



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

FOURTH SECTION

CASE OF S.Z. v. BULGARIA

(Application no. 29263/12)

JUDGMENT
(Extracts)

STRASBOURG

3 March 2015

FINAL

3 June 2015

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

In the case of S.Z. v. Bulgaria,

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

Guido Raimondi, *President*,

Päivi Hirvelä,

George Nicolaou,

Ledi Bianku,

Zdravka Kalaydjieva,

Krzysztof Wojtyczek,

Nona Tsotsoria, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having deliberated in private on 10 February 2015,

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

PROCEDURE

1. The case originated in an application (no. 29263/12) 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, Ms S.Z. (“the applicant”), on 3 May 2012. The President of the Section decided, of his own motion, not to disclose the identity of the applicant (Rule 47 § 3 of the Rules of Court).

2. The applicant was represented by Mr Y. Grozev and Ms N.O. Dobрева, lawyers practising in Sofia. The Bulgarian Government (“the Government”) were represented by their Agent, Ms Ani Panova, of the Ministry of Justice.

3. The applicant complained that the criminal proceedings for false imprisonment and rape perpetrated against her had been ineffective and excessively long.

4. On 16 January 2014 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1977 and lives in Sofia.

6. On 19 September 1999 the applicant, then a 22-year-old student, left Sofia for Blagoevgrad in a vehicle with two young men, B.Z. and S.P., and another young woman whom she frequented at the time and whose

acquaintance she had made through one of her close friends, H.I. During the journey the two men told her that they intended to “sell” her as a prostitute to people with whom they were in contact in Blagoevgrad, and then to “take her back” after receiving the money. The applicant refused, but was threatened by B.Z. On their arrival at Blagoevgrad the group met a number of people in various cafés in the town; those people were apparently involved in prostitution rings abroad and discussed with B.Z. and S.P. sending the applicant to Greece, Italy or Macedonia to work as a prostitute and her alleged experience in the trade. The applicant was told that three of the men they had met were police officers. The applicant was then taken to a flat where she was held against her will and repeatedly beaten and raped by several men for about 48 hours, following which she managed to escape and found refuge in a neighbouring apartment block where occupants called the police.

7. During her first police interview the applicant attempted to throw herself out of the window and was then admitted to a psychiatric hospital. She subsequently received psychological counselling.

8. A criminal investigation was instituted by the Blagoevgrad District Public Prosecutor’s Office for abduction and false imprisonment; abduction for the purposes of coercing into prostitution; and rape. The applicant identified some of her assailants and two police officers whom the group had met prior to holding her against her will. She stated that the men were part of a criminal gang involved in human trafficking who wanted to force her into prostitution in western Europe.

9. In an order of 19 October 1999 the Blagoevgrad military prosecutor considered that there was insufficient evidence to prosecute the two police officers, Z.B. and Y.G., who had been charged with abduction, and discontinued the proceedings against them. The prosecutor observed, in particular, that after initially identifying the police officers, the applicant had not subsequently claimed that they had taken part in her abduction and false imprisonment. The prosecutor’s order was amenable to appeal, but the applicant does not appear to have lodged one.

10. During 1999 and 2000 several people involved were questioned, and an expert medical report was drawn up. The investigation was closed and the case sent to the prosecutor for a decision regarding committal for trial. However, on 12 April 2001 the prosecutor decided to send the case back for further investigation on the grounds that irregularities had been committed and further evidence was required regarding the involvement of H.I. and another individual, G.M. Subsequently the case was returned three more times for further investigation. In an order of 2 November 2001, the prosecutor found that the investigator had failed to carry out any investigative measures since the case had been sent back. He also noted a number of irregularities in the charges against the various defendants, such as wrong dates, inaccurate legal classifications or inconsistencies between

the facts set out and the legal classification retained. The prosecutor also noted that the investigation had been carried out in the absence of one of the defendants without a duty lawyer being appointed and that some of the charges had to be amended, to take account, *inter alia*, of the fact that the applicant had attempted to commit suicide, which was an aggravating circumstance. In an order of 16 October 2002, the prosecutor noted that no measures had been carried out in accordance with his previous decision. In a further order of 12 March 2004, he observed that the instructions given had not been followed in their entirety, and in particular that the charges had not been amended.

11. The investigation was closed again and sent to the prosecutor on 13 November 2005. On 23 December 2005 the prosecutor decided to discontinue the proceedings against H.I. and G.M., who had been prosecuted for abduction for the purposes of coercing into prostitution and incitement to prostitution respectively, on the grounds that the offences had not been made out. On appeal by the applicant, that decision was set aside by the court on 29 March 2006.

12. The investigation was closed in May 2007 and the applicant was served with the investigation file. She then requested that one of the men she had identified from a photo, Y.Y.G., also be charged with rape. Her request was rejected on 7 June 2007 by the district prosecutor, who considered that there was insufficient evidence against him, the applicant's statement being the only basis for implicating him in the attack. On 26 June 2007 part of the investigation, which concerned the offences of which the applicant accused Y.Y.G. and K.M., was severed from the main proceedings and fresh proceedings brought against persons unknown. On 12 September 2007 the Blagoevgrad appellate prosecutor's office upheld the decision not to charge Y.Y.G., noting that if new evidence were to emerge, the investigators could bring further charges in the proceedings against persons unknown. On 15 February 2008 those proceedings were stayed, on the ground that the perpetrators had not been identified.

13. On an unspecified date in 2007 seven defendants were committed for trial in the Blagoevgrad District Court on charges of false imprisonment, rape, incitement to prostitution or abduction for the purposes of coercing into prostitution.

14. On 5 December 2007 the applicant sought leave to join the proceedings as a private prosecutor and civil party seeking damages. The court granted the application at a hearing held on 9 May 2008.

15. The Blagoevgrad District Court held 22 hearings. About ten of these were adjourned, mainly because the defendants or witnesses had not been properly summoned. The trial took place in the absence of one of the defendants, S.P., whom the authorities had been unable to find.

16. In a judgment of 27 March 2012, the court convicted L.D. and M.K. of gang rape, aggravated by the fact that the victim had attempted to commit

suicide, and false imprisonment with aggravated circumstances. They were sentenced to six years' imprisonment. B.Z. and S.P. were convicted of abducting the applicant for the purposes of coercing her into prostitution and sentenced to six and four years' imprisonment respectively. S.D. was convicted of false imprisonment and sentenced to a fine of 3,000 leva (BGN). The court found that the offence of incitement to prostitution for which G.M. was being prosecuted was time-barred in accordance with the absolute limitation period and discontinued the proceedings against him. Lastly, it found H.I. not guilty of abduction for the purposes of coercing into prostitution on the grounds that the offence had not been made out as H.I. had not been present at the material time. The five defendants who had been convicted were ordered to pay the applicant damages, and the claim against the other two defendants was rejected.

17. The five defendants who had been convicted appealed. The applicant appealed only against the part of the judgment concerning S.D., requesting the imposition of a heavier sentence and an increase in the amount awarded in damages.

18. Seven hearings before the Blagoevgrad Regional Court were adjourned on account of the absence of one of the accused or their lawyers. The first hearing on the merits took place on 8 November 2013. As two of the defendants, S.P. and G.M. had not appeared, the court decided to examine the case in their absence.

19. In a final judgment of 11 February 2014, the court set aside S.D.'s conviction and terminated the proceedings against him on the grounds that they had become irrevocably time-barred. It amended the judgment concerning the other defendants: the classification of the offence of which L.D. and M.K. had been convicted was slightly amended and their sentence reduced to five years' imprisonment. The sentence imposed on B.Z. was reduced to three years' imprisonment and S.P.'s four-year prison sentence was upheld.

20. The court also reduced the amounts awarded to the applicant in non-pecuniary damages. It awarded the applicant a total amount of BGN 39,000, which was the equivalent of approximately 20,000 euros (EUR), ordering L.D. and M.K. to pay the applicant BGN 15,000 each, and B.Z, S.P. and S.D. to pay her BGN 4,000, BGN 3,000 and BGN 2,000 respectively.

21. During the judicial proceedings the applicant, who was living in Sofia, had to travel to Blagoevgrad on numerous occasions to attend hearings. She was called to the witness stand seven times. According to a medical opinion produced by the applicant, each summons to appear before the court had adversely affected her psychological condition.

...

III. RELEVANT INTERNATIONAL SOURCES

A. Council of Europe Convention on Action against Trafficking in Human Beings

27. This Convention, which came into force on 1 February 2008 and was ratified by Bulgaria, provides in so far as relevant:

Article 4 – Definitions

“For the purposes of this Convention:

a ‘Trafficking in human beings’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;”

Article 18 – Criminalisation of trafficking in human beings

“Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct contained in article 4 of this Convention, when committed intentionally.”

Article 30 – Court proceedings

“In accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6, each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings:

a the protection of victims’ private life and, where appropriate, identity;

b victims’ safety and protection from intimidation,

in accordance with the conditions under its internal law ...”

28. With regard more specifically to court proceedings, the explanatory report to the convention provides as follows:

“299. Court proceedings in human-trafficking cases – as often with any serious form of crime – may have unfortunate consequences for the victims: ...

309. Use of audio and video technology for taking evidence and conducting hearings may, as far as possible, avoid repetition of hearings and of some face-to-face contact, thus making court proceedings less traumatic. In recent years, a number of countries have developed the use of technology in court proceedings, if necessary adapting the procedural rules on taking evidence and hearing victims. This is particularly the case with victims of sexual assault. ...

310. In addition to the possible use of audio and video technology for avoiding traumatic or repeat testimony, it should be pointed out that victims can be influenced

by the mental pressure of being brought face to face with the accused in the courtroom. To give them proper protection it is sometimes advisable to avoid their being present in court at the same time as the accused and to allow them to testify in another room. Whether it is the accused or the victim who is moved from the courtroom, video links or other video technology can be used to enable the parties to follow the proceedings. Such measures are necessary to spare them any unnecessary stress or disturbance when they give their evidence; the trial therefore has to be organised in such a way as to avoid, as far as possible, any unwelcome influence that might hinder establishing the truth or deter victims and witnesses from making statements.”

B. Guidelines of the Committee of Ministers of the Council of Europe

29. The Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, adopted on 30 March 2011, remind the member States of the need to implement measures to eradicate impunity for such violations, be they perpetrated by State officials or authorities or by individuals. This document reads, *inter alia*, as follows:

“When it occurs, impunity is caused or facilitated notably by the lack of diligent reaction of institutions or state agents to serious human rights violations. In these circumstances, faults might be observed within state institutions as well as at each stage of the judicial or administrative proceedings.

States are to combat impunity as a matter of justice for the victims, as a deterrent with respect to future human rights violations and in order to uphold the rule of law and public trust in the justice system.

...

Combating impunity requires that there be an effective investigation in cases of serious human rights violations. This duty has an absolute character.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

30. Relying on Articles 3, 8 and 6 § 1 of the Convention, the applicant complained that the criminal proceedings brought against her attackers had been ineffective. She complained in particular of excessive delays in the investigation and trial, the lack of investigation into the possible involvement of the two police officers and the failure to charge two of her assailants. Having regard to the nature of the complaints lodged by the applicant, the Court considers that these should be examined exclusively under Article 3 of the Convention, which provides:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

...

B. Merits

1) The parties' submissions

39. The applicant submitted that the criminal proceedings against her assailants had lacked the effectiveness required by Article 3 of the Convention. She alleged that the authorities had not prosecuted some of the people involved, including two police officers, Z.B. and Y.G., and two other individuals, Y.Y.G. and K.M., whom she had identified at the start of the investigation. She complained that the authorities had not made the necessary efforts to investigate the link between the two police officers and the prostitution ring into which attempts had been made to coerce her or to search for the other two individuals. The applicant maintained that the authorities had not displayed diligence in the conduct of the proceedings, which had been unduly prolonged; the dual effect of this was that she had endured further psychological suffering and the proceedings in respect of some of the perpetrators had become time-barred.

40. The Government considered that the criminal proceedings had been very complex on account of the nature of the facts and the involvement of several individuals. In their submission, the authorities had endeavoured to clarify the circumstances of the case, which had been difficult on account of the conflicting evidence of the persons involved, inconsistent explanations by the applicant and difficulties in locating certain suspects. They acknowledged that delays had occurred in the proceedings and that there had been omissions in the investigation, but considered that the authorities had done everything in their power to remedy that, particularly when the prosecutor had on several occasions sent the case back for further investigation. The proceedings had thus resulted in some of the perpetrators being punished and the applicant being awarded compensation.

2) The Court's assessment

a) Applicability of Article 3 of the Convention

41. It is not disputed in the instant case that the acts of rape and violence perpetrated against the applicant fall within the scope of Article 3 of the Convention (see *M.C. v. Bulgaria*, no. 39272/98, § 148, ECHR 2003-XII, and *M.N. v. Bulgaria*, no. 3832/06, § 34, 27 November 2012).

b) General principles emerging from the Court's case-law

42. The Court reiterates that the obligation on High Contracting Parties under Article 1 of the Convention to secure to everyone within their jurisdiction the rights and freedoms defined in the Convention, taken in conjunction with Article 3, requires them to take steps to ensure that individuals within their jurisdiction are not subjected to ill-treatment, including ill-treatment inflicted by private individuals (see *A. v. the United Kingdom*, 23 September 1998, § 22, *Reports of Judgments and Decisions* 1998-VI, and *M.C. v. Bulgaria*, cited above, § 149).

43. Such protection necessitates in particular establishing a legislative framework to shield individuals adequately from treatment incompatible with Article 3, particularly through the enactment of criminal-law provisions and their effective application in practice (see, *inter alia*, with regard to non-consensual sexual acts, *M.C. v. Bulgaria*, cited above, §§ 150-53, and *M.N. v. Bulgaria*, cited above, §§ 36-37).

44. Furthermore, where an individual claims on arguable grounds to have suffered acts contrary to Article 3, that Article requires the national authorities to conduct an effective official investigation to establish the facts of the case and identify and punish those responsible. These obligations apply whatever the status of the persons charged, including private individuals (see *Šečić v. Croatia*, no. 40116/02, § 53, 31 May 2007, and *M.C. v. Bulgaria*, cited above, § 153). Where, as in the present case, the preliminary investigations have led to prosecution in the national courts, the procedural obligations under Article 3 of the Convention extend to the proceedings as a whole, including the trial stage (see *W. v. Slovenia*, cited above, § 65).

45. In order to be effective, the investigation must be sufficiently thorough and objective. The authorities must take reasonable measures available to them to obtain evidence relating to the offence in question (see, in the context of criminal proceedings for rape, *M.C. v. Bulgaria*, § 151; *M.N. v. Bulgaria*, §§ 38-39; and *W. v. Slovenia*, § 64, all cited above, and *P.M. v. Bulgaria*, no. 49669/07, §§ 63-67, 24 January 2012).

46. The obligation to conduct an effective investigation is an obligation not of result but of means. Whilst this requirement does not impose an obligation for all prosecutions to result in conviction, or indeed in a particular sentence, the national courts must not under any circumstances be prepared to allow physical or psychological suffering to go unpunished. Time-barring of the criminal proceedings as a result of lack of action by the relevant authorities has accordingly led the Court to conclude that there was a failure to comply with the State's positive obligations (see *M.N. v. Bulgaria*, cited above, §§ 46 and 49).

47. A requirement of promptness and reasonable expedition is also implicit in this context. In this connection the Court has considered it an essential requirement that investigations be promptly instituted and carried

out. Irrespective of the outcome of the proceedings, the protection machinery provided for in domestic law must operate in practice within a reasonable time such as to conclude the examination on the merits of the specific cases submitted to the authorities (see *W. v. Slovenia*, cited above, § 64, and *Ebcin v. Turkey*, no. 19506/05, § 40, 1 February 2011).

c) Application of these principles to the present case

48. In the instant case criminal proceedings were instituted following a complaint filed by the applicant and some of the perpetrators were committed for trial. The Court notes, however, that the criminal proceedings – the preliminary investigation and the first and second-instance proceedings – lasted fourteen years in total, which at first sight appears excessive having regard to the authorities' obligation to proceed promptly in such cases. The Government referred to the complexity of the case to explain the length, but the Court is not convinced that the complexity of the present case can justify proceedings of that length particularly as the main suspects had been identified by the applicant at the very beginning of the proceedings.

49. The preliminary investigation, which extended over a period of eight years, appears to have been considerably delayed. Apart from a number of periods of inactivity, the Court observes that the investigation was closed four times but the prosecutor decided to send the case back for further investigation on the grounds that the necessary investigative measures had not been carried out or that procedural irregularities had been committed, often despite instructions given by the prosecutor in the preceding committal decisions (see paragraph 10 above). These circumstances reveal a lack of diligence by the authorities and undeniably had the effect of delaying the investigation phase of the proceedings. They also incur the risk of causing the criminal proceedings to become time-barred. It turns out that prosecution of the less serious offences was indeed terminated on account of expiry of the absolute limitation period, which applies even where a criminal trial is under way (see paragraphs 16 and 19).

50. The lack of diligence of the authorities carrying out the investigation is also reflected in the failure to investigate certain aspects of the case, such as the involvement of the two police officers Z.B. and Y.G., and of two other individuals, K.M. and Y.Y.G., whom the applicant had identified as having been involved in the attack. Admittedly, it is not, in theory, the Court's task to call into question the lines of inquiry pursued by the investigators or the findings of fact made by them, unless they manifestly fail to take into account relevant elements or are arbitrary (see *Georgiev v. Bulgaria* (dec.), no. 34137/03, 11 January 2011, see also *Nikolay Dimitrov v. Bulgaria*, no. 72663/01, § 76, 27 September 2007). The Court also observes, with regard to the proceedings brought against the two police officers, that the applicant did not challenge the order of 19 October 1999

discontinuing the proceedings, although she could have appealed to a court against the prosecutor's decision to discontinue the proceedings. It is a cause for concern, however, that given the nature of the offences in the present case and despite the applicant's allegations that her assailants were members of a network trafficking in women with a view to their prostitution abroad, the authorities did not consider it necessary to examine the possible involvement of an organised criminal network and confined themselves to prosecuting the individuals directly responsible for the abduction and assault of the applicant. With regard to the involvement of the other two individuals, there is no evidence that following the prosecutor's decision to sever the investigation in their regard the authorities displayed diligence and carried out concrete measures with a view to finding the individuals in question or gathering additional evidence.

51. The Court notes, lastly, that the judicial stage of the proceedings also lasted a considerable time which does not appear to be entirely justified by its complexity. Many hearings were adjourned without an examination of the merits of the case, on the grounds that some of the accused had not been properly summoned or had failed to appear. Even if the courts did take certain measures in that regard, such as examining the case in the absence of certain defendants, the proceedings were nonetheless considerably delayed.

52. The excessive length of the proceedings undeniably had negative repercussions on the applicant, who, clearly psychologically very vulnerable as a result of the attack, was left in a state of uncertainty regarding the possibility of securing the trial and punishment of her assailants and had to return to court repeatedly and relive the events during the many examinations by the court (see *W. v. Slovenia*, cited above, § 69).

53. In the light of the foregoing, the proceedings cannot be deemed to have satisfied the requirements of Article 3 of the Convention. Accordingly, the Court rejects the Government's preliminary objection concerning the premature nature of the application and holds that there has been a violation of Article 3 of the Convention.

II. APPLICATION OF ARTICLES 46 AND 41 OF THE CONVENTION

A. Application of Article 46

54. The applicant submitted that her case had revealed a certain number of recurring problems regarding the ineffectiveness of criminal proceedings, in particular in cases of human trafficking. She asked the Court to indicate to the respondent Government, in terms of the individual and general measures they should adopt in execution of the judgment, for the purposes of Article 46 of the Convention, to appoint an independent expert to review the criminal proceedings in the present case and hear all those involved in

the investigation. That expert's report should be made public in order to bring to light the flaws in those proceedings and take the necessary measures to remedy these.

55. The Court reiterates that under Article 46 of the Convention the Contracting Parties have undertaken to abide by the final judgments of the Court in any case to which they are parties, execution being supervised by the Committee of Ministers. In respect of a judgment in which the Court finds a breach of the Convention or the Protocols thereto it is primarily for the State concerned to choose, subject to supervision by the Committee of Ministers, the means to be used in its domestic legal order to discharge its obligation under Article 46 of the Convention. However, with a view to helping the respondent State to fulfil its obligations under Article 46, the Court may seek to indicate the type of individual and/or general measures that might be taken in order to put an end to the situation it has found to exist (see, among other authorities, *Stanev v. Bulgaria* [GC], no. 36760/06, § 254-55, ECHR 2012).

56. In the present case the Court has found an infringement of the procedural obligation, deriving from Article 3 of the Convention, on the respondent State to carry out an effective investigation of the allegations of ill-treatment suffered by the applicant, having regard, more specifically, to the excessive delays during the criminal proceedings and the lack of an investigation into certain aspects of the facts (see paragraphs 48-53 above). The Court observes that it has already found, on many occasions, violations of the obligation to carry out an effective investigation in applications concerning Bulgaria. It has concluded, accordingly, that there was a violation of the procedural obligations under Article 2 or Article 3 of the Convention in more than 45 judgments (see, *inter alia*, with regard to violence perpetrated by individuals, *Angelova and Iliev v. Bulgaria*, no. 55523/00, 26 July 2007, and the above-cited judgments *Nikolay Dimitrov v. Bulgaria*; *M.N. v. Bulgaria*; and *P.M. v. Bulgaria*; and, with regard to death or ill-treatment attributable to the authorities, *Velikova v. Bulgaria*, no. 41488/98, ECHR 2000-VI; *Angelova v. Bulgaria*, no. 38361/97, ECHR 2002-IV, and *Dimitrov and Others v. Bulgaria*, no. 77938/11, 1 July 2014) Moreover, a number of applications concerning the obligation to carry out an effective investigation into cases of rape have recently been struck out of the list of cases following a friendly settlement reached between the parties or a unilateral declaration by the Government acknowledging a violation of Article 3 (see *S.M. v. Bulgaria* (dec.), no. 78421/11, 25 June 2013; *A.S. v. Bulgaria* (dec.), no. 78390/11, 25 June 2013; and *S.L. and Others v. Bulgaria* (dec.), no. 8981/10, 14 May 2013).

57. In the majority of those cases the Court found that there had been substantial delays at the preliminary-investigation stage and that no thorough and objective investigation had been carried out. In certain situations it found that the delays had led to termination of the proceedings

on the grounds that they were time-barred, where the suspects, despite having been identified, had not been formally charged (see *Stoev and Others v. Bulgaria*, no. 41717/09, § 48, 11 March 2014, and *M.N. v. Bulgaria*, cited above, § 49) or that, despite committal for trial of the presumed perpetrators and a trial being held, the “absolute” limitation period had expired (see *Angelova and Iliev*, § 103, and *P.M. v. Bulgaria*, § 66, cited above). Apart from repeated findings of failure to carry out necessary investigative measures, in certain cases the Court noted that the competent authorities had not taken account of certain evidence (see *Dimitrova and Others v. Bulgaria*, no. 44862/04, § 79-82, 27 January 2011; *Nikolay Dimitrov*, cited above, § 76; and *Dimitrov and Others*, cited above, § 145), had not sought to ascertain certain factual circumstances or the involvement of certain individuals in the criminal offence (see *Dimitrova and Others*, cited above, §§ 83-84, and *Abdu v. Bulgaria*, no. 26827/08, § 49, 11 March 2014) or that the prosecutor had persistently refused to comply with the court’s instructions regarding the preliminary investigation (see *Biser Kostov v. Bulgaria*, no. 32662/06, § 82, 10 January 2012).

58. This non-exhaustive list of the various flaws found in a large number of cases reveals the existence of a systemic problem concerning the ineffectiveness of investigations in Bulgaria. The Court is aware, however, of the complexity of the structural problem found to exist and of the difficulty in identifying the exact causes of the shortcomings found or pinpointing the specific measures that should be implemented in order to improve the quality of investigations. In these circumstances the Court does not consider itself to be in a position to indicate which individual and general measures should be implemented for the purposes of executing the present judgment. It considers that the national authorities, in cooperation with the Committee of Ministers, are the best placed to identify the various causes of the systemic problem relating to the ineffectiveness of investigations and to decide which general measures are required – in practical terms – to prevent similar future violations, with a view to combating impunity and upholding the rule of law and the trust of the public and victims in the justice system (see *Kaverzin v. Ukraine*, no. 23893/03, § 181, 15 May 2012).

...

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

...

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

...

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

Françoise Elens-Passos
Registrar

Guido Raimondi
President