to consider the matter (see *Al-Nashif*, §§ 125-29; *Musa and Others*, §§ 61-63; and *Bashir and Others*, §§ 41 and 42, all cited above).

42. The present case concerns a situation which unfolded after 2003 when, as a result of the Court's judgment in *Al-Nashif*, the Bulgarian Supreme Administrative Court changed its case-law and accepted that expulsion orders made on national security grounds were amenable to judicial review notwithstanding the express terms of section 46(2) of the 1998 Aliens Act (see paragraph 25 above). As a result of this, the first applicant was able to seek judicial review of the decision against him. The Court must therefore determine whether the manner in which the expulsion was ordered, carried out and subsequently reviewed was in line with the requirements of Article 8 of the Convention, as set out above.

43. The Court first observes that, while the decision to expel the first applicant stated that the measure was being taken because he posed a threat to national security, in the ensuing judicial review proceedings it emerged that the only fact serving as a basis for this assessment – with which both levels of court fully agreed – was his alleged involvement in the unlawful trafficking of narcotic drugs in concert with a number of Bulgarian nationals (see paragraphs 6, 14 and 16 above). It is true that the notion of "national security" is not capable of being comprehensively defined (see *Esbester v. the United Kingdom*, no. 18601/91, Commission decision of 2 April 1993, unreported; *Hewitt and Harman v. the United Kingdom*, no. 20317/92, Commission decision of 1 September 1993, unreported; and *Christie v. the United Kingdom*, no. 21482/93, Commission decision of 27 June 1994, DR 78-A, p. 119, at p. 134). It may, indeed, be a very wide one, with a large margin of appreciation left to the executive to determine what is in the interests of that security. However, that does not mean that its limits may be stretched beyond its natural meaning (see, *mutatis mutandis*, *Association for European Integration and Human Rights and Ekimdzhiev*, cited above, § 84). It can hardly be said, on any reasonable definition of the term, that the acts alleged against the first applicant – as grave as they may be, regard being had to the devastating effects drugs have on people's lives – were capable of impinging on the national security of Bulgaria or could serve as a sound factual basis for the conclusion that, if not expelled, he would present a national security risk in the future.

44. It thus seems that the national courts, while *ex post facto* accepting for examination the first applicant's application for judicial review, did not

subject the executive's assertion that he presented a national security risk to meaningful scrutiny (see, *mutatis mutandis*, *Lupsa*, cited above, § 41).

45. Under the quality-of-law criterion, the requirements of Article 8 with regard to safeguards will depend, to some degree at least, on the nature and extent of the interference in question (see *Al-Nashif*, cited above, § 121, citing *P.G. and J.H. v. the United Kingdom*, no. 44787/98, § 46, ECHR 2001-IX). While actions taken in the interests of national security may, in view of the sensitivity of the subject-matter and the serious potential consequences for the safety of the community, attract considerably less in terms of guarantees than might otherwise be the case, an expulsion designed to forestall lesser evils such as run-of-the-mill criminal activities may have to be reviewed in proceedings providing a higher degree of protection of the individual.

46. Against this background, the Court finds it particularly striking that the decision to expel the first applicant made no mention of the factual grounds on which it was made. It simply cited the applicable legal provisions and stated that he "present[ed] a serious threat to national security"; this conclusion was based on unspecified information contained in a secret internal document (see paragraph 6 above). Lacking even outline knowledge of the facts which had served as a basis for this assessment, the first applicant was not able to present his case adequately in the ensuing appeal to the Minister of Internal Affairs and in the judicial review proceedings.

47. The Court further notes that, in the judicial review proceedings, the Plovdiv Regional Court held that once the Ministry of Internal Affairs had produced a report based on undisclosed secret surveillance measures asserting that the first applicant had engaged in criminal activities, no further inquiry into the facts was possible or necessary (see paragraph 14 above). It thus failed to examine a critical aspect of the case: whether the authorities were able to demonstrate the existence of specific facts serving as a basis for their assessment that the first applicant presented a national security risk. On appeal, the Supreme Administrative Court did not gather evidence either and confined its reasoning on this point to the following brief statement: "It has been established ... that [the first applicant] has acted as an intermediary for the supply of narcotics and maintains regular contacts with Bulgarian citizens who distribute narcotics and intoxicating substances..." It did not elaborate on the evidentiary basis for making such a finding and did not deal with the first applicant's detailed submissions that he had not in fact been involved in such activities (see paragraphs 15 and 16 above). These elements lead the Court to conclude that the national courts confined themselves to a purely formal examination of the decision to expel the first applicant (see, *mutatis mutandis*, *Lupsa*, cited above, § 41). They refused to examine other pieces of evidence to confirm or refute the allegations against him, and rested their rulings solely on uncorroborated

information tendered by the Ministry of Internal Affairs on the basis of the covert monitoring of the first applicant.

48. This is all the more problematic in view of the fact that the Bulgarian legal framework for such monitoring does not provide the minimum guarantees required under Article 8 of the Convention (see *Association for European Integration and Human Rights and Ekimdzhiev*, cited above, §§ 71-94). In particular, Bulgarian law does not contain sufficient safeguards to ensure that the authorities deploying special means of surveillance faithfully reproduce the original data in the written record (ibid., § 85), and does not lay down proper procedures for preserving the integrity of such data (ibid., § 86). Moreover, in the instant case, the file contains no information making it possible to verify whether the secret surveillance measures against the first applicant were lawfully ordered and executed, nor was this aspect of the matter considered by the courts in the judicial review proceedings.

49. In view of the foregoing considerations the Court concludes that, despite having the formal possibility of seeking judicial review of the decision to expel him, the first applicant did not enjoy the minimum degree of protection against arbitrariness on the part of the authorities. The interference with the applicants' family life was therefore not in accordance with "a law" satisfying the requirements of the Convention (see, *mutatis mutandis*, *Lupsa*, cited above, § 42). That being so, the Court is not required to determine whether this interference pursued a legitimate aim and, if so, whether it was proportionate to the aim pursued.

50. There has therefore been a violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

51. The applicants alleged that in the judicial review proceedings the courts had not genuinely examined the truth of the allegations made by the Ministry of Internal Affairs against the first applicant, and had not assessed the necessity of his expulsion. They relied on Article 13 of the Convention, which provides:

> "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

52. The applicants submitted that, although the national courts had agreed to examine the first applicant's application for judicial review, they had not in fact considered his arguments relating to the lawfulness of his expulsion. Both levels of court had held that the assertions of the Ministry of Internal Affairs were sufficient to show that the first applicant

represented a national security risk. Moreover, the courts had refused to examine the proportionality of his expulsion. None of these defects could be remedied by the April 2007 amendment to the 1998 Aliens Act, firstly because that amendment had come into force after the first applicant's case had been examined, and secondly because it did not contain any guarantees that the courts would not continue to take a formalistic approach. The crux of the problem was not the availability of proceedings by which to challenge expulsion orders, but the manner in which the courts scrutinised their legality in the course of such proceedings. The approach adopted in the first applicant's case could not provide any guarantees against arbitrary action and effectively vindicate his Convention rights.

53. The Government's submissions have been summarised in paragraph 35 above.

B. The Court's assessment

1. Admissibility

54. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

55. Article 13 guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they might happen to be secured in the domestic legal order. The effect of this Article is thus to require the provision of a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they conform to their obligations under this provision. In certain circumstances the aggregate of remedies provided by national law may satisfy the requirements of Article 13 (see, among many other authorities, *Chahal v. the United Kingdom*, judgment of 15 November 1996, *Reports of Judgments and Decisions* 1996-V, pp. 1869-70, § 145).

56. In immigration matters, where there is an arguable claim that expulsion may infringe an alien's right to respect for his or her family life, Article 13 in conjunction with Article 8 of the Convention requires that States must make available to the individual concerned the effective possibility of challenging expulsion or refusal-of-residence orders and of having the relevant issues examined with sufficient procedural safeguards and thoroughness by an appropriate domestic forum offering adequate

guarantees of independence and impartiality (see *Al-Nashif*, cited above, § 133, with further references).

57. If an expulsion has been ordered by reference to national security considerations, certain procedural restrictions may be needed to ensure that no leakage detrimental to national security occurs, and any independent appeals authority may have to afford a wide margin of appreciation to the executive. However, these limitations can by no means justify doing away with remedies altogether whenever the executive has chosen to invoke the term "national security". Even where an allegation of a threat to national security has been made, the guarantee of an effective remedy requires as a minimum that the competent appeals authority be informed of the reasons grounding the expulsion decision, even if such reasons are not publicly available. The authority must be competent to reject the executive's assertion that there is a threat to national security where it finds it arbitrary or unreasonable. There must be some form of adversarial proceedings, if need be through a special representative following security clearance. Furthermore, the question whether the impugned measure would interfere with the individual's right to respect for his or her family life and, if so, whether a fair balance has been struck between the public interest involved and the individual's rights must be examined (ibid., § 137, with a further reference to *Chahal*, cited above).

58. Having regard to its conclusion with regard to Article 8 (see paragraph 50 above), the Court finds that the applicants' complaint is arguable. It must therefore determine whether they had at their disposal a remedy satisfying the requirements of Article 13.

59. As noted above, following the Court's judgment in *Al-Nashif*, the Bulgarian Supreme Administrative Court changed its case-law in 2003 and started examining applications for judicial review of expulsion orders made on national security grounds, despite the express wording of section 46(2) of the 1998 Aliens Act (see paragraph 25 above). Indeed, the expulsion order against the first applicant in the instant case was considered by two levels of court. The question which the Court must address is thus, unlike in *Al-Nashif*, not the mere availability of such proceedings, but whether they amounted to an "effective remedy" within the meaning of Article 13. The Court will determine this by verifying whether the way in which the proceedings were conducted and the manner in which the courts reviewed the decision of the Ministry of Internal Affairs complied with the requirements of that provision.

60. Firstly, the Court observes that the domestic courts which dealt with the decision to expel the first applicant did not properly scrutinise whether it had been made on genuine national security grounds and whether the executive was able to demonstrate the factual basis for its assessment that he presented a risk in that regard. Secondly, the applicant was initially given no information concerning the facts which had led the executive to make such

an assessment, and was later not given a fair and reasonable opportunity of refuting those facts (see paragraphs 6, 13, 14 and 16 above). It follows that these proceedings cannot be considered as an effective remedy for the applicants' complaint under Article 8 of the Convention.

61. Moreover, the Court notes that the national courts did not give any consideration to the question whether the interference with the applicants' family life was proportionate to the aim sought to be attained. Instead they held that, having established that the first applicant's case fell within the purview of sections 42 and 42a of the 1998 Aliens Act, the authorities had been bound to expel him (see paragraphs 14 and 16 above).

62. However, according to the Court's established case-law, the effective remedy required by Article 13 is one where the domestic authority examining the case has to consider the substance of the Convention complaint. In cases involving Article 8 of the Convention, this means that this authority has to carry out a balancing exercise and examine whether the interference with the applicants' rights answered a pressing social need and was proportionate to the legitimate aims pursued, that is, whether it amounted to a justifiable limitation of their rights (see, *mutatis mutandis*, *Smith and Grady v. the United Kingdom*, nos. 33985/96 and 33986/96, §§ 136-38, ECHR 1999-VI; *Peck v. the United Kingdom*, no. 44647/98, §§ 105 and 106, ECHR 2003-I; and *Hatton and Others v. the United Kingdom* [GC], no. 36022/97, §§ 140 and 141, ECHR 2003-VIII). The factors which are relevant in this regard have recently been summarised in paragraphs 57-59 of the Court's judgment in the case of *Üner v. the Netherlands* ([GC], no. 46410/99, ECHR 2006-XII).

63. As the approach taken by the national courts in the instant case – refusing to scrutinise the measures taken against the first applicant in the light of the kind of factors relied on by the Court in the context of Article 8 of the Convention – fell short of these requirements, the Court finds that the judicial review proceedings did not amount to an avenue whereby the applicants could adequately vindicate their right to respect for their family life (see, *mutatis mutandis*, *Peev v. Bulgaria*, no. 64209/01, §§ 72 and 73, 26 July 2007). They did not therefore constitute an effective remedy within the meaning of Article 13 on that account either.

64. Having regard to the extent of the deficiencies outlined above, the Court finds that the judicial review proceedings in the instant case failed to satisfy the requirements of Article 13 of the Convention. No other remedy has been suggested by the Government.

65. There has therefore been a violation of Article 13.

III. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 7 TO THE CONVENTION

66. The fist applicant alleged that he had been expelled without being able to benefit from the guarantees of Article 1 of Protocol No. 7 to the Convention, which provides as follows:

> "1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:
>
> (a) to submit reasons against his expulsion,
>
> (b) to have his case reviewed, and
>
> (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.
>
> 2. An alien may be expelled before the exercise of his rights under paragraph 1 (a), (b) and (c) of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security."

A. The parties' submissions

67. The first applicant submitted that the absence of verifiable information leading to the conclusion that his expulsion had indeed been based on national security considerations meant that it had not been "in accordance with law". In his view, his case was comparable in that respect to the case of *Lupsa* (cited above).

68. The Government's submissions have been summarised in paragraph 35 above.

B. The Court's assessment

1. Admissibility

69. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

70. In the event of expulsion, in addition to the protection afforded by Articles 3, 8 and 13 of the Convention, aliens lawfully resident on the territory of a State which has ratified Protocol No. 7 benefit from the specific guarantees provided for in its Article 1 (see *Lupsa*, cited above, §§ 51 and 52; *Kaya v. Romania*, no. 33970/05, §§ 51 and 52, 12 October 2006; and *Bolat v. Russia*, no. 14139/03, § 76, ECHR 2006-XI (extracts)).

71. In *Al-Nashif* the Court did not examine the case under that provision, as the events at issue had taken place before its entry into force in respect of Bulgaria (1 February 2001) (see *Al-Nashif*, cited above, § 133 *in limine*). However, in the present case the first applicant's expulsion was ordered on 8 June 2005 and carried out on 9 June 2005. The Court must therefore determine whether it complied with the various requirements of that Article.

72. The Court notes that the first guarantee afforded to the persons referred to in this Article is that they shall not be expelled except "in pursuance of a decision reached in accordance with law".

73. The Court has already found that the first applicant's expulsion was not "in accordance with the law" within the meaning of Article 8 § 2 of the Convention. Seeing that this phrase has a similar meaning throughout the Convention and its Protocols (see, *mutatis mutandis*, *Amuur v. France*, judgment of 25 June 1996, *Reports* 1996-III, p. 850, § 50; *Steel and Others v. the United Kingdom*, judgment of 23 September 1998, *Reports* 1998-VII, p. 2742, § 94; and *Hashman and Harrup v. the United Kingdom* [GC], no. 25594/94, § 34 *in fine*, ECHR 1999-VIII), the Court cannot but conclude that this expulsion did not conform to the above-mentioned requirement of the first paragraph of Article 1 of Protocol No. 7 (see *Lupsa*, §§ 56 and 57; and *Kaya*, §§ 56 and 57, both cited above).

74. The Court must also determine whether the measures taken against the first applicant complied with the other requirements of paragraph 1 of that Article. On this point it observes that the national courts refused to gather evidence to confirm or dispel the allegations serving as a basis for the decision to expel him and subjected this decision to a purely formal examination, with the result that the first applicant was not able to have his case genuinely heard and reviewed in the light of reasons militating against his expulsion, contrary to letter (b) of paragraph 1 (see, *mutatis mutandis*, *Lupsa*, §§ 58-60; and *Kaya*, §§ 58-60, both cited above).

75. Finally, the Court notes that the first applicant's expulsion took place on 9 June 2005, the very day on which he was apprised of the order to this effect (see paragraph 7 above). This was in line with section 44(4) of the 1998 Aliens Act, which states that expulsion orders are immediately enforceable (see paragraph 19 above). The applicant was thus able to challenge the measures against him only once outside the territory of Bulgaria.

76. The second paragraph of Article 1 of Protocol No. 7 allows this, but only as an exception to the general principle enshrined in the first paragraph – that the persons concerned must be able to exercise their rights under paragraph 1 before being removed from the country. This exception is permissible only if the expulsion is "necessary in the interests of public order" or "grounded on reasons of national security".

77. The Court has already found that the first applicant's expulsion was not based on genuine reasons of national security (see paragraph 43 above).

It does not therefore need to additionally determine whether, if that were the case, his being deprived of the possibility of exercising his rights under paragraph 1 of Article 1 before his expulsion was necessary and proportionate. The first limb of the exception is therefore not applicable.

78. As regards the second limb of the exception, the Court notes that the explanatory report to Protocol No. 7 says that a "State relying on public order to expel an alien before the exercise of [his or her rights under paragraph 1 of Article 1 thereof] must be able to show that this exceptional measure was necessary in the particular case or category of cases". The assessment whether this is warranted is to be made "taking into account the principle of proportionality as defined in the [Court's] case-law" (see paragraph 31 above). In the instant case, the Government have not put forward any arguments capable of convincing the Court that this was so. Nor is there anything in the file to suggest that it was truly necessary to expel the first applicant before he was able to challenge the measure.

79. The Court therefore concludes that the first applicant should have been given the opportunity to exercise his rights under paragraph 1 of Article 1 before being expelled from Bulgaria. However, this did not happen.

80. In sum, the Court finds that the first applicant's expulsion failed to satisfy the various requirements of Article 1 of Protocol No. 7 to the Convention. There has therefore been a violation of that provision.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

81. 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

82. The applicants claimed 60,000 euros (EUR) (EUR 20,000 each) in respect of the non-pecuniary damage arising out of the violation of Article 8 of the Convention. They submitted that their physical separation had engendered feelings of loneliness and hopelessness. The second applicant had had to take sedatives for a year after the expulsion of her husband. The relationship between the first applicant and his daughter had suffered serious damage as a result of their being apart. This had been exacerbated by the fact that the third applicant had epilepsy, which had grown worse as a result of the stress caused by her father's absence. The option for the whole family to settle in Turkey was not viable because there, unlike in Bulgaria, the costly medication needed for the third applicant's epilepsy would not be

provided free of charge. Moreover, neither the second nor the third applicant spoke Turkish.

83. The applicants also claimed EUR 5,000 in respect of the breach of Article 13 of the Convention. In their submission, the formal manner in which the courts had reviewed the decision to expel the first applicant had aroused in them feelings of injustice and had humiliated them. The first applicant further claimed EUR 10,000 in respect of the breach of Article 1 of Protocol No. 7, on essentially the same basis.

84. The Government did not comment on the applicants' claims.

85. The Court considers that all three applicants must have endured distress and frustration resulting from the unlawful and unjustified disruption of their family life brought about by the first applicant's expulsion. These were aggravated by the ineffectiveness of the remedies through which the first applicant tried to challenge his expulsion, as well as by the lack of appropriate safeguards in the expulsion procedure. Having regard to the materials in its possession and ruling on an equitable basis as required by Article 41 of the Convention, the Court decides to award EUR 10,000 to the first applicant, EUR 6,000 to the second applicant and EUR 6,000 to the third applicant. To those amounts should be added any tax that may be chargeable.

B. Costs and expenses

86. The applicants sought the reimbursement of EUR 2,730 incurred in lawyers' fees for the proceedings before the Court. They asked the Court to order that EUR 700 of that amount be paid directly to them and EUR 2,030 into the bank account of their legal representatives, Mr M. Ekimdzhiev and Ms K. Boncheva. The applicants further claimed EUR 28 for postage and office expenses, also to be paid into their representatives' bank account.

87. The Government did not comment on the applicants' claims.

88. According to the Court's case-law, applicants are entitled to the reimbursement of their costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, having regard to the information in its possession and the above criteria, and noting that the applicants have been granted EUR 850 in legal aid, the Court considers it reasonable to award the sum of EUR 1,500, plus any tax that may be chargeable to the applicants. EUR 700 of this sum is to be paid directly to the applicants and EUR 800 into the bank account of their legal representatives, Mr M. Ekimdzhiev and Ms K. Boncheva.

C. Default interest

89. 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 remainder of the application admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds* that there has been a violation of Article 13 of the Convention;

4. *Holds* that there has been a violation of Article 1 of Protocol No. 7 to the Convention;

5. *Holds*

(a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Bulgarian levs at the rate applicable at the date of settlement:

(i) to the first applicant, EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) to the second applicant, EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(iii) to the third applicant, EUR 6,000 (six thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(iv) to all three applicants, EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses. EUR 700 (seven hundred euros) of this sum is to be paid directly to the applicants and EUR 800 (eight hundred euros) into the bank account of their 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;

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

Done in English, and notified in writing on 24 April 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek Registrar	Peer Lorenzen President