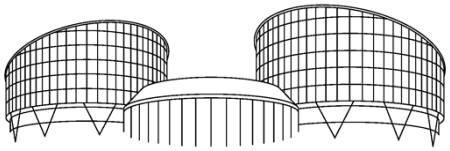

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF BEHAR AND GUTMAN v. BULGARIA

(Application no. 29335/13)

This version was rectified on 4 March 2021
under Rule 81 of the Rules of Court

JUDGMENT

Art 14 (+ Art 8) • Discrimination • Private life • Failure of domestic courts to discharge positive obligation to afford redress to Jewish applicants for anti-Semitic statements made by leader of political party • Art 8 applicable as statements' negative effect reached a "certain level" or "threshold of severity", considering the characteristics of the group, the content of the statements and the form and context • No fair balance between competing interests at stake with due regard to Court's case-law

STRASBOURG

16 February 2021

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Behar and Gutman v. Bulgaria,

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

Tim Eicke, *President*,
Armen Harutyunyan,
Georges Ravarani,
Gabriele Kucsko-Stadlmayer,
Jolien Schukking,
Ana Maria Guerra Martins, *judges*,
Maiia Rousseva, *ad hoc judge*,
and Ilse Freiwirth, *Deputy Section Registrar*,

Having regard to:

the application (no. 29335/13) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Bulgarian nationals, Ms Gabriela Aron Behar and Ms Katrin Borisova Gutman ("the applicants"), on 23 April 2013;

the decision to conduct the proceedings in this case simultaneously with those in the case of *Budinova and Chaprazov v. Bulgaria* (no. 12567/13);

the decision to give the Bulgarian Government ("the Government") notice of the complaints concerning the alleged failure of the Bulgarian authorities to afford the applicants redress with respect to various public statements made by Mr Volen Siderov in respect of Jewish people, and to declare the remainder of the application inadmissible;

the observations submitted by the Government and the observations in reply submitted by the applicants;

the comments submitted by a non-governmental organisation, the Greek Helsinki Monitor, which had been granted leave to intervene in the case as a third party,

Noting the withdrawal from the case of Mr Yonko Grozev, the judge elected in respect of Bulgaria, and the ensuing decision of the Vice-President of the section to appoint Ms Maiia Rousseva to sit as an *ad hoc* judge in the case,

Having deliberated in private on 15 December 2020,

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

INTRODUCTION

1. The case primarily concerns a complaint, under Articles 8 and 14 of the Convention, that by dismissing a claim brought by the applicants – Bulgarian nationals of Jewish ethnic origin – under anti-discrimination legislation whereby they had sought a court order against a well-known journalist and politician compelling him to (a) apologise publicly for a number of public anti-Semitic statements that he had made, and (b) refrain

from making such statements in the future, the Bulgarian courts had failed in their positive obligation to ensure respect for the applicants' "private life".

THE FACTS

2. The applicants were born in 1972 and 1968 respectively and live in Plovdiv. They were represented initially by Ms M. Ilieva and then by Ms A. Kachaunova, both lawyers practising in Sofia and at the material time working with the Bulgarian Helsinki Committee.[1]

3. The Government were represented by their Agent, Ms I. Stancheva-Chinova of the Ministry of Justice.

I. BACKGROUND TO THE CASE

4. Ataka is a Bulgarian political party founded in April 2005. In parliamentary elections held on 25 June that year it received 8.14% of the votes cast and won twenty-one seats in Bulgaria's two-hundred-and-forty-seat Parliament. In parliamentary elections held in 2009 it received 9.36% of the votes cast and again won twenty-one seats. In parliamentary elections held in 2013 it received 7.30% of the votes cast and won twenty-three seats. In parliamentary elections held in 2014 it received 4.52% of the votes cast and won eleven seats. It fought the March 2017 parliamentary elections as part of a three-party coalition, United Patriots, which gained 9.31% of the votes cast, and won eight of the coalition's twenty-seven seats. In May 2017 United Patriots entered into a coalition with GERB, the political party then holding the biggest number of parliamentary seats, and formed a joint government with it; United Patriots received three ministerial positions, one of which was allocated to Ataka. At the elections for European Parliament in May 2019 Ataka received 1.07% of the votes cast and did not win any seats. Ataka has its own television channel, which apparently regularly broadcasts a programme attacking ethnic minorities and foreigners (see paragraph 41 *in fine* below).

5. The party's leader, Mr Volen Siderov, has been an Ataka Member of Parliament since 2005. Before that, he worked as a journalist: in the early 1990s he was editor-in-chief of the daily newspaper *Demokratsia*; then, in the early 2000s, he was a columnist for the daily newspaper *Monitor*; and later he served as the presenter of a daily television programme *Ataka*, aired by the television station SKAT. In September 2006 he stood as a candidate in that month's presidential election. He came second in the first round of voting, receiving 21.5% of the votes cast, and in the run-off lost against the

[1] Rectified on 4 March 2021. The sentence previously read: "They were represented by Ms A. Kachaunova, a lawyer practising in Sofia and working with the Bulgarian Helsinki Committee."

incumbent, Mr Georgi Parvanov, by 24.05% to 75.95%. In February 2011 Mr Siderov again announced his candidacy in the upcoming presidential election. In the first round of voting, which took place on 23 October 2011, he received 3.64% of the votes cast. Following the 2017 parliamentary elections (see paragraph 4 above), Mr Siderov became chairman of the United Patriots parliamentary grouping, but in July 2019 was removed from that position and was excluded from the parliamentary group along with two other Ataka members of parliament. Ataka nevertheless kept the ministerial position that it had in the coalition government (see paragraph 4 above).

6. The applicants described Ataka as a "xenophobic party" and said that in his career as a journalist and politician Mr Siderov had systematically engaged in extreme anti-minority propaganda, by way of his books, his articles in *Monitor*, and then his television programme, which in effect he had made his political platform.

7. Further information about Ataka's activities and political positions can be found in *Karaahmed v. Bulgaria* (no. 30587/13, §§ 7-27, 24 February 2015).

II. PROCEEDINGS UNDER THE PROTECTION FROM DISCRIMINATION ACT 2003

8. In January 2006 the applicants and sixteen other people, as well as sixty-six non-governmental organisations, brought proceedings against Mr Siderov under section 5 of the 2003 Protection from Discrimination Act ("the 2003 Act" – see paragraph 27 below). They alleged that a number of public statements made by him had constituted harassment of, and an incitement to discrimination against, Roma, Turks, Jews, Catholics and sexual minorities. The applicants argued, *inter alia*, that each of them – as a member of a minority – had been personally affected by those statements; they also based their claim against Mr Siderov on Article 32 § 1 of the Constitution (see paragraph 24 below), noting that it afforded protection against infringements of one's dignity.

9. The Sofia District Court split the case into eight separate cases on the basis of the specific type of discrimination alleged by each group of claimants. The case of the two applicants, both of whom are of Jewish ethnic origin, concerned chiefly Mr Siderov's statements in relation to Jews and the Holocaust.

A. Statements by Mr Siderov at issue in the applicants' case

10. In their claim, the applicants asserted that a number of passages in two books written by Mr Siderov had amounted to harassment and incitement to discrimination on the basis of Jewish ethnicity or religion. The applicants sought court orders against Mr Siderov to stop making such

statements and to restore the *status quo ante* by publicly apologising for his statements.

11. The applicants referred in particular to the following passages in a book by Mr Siderov entitled *The Power of Mammon*, which was published in Sofia in 2004:

> "... until [the time of] Christ, Judaism was a permanent renouncement of God in favour of Mammon ..." (page 28)
>
> "[Judaism] ... is an elitist, xenophobic, racist and theomachist philosophy" (page 42)
>
> "The demagoguery of authors who gloss over the secular robbery of Christians by the Jews as a trifle is astounding. ... [E]verywhere on the European continent Jews got under the skin of rulers, pushed them towards wars and cataclysms, so that they would fall in an acute need of money ..." (page 58)
>
> "... The genocide against the Russian, Bulgarian and other Orthodox peoples was carried out under direct commands from Talmudic western circles, headed by the Rothschild family. This genocide comprised not only direct extermination through wars, 'revolutions' and terrorism (which has been a trademark of Judaism for centuries). This genocide was carried out also by way of the calculated and consistent looting of the money and resources of the Christian peoples ..." (page 135)
>
> "... The Talmudic worldview is: enslavement ..." (page 143)
>
> "... Elitism is the basis of the Judaic, Talmudic worldview. It comprises the notion that to rob the 'other' – the non-Jew – is a feat rather than a sin. That to ruin him is a good deed rather than a sin. ..." (page 147)
>
> "... Tsarism and the Orthodox religion were loathed by the Jewish banking oligarchy in London and New York, and it gave sufficient money to enable the liquidation of its main enemies – the Christian Church and the monarchy of a Byzantine type. To liquidate the State of the Spirit, so that the kingdom of Mammon could triumph. ..." (page 156)

12. The applicants also referred to the following passages in the second edition of another book by Mr Siderov entitled *The Boomerang of Evil*, published in Sofia in 2002:

> "... 'Shoot the louses on the spot!' was Ulyanov's order to the war commissar Leo Bronstein-Trotsky. And the Russian Jew-mason, a member of the Grand Orient lodge, carried out the order with sadistic contentment. ..." (page 72)
>
> "... Who is that? Who will rejoice in the deaths of millions of Christians? While using as an instrument supposed other 'Christians' – pawns from the same countries in which the action is taking place? Those who reckon [*смятат*] that they have been chosen to rule the world. Who a long time ago renounced God and [now] bow to his enemy. Who have created the most perfectly chauvinistic and racist doctrine in the world – Judaism. Those are the sons of 'Israel' – the one who wrestles with God, in the Bulgarian translation. ..." (page 75)
>
> "... The [number of the] victims of the Jewish-Bolshevik terror are reckoned to [amount to] more than 100 million over the whole period of Soviet rule. ..." (page 93)
>
> "... Why is it that today no one speaks of the genocide carried out by a Jewish establishment over sixty-six million Russians over the seventy years of communism? ... In 1918 the Soviet Government consisted of twenty-two people, eighteen of whom

were Jews, one a Georgian, one an Armenian, and two Russian. The decision to decimate the Russian people was taken by non-Russians. ...” (page 113)

“... Enslaving other peoples has for centuries been the supreme goal of the Jewish world elite. ...” (page 156)

“... The lies about the ‘gas chambers’ that exterminated millions of Jews are also supported by the data of British intelligence. ...” (page 169)

“... By using the legend of the ‘Holocaust’ the Jews reaped enormous advantages from the world. ... The ‘Holocaust’ lie is also very lucrative. According to *Der Spiegel* (issue 18 of 1992), since 1952 the Federal Republic of Germany has paid out to Jewish Zionist organisations a total of 85.4 billion German marks! ...” (page 170)

“... The most powerful brainwashing instrument – television – is a monopoly of three men – the Jews Isner, Levin and Rotstein. CNN long ago ceased to be owned by Ted Turner; it is owned by Levin. ...” (page 205)

13. The applicants furthermore referred to the following passage from the first edition of the same book, also published in 2002 in Sofia:

“... It is then that there emerged the germ of the great hoax called the ‘Holocaust’ – the version [of history according to which] 6,000,000 Jews were gassed and burned in the ovens of Hitler’s concentration camps. ...” (page 169)

14. Lastly, the applicants referred to the following passages from two public speeches made by Mr Siderov:

Speech at a pre-election rally of Ataka in Burgas on 22 June 2005

“... No to the Gypsification of Bulgaria. No to the Turkification of Bulgaria. ...

At long last Bulgarians will have their own representation in Parliament. It will not only be full of pederasts, Gypsies, Turks, aliens, Jews and all manner of others, but will consist only and exclusively of Bulgarians! Who will defend the honour, dignity and interests of the Bulgarian. ...

... We shall say that Bulgaria will not permit itself ... to become a Turkish province. It will not permit itself to become a Gypsy State. It will not permit itself to become a Jewish colony. Or any other [kind of] colony. ...”

Speech at the first session of the newly elected Parliament on 11 July 2005

“... This is what I had to say: Bulgaria above all – Bulgaria for Bulgarians!”

B. Course of the proceedings in the applicants’ case

1. At first instance

15. On 10 February 2009 the Sofia District Court dismissed the applicants’ claim. It held that it had not been demonstrated that by making the impugned statements (whose authorship he did not contest), Mr Siderov had sought to impinge on their dignity or honour or to create an intimidating, hostile or offensive environment. Nor had it been shown that he had wilfully encouraged, given instructions or coaxed anyone to carry

out discrimination, since it had not been proved that his statements had been capable of influencing negatively the people before whom he had spoken. It was true that in his speech before the newly elected Parliament he had uttered the words "Bulgaria above all – Bulgaria for Bulgarians!" But the applicants were also Bulgarian citizens, irrespective of their ethnic identity. It had not been categorically proved that Mr Siderov had not just been exercising his freedom to express his opinion, in writing and orally, rather than inciting discrimination. Nor had it been shown that his statements had caused any of their recipients to treat the applicants less favourably than others owing to their ethnicity. The constituent elements of harassment or incitement to discrimination were therefore not in place (see реш. от 10.02.2009 г. по гр. д. № 2855/2006 г., СРС).

2. The applicants' appeal

16. The applicants and the other claimant in the case lodged an appeal with Sofia City Court, arguing that the first-instance court's findings did not reflect reality and were arbitrary. The court had in effect turned a blind eye to the intent behind Mr Siderov's extreme anti-Semitic statements. That was all the more glaring given the fact that he was a politician notorious for his anti-minority agitation. The finding that his statements could not sway public opinion was likewise inadequate. If the leader of a political party who had come second in the presidential election could not do so, through his books, public speeches and speeches in Parliament, then no one ever could. The court had also erred by holding that harassment required both intent and result; in fact, it was necessary for only one to apply. Nor was it true that "incitement" presupposed specific results. It could not be accepted that Mr Siderov had legitimately exercised his right to freedom of expression. Under European Union law and the Strasbourg Court's case-law, racist and anti-Semitic speech and Holocaust denial were not protected forms of expression.

17. On 20 December 2010 the Sofia City Court upheld the lower court's judgment. It held that in assessing whether the impugned statements had been in breach of the 2003 Act it had to bear in mind that each of the parties was relying on fundamental rights guaranteed by the Constitution and international agreements – namely, on the one hand, the right to honour and dignity, and, on the other, the right to express an opinion. The court reviewed in some detail the case-law of the Constitutional Court regarding the balance to be observed between those rights, and noted that the Strasbourg Court's case-law under Article 10 of the Convention differentiated between the defence of unpopular and offensive ideas and calls to hatred or violence.

18. The court went on to say that there was no evidence that Mr Siderov had sought to infringe the applicants' honour or dignity owing to their ethnic identity. Rather, his statements had expressed his beliefs about topics

that were in his view of social importance, and had not been intended to stir up hatred, violence or tension. It was true that his statements had contained negative assessments that could shock or offend. But that was not sufficient to limit his freedom of expression by deeming his statements to be unlawful and to constitute an incitement to harassment or discrimination.

19. The court furthermore held that only statements directed against a well-defined group of people or a specific person could be regarded as expression to the detriment of the rights of others. That was not the case with the impugned statements. They had not targeted anyone in particular – still less the applicants. Rather, they had been directed at the public at large (and had been made in such a way as to reach its attention), and had presented Mr Siderov's views on political, historical, religious and ethnic issues. It had not been proved that he had meant to infringe the applicants' dignity or honour or to create an intimidating, hostile or offensive environment. Nor had it been shown that he had wilfully encouraged, given instructions to or coaxed anyone to carry out discrimination. That also applied to the statements contained in his books. There was no evidence that any of his public speeches – in particular that at the rally in Burgas – had caused those listening to those speeches to treat the applicants less favourably owing to their ethnicity. As for his statement in Parliament, it could not have affected the applicants, as they were also Bulgarian citizens, irrespective of their ethnic identity. It could not be seen as a call for unequal treatment, since all ethnic groups in Bulgaria were Bulgarian nationals.

20. The Sofia City Court thus agreed with the first-instance court that the constituent elements of harassment or incitement to discrimination were not present (see реш. № 2935 от 20.12.2010 г. по гр. д. № 80/2010 г., СГС).

3. The applicants' appeal to the Supreme Court of Cassation

21. The applicants and the other claimant in the case appealed on points of law. Among other arguments, they again pointed out that according to the Strasbourg Court's case-law, hate speech and Holocaust denial were not protected forms of expression, and that in his capacity as a politician Mr Siderov could really influence public opinion.

22. On 15 November 2012 the Supreme Court of Cassation declined to accept the appeal for examination. It noted that the concepts of harassment and incitement to discrimination had been comprehensively defined in the 2003 Act. The meaning of the relevant provisions was clear, and the applicants had not referred to any inconsistent case-law regarding the matter. Its own case-law under sections 4 and 5 of the Act was settled and did not need to be reappraised in the light of any fresh developments (see опр. № 1215 от 15.11.2012 г. по гр. д. № 533/2012 г., ВКС, IV г. о.).

RELEVANT LEGAL FRAMEWORK

I. BULGARIAN LAW

A. Constitutional provisions

23. Article 6 § 2 of the 1991 Constitution provides for equality before the law in the following terms:

> "All citizens shall be equal before the law. There shall be no restrictions of rights or privileges on grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinions, political affiliations, or personal, social or property status."

24. Article 32 § 1 of the Constitution enshrines the right to protection of one's private life and dignity in the following terms:

> "Citizens' private life shall be inviolable. All shall be entitled to protection against unlawful interferences with their private ... life and against infringements of their honour, dignity or good name."

25. Article 39 § 1 of the Constitution provides that everyone is entitled to express an opinion and publicise it through words (whether written or oral), sounds or images, or in any other way. Under Article 39 § 2, that right must not be "exercised to the detriment of the rights and reputation of others, or for incitement to ... enmity or violence against anyone".

B. The 2003 Protection from Discrimination Act

1. Prohibition of discrimination and harassment

(a) Statutory provisions

26. The Protection from Discrimination Act was enacted in 2003 and came into force on 1 January 2004. Section 4(1) prohibits any direct or indirect discrimination on the basis of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status or property status, or on any other grounds laid down in statute or an international treaty to which Bulgaria is party.

27. Under section 5, harassment based on any of the grounds listed in section 4(1) – as well as sexual harassment, or incitement to discrimination, persecution and racial segregation – is deemed to constitute discrimination.

28. Paragraph 1(1) of the 2003 Act's additional provisions defines "harassment" as any unwanted conduct motivated by the grounds listed in section 4(1) – whether expressed through physical gestures, words or otherwise – that either is meant to infringe or results in the infringement of the dignity of the people concerned and the creation of an intimidating, hostile, degrading, humiliating or offensive environment. Paragraph 1(5) defines "incitement to discrimination" as direct and wilful encouragement, instructions or pressure to practice (or coaxing into practising) discrimination.

29. The Supreme Administrative Court has stated that direct discrimination and harassment are related but nevertheless distinct concepts: as regards the concept of harassment, any difference in treatment is irrelevant – rather, harassment is characterised by its special aim or result, as set out in paragraph 1(1) (see реш. № 8105 от 08.06.2011 г. по адм. д. № 8708/2010 г., ВАС, VII о., upheld by реш. № 156 от 05.01.2012 г. по адм. д. № 13389/2011 г., ВАС, петчл. с-в).

(b) Case-law relating to public statements about Roma as a group

(i) Case-law of the Supreme Administrative Court

30. In a March 2009 judgment, upheld on appeal in December 2009, the Supreme Administrative Court found that statements by a mayor in a radio interview that "even cows in [his municipality] would cause less obstruction than a Gypsy neighbourhood" and that "such a Roma neighbourhood would be ten times more dangerous than a rubbish dump [located] in the proximity of living quarters" had amounted to harassment within the meaning of the 2003 Act, as they had infringed the dignity of a large number of people and had created an insulting environment based on ethnicity. The fact that the mayor had expressed his opinion in relation to a public-policy issue could not justify his comparing a minority ethnic group to "cows" and a "rubbish dump". Nor was it a defence that the mayor had not meant to offend the people concerned; it was enough that his words, which had been widely publicised in the Roma community, had led to that result (see реш. № 3019 от 06.03.2009 г. по адм. д. № 9485/2008 г., ВАС, VII о., upheld by реш. № 14472 от 01.12.2009 г. по адм. д. № 11158/2009 г., ВАС, петчл. с-в).

31. In a July 2009 judgment, upheld on appeal in February 2010, the same court held that a television programme portraying Roma as being prone to anti-social behaviour could lead to negative stereotypes and thus fell under the prohibition provided by section 5 of the 2003 Act (see paragraph 27 above), given that it could not be justified on freedom-of-expression grounds. That was so in view of, in particular, the special duties and responsibilities of journalists and the widely held prejudice against Roma (see реш. № 9983 от 23.07.2009 г. по

адм. д. № 2059/2009 г., ВАС, VII о., upheld by реш. № 1476 от 04.02.2010 г. по адм. д. № 14286/ 2009 г., ВАС, петчл. с-в).

32. In a March 2016 judgment the same court held that by using a derogatory term for Roma in the name that he had given to a computer file, an IT expert employed by the presidential administration had committed "harassment" within the meaning of paragraph 1(1) of the 2003 Act's additional provisions (see реш. № 2445 от 02.03.2016 г. по адм. д. № 1248/2015 г., ВАС, V о.).

33. By contrast, in a final judgment of January 2019 the same court held that a statement by a Deputy Prime Minister to Parliament – in which he had referred to offences committed by Roma in strongly negative terms and had stated that some Roma had turned into "impudent, arrogant and beast-like humanoids" – had amounted to a legitimate exercise of his right to freedom of expression, and that it had not amounted to "harassment" within the meaning of paragraph 1(1) of the 2003 Act's additional provisions (see paragraph 28 above) with respect to the individual Rom who had lodged a complaint about it, since he had not been named and since there was no evidence that he had been personally affected by it (see реш. № 636 от 15.01.2019 г. по адм. д. № 7229/2018 г., ВАС, V о.).

34. A similar approach was taken in a subsequent final judgment delivered by the same court with respect to statements relating to Roma made by a mayor (see реш. № 14026 от 21.10.2019 г. по адм. д. № 12163/2018 г., ВАС, V о.).

(ii) Case-law of the Supreme Court of Cassation

35. In a final June 2019 judgment (see реш. № 2 от 19.06.2019 г. по гр. д. № 3203/2018 г., ВКС, III г. о.) – the first judgment that it appears to have given in proceedings conducted under section 71 of the 2003 Act (see paragraph 38 below) – the Supreme Court of Cassation held (in relation to the above-mentioned statement by the Deputy Prime Minister – see paragraph 33 above) that, for there to be "harassment" within the meaning of paragraph 1(1) of the 2003 Act's additional provisions (see paragraph 28 above), there must be both "unwanted conduct" (for instance in the form of a public statement) and specific negative consequences of that conduct in the personal sphere of the people complaining of it (such as a refusal to employ them or lease accommodation to them, or the uttering of specific threats against them). On that basis, the court dismissed the claim, finding no evidence that the Deputy Prime Minister's statement had targeted the claimants or had somehow specifically affected them.

2. Proceedings before the Commission for Protection from Discrimination and follow-up claims for damages

36. The authority chiefly responsible for ensuring compliance with the 2003 Act is the Commission for Protection from Discrimination ("the CPD") (section 40). It can act of its own motion, or pursuant to complaints by the aggrieved parties or to reports by concerned persons or authorities (section 50). If the CPD finds that there has been a breach of the 2003 Act, it can order that that breach be averted or stopped, or that the *status quo ante* be restored (section 47(2)). It can also impose sanctions (such as fines), order coercive measures, or give directions that must be complied with (section 47(3) and (4)). The CPD's decisions are amenable to judicial review (section 68(1) and section 84(2)).

37. People who have obtained a favourable decision delivered by the CPD and wish to obtain compensation for damage suffered as a result of the breach established by it can lodge a claim for compensation for damage against the persons or authorities that have caused that damage (section 74(1)).

3. Proceedings before the civil courts

38. Those complaining of discrimination can, alternatively, lodge a claim in a civil court seeking (a) a judicial declaration that there has been a breach of the 2003 Act, (b) an injunction against the party engaging in such discrimination requiring him or her to cease committing the breach, to restore the *status quo ante* and to refrain from committing any such breach in the future, and (c) damages (section 71(1)(1) to (1)(3)). Such a claim can be lodged on behalf of the aggrieved party by a non-governmental organisation (section 71(2)). If the alleged discrimination has affected many people, the non-governmental organisation may even lodge the claim in its own name, in which case those directly affected can join the proceedings as third parties (section 71(3)).

4. The possibility of choosing between bringing proceedings in the CPD and proceedings in the civil courts

39. In an interpretative decision given in January 2019 (тълк. пост. № 1 от 16.01.2019 г. по тълк. д. № 1/2016 г., ВКС, ОСГК, и ВАС, ОСС на I и II к.), a joint formation of the plenary of the Supreme Court of Cassation's civil chambers and of all the judges of the Supreme Administrative Court noted, *inter alia*, that the two possible avenues of redress under the 2003 Act – lodging a claim under section 71 with the civil courts and lodging a claim with the CPD – were alternatives between which the people concerned were entitled freely to choose.

II. COUNCIL OF EUROPE MATERIALS

40. In its Recommendation No. R (97) 20 to member States on "hate speech", which it adopted in 1997, the Committee of Ministers of the Council of Europe recommended that the member States "take appropriate steps to combat hate speech on the basis of the principles [herein] laid down". Those principles, set out in an appendix to the recommendation, read, in so far as relevant:

Scope

"The principles set out hereafter apply to hate speech, in particular hate speech disseminated through the media.

For the purposes of the application of these principles, the term 'hate speech' shall be understood as covering all forms of expression that spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."

Principle 2

"The governments of the member [S]tates should establish or maintain a sound legal framework consisting of civil, criminal and administrative law provisions on hate speech which enable administrative and judicial authorities to reconcile in each case respect for freedom of expression with respect for human dignity and the protection of the reputation or the rights of others.

To this end, governments of member [S]tates should examine ways and means to:

...

– enhance the possibilities of combating hate speech through civil law, for example by allowing interested non-governmental organisations to bring civil law actions, providing for compensation for victims of hate speech and providing for the possibility of court orders allowing victims a right of reply or ordering retraction;

..."

Principle 3

"The governments of the member [S]tates should ensure that in the legal framework referred to in Principle 2, interferences with freedom of expression are narrowly circumscribed and applied in a lawful and non-arbitrary manner on the basis of objective criteria. Moreover, in accordance with the fundamental requirement of the rule of law, any limitation of, or interference with, freedom of expression must be subject to independent judicial control. This requirement is particularly important in cases where freedom of expression must be reconciled with respect for human dignity and the protection of the reputation or the rights of others."

Principle 4

"National law and practice should allow the courts to bear in mind that specific instances of hate speech may be so insulting to individuals or groups as not to enjoy the level of protection afforded by Article 10 of the European Convention on Human Rights to other forms of expression. This is the case where hate speech is aimed at the destruction of the rights and freedoms laid down in the Convention or at their limitation to a greater extent than provided therein."

41. In its fourth report on Bulgaria (CRI(2009)2), published in September 2009 and covering the period between 2004 and the middle of 2008, the European Commission against Racism and Intolerance ("ECRI") stated:

"90. ECRI is concerned to note that an extreme right-wing party has been launching virulent verbal attacks on, among others, Turks as an ethnic and religious group, and that it has helped to create a climate of intolerance towards them. For instance, the party often presents Turks as a threat to the country. ECRI notes with approval that in March 2008 the party's leader was convicted by the Sofia Court on the grounds that he had created a hostile and threatening environment for Turks. The court ordered this party to refrain from making remarks of this kind. According to certain polls, the party's popularity is waning.

...

108. As stated elsewhere in this report, there have been instances of racist and xenophobic political speeches and comments, pronounced mainly by members of an extreme right-wing party and its leader. The latter has twice been sentenced for racist remarks in response to complaints by members of civil society. Six further complaints are currently before the courts. As stated above, a strong message from the authorities would be necessary to counter the harmful impact of this party and of any other political personality who indulges in the same kind of rhetoric, by ensuring that the prosecuting authorities make sure that the legislation on incitement to hatred is enforced. The political party's television channel regularly broadcasts a programme attacking ethnic minorities and foreigners. To date, however, no action has been taken against this channel, even though representatives of ethnic minorities have lodged complaints against it.

...

118. As concerns the situation of the Jewish community, ECRI notes that it considers itself to be well integrated into Bulgarian society. ...

119. However, ECRI is concerned to note that the extreme right-wing party mentioned elsewhere in this report is disseminating on its private television channel antisemitic messages and that, although this has been reported to the Electronic Media Council, no action seems to have been taken against the party. ... In addition, ECRI notes with concern reports that the legislation is not applied to people who publish antisemitic books."

42. In its fifth report on Bulgaria (CRI(2014)36), published in September 2014 and covering the period between the middle of 2008 and March 2014, ECRI stated:

> "31. ... ECRI notes that racist and intolerant hate speech in political discourse continues to be a serious problem in Bulgaria and the situation is worsening. The main targets of racist hate speech are Roma, Muslims, Jews, Turks, and Macedonians. The last election campaign was marked by strong anti-Gypsyism. ... Much of the problem centres on one nationalist political party, Ataka, which is represented in Parliament. Its leader is well-known for his out-spoken racist views. He has rallied against the 'gypsification' of Bulgaria, systematically linking Roma with criminals; he has called for a ban on the construction of mosques to halt the spread of Islam and he has published two antisemitic books."

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 8 AND 14 OF THE CONVENTION

43. The applicants complained under Articles 8 and 14 of the Convention that the courts had dismissed their claim against Mr Siderov. Articles 8 and 14 provide, so far as relevant:

Article 8 (right to respect for private and family life)

"1. Everyone has the right to respect for his private ... life ..."

Article 14 (prohibition of discrimination)

"The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

A. Admissibility

1. Victim status

(a) The parties' submissions

44. The Government submitted that the applicants could not claim to be victims of a breach of their rights under Articles 8 or 14 of the Convention, and that their complaint in effect amounted to an *actio popularis*. They had not been directly affected by any of Mr Siderov's statements, and had, moreover, not sought any damages in relation to them.

45. The applicants noted that even though their claim lodged during the domestic proceedings had been based solely on their belonging to an ethnic minority, the courts had accepted it for examination. Another argument in that respect were the rules on the distribution of the burden of proof in discrimination cases. The applicants also pointed out that they had adduced

evidence during the domestic proceedings regarding the feelings that Mr Siderov's statements had engendered in them, and regarding their Jewish ancestry. They also described the hardships which their parents had had to endure in Bulgaria during the Second World War as a result of various anti-Jewish measures taken by the authorities, and stated that their parents' account of how anti-Semitic rhetoric in the 1930s had led to such measures had rendered them particularly sensitive to such rhetoric. Anti-Semitism was still quite widespread in Bulgaria, and the display of Nazi symbols and other forms of public approval for Hitler's regime went unpunished.

(b) The Court's assessment

46. The applicants' complaint does not concern Mr Siderov's statements as such. Indeed, there is no basis on which to hold that those statements are attributable to the Bulgarian State, and any complaints concerning the statements themselves would therefore be incompatible *ratione personae* with the provisions of the Convention (see, *mutatis mutandis*, *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, §§ 60-61, ECHR 2012). The complaint concerns solely the Bulgarian courts' refusal to accord the applicants redress with respect to those statements, which in the applicants' view was contrary to Bulgaria's positive obligations under Articles 8 and 14 of the Convention. It is not in doubt that the applicants were personally and directly affected by the judicial decisions dismissing their claim against Mr Siderov. Whether Mr Siderov's statements and the courts' reaction to them engaged the applicants' rights under Articles 8 and 14 is a question which has to do with the compatibility of the applicants' complaint with the provisions of the Convention *ratione materiae* rather than with their status as alleged victims in that respect.

47. In this regard, the position in the present case differs from that in *L.Z. v. Slovakia* ((dec.), no. 27753/06, § 69, 27 September 2011), which concerned a measure attributable to the respondent State – the renaming of a street – and where the question of whether that measure had affected the applicant's rights under Article 8 and the question of whether he could claim to be a victim in that respect were inextricably linked. The position also differs from that in *Aksu* (cited above), where the complaint, as originally formulated, likewise concerned statements alleged to be partly attributable to the respondent State's authorities (ibid., §§ 60 and 81). The complaint at hand concerns solely the positive obligations allegedly incumbent on the Bulgarian authorities.

48. The Government's objection must therefore be rejected.

2. Applicability of Articles 8 and 14 of the Convention

(a) Submissions by the parties and the third party

(i) The Government

49. The Government noted that the applicants' claim against Mr Siderov had been general rather than based on assertions that his statements had specifically affected their private sphere or had had any specific pernicious effects on them personally. It was telling in that regard that the applicants had not sought damages from Mr Siderov, as they had been able to do by law. According to the Court's case-law, the extent to which general statements about a group affected its individual members had to be assessed in the light of the particular circumstances. In the instant case, the historical, social and political situation in Bulgaria, together with the applicants' personal situation, all led to the conclusion that their rights under Article 8 of the Convention had not been engaged. There was no clear tendency in Bulgaria for hate speech to go unsanctioned, but the appropriate tool for that was criminal sanctions rather than proceedings under the 2003 Act.

50. The Government moreover submitted that the facts of the case did not engage Article 14 of the Convention either, since the applicants had not suffered any direct or indirect damage in their personal sphere as a result of Mr Siderov's statements. Nor had they raised arguments to that effect in the domestic proceedings. In any event, the proper avenue for protection against general discriminatory statements was criminal proceedings, since proceedings under the 2003 Act were geared towards specific discriminatory acts directed against particular persons.

(ii) The applicants

51. The applicants pointed out that they were Jews who had lived their whole lives in Bulgaria, where their parents had been victims of the events surrounding the Second World War. The applicants went on to argue that in view of the manner in which Mr Siderov had made his statements and the prominence of his public profile, those statements had affected the private life of all Jews in Bulgaria. They had stirred up prejudice against them and had offended all of them, affecting their identity as Jewish people and descendants of Holocaust survivors. It was clear from the Court's settled case-law that such anti-Semitic speech did not deserve any protection under the Convention. Denying the applicants redress in respect of it in effect meant affording the protection of Article 10 of the Convention to such utterances, and legitimising hate speech. By systematically failing to criminally prosecute such statements, which had since 2005 become quite commonplace in political discourse in Bulgaria, the Bulgarian authorities gave the impression, noted by the ECRI and the United Nations Committee on the Elimination of Racial Discrimination, that such speech was being

tolerated. In such circumstances, the only means of redress that minority groups had in relation to such speech to lodge claims under the 2003 Act.

52. The applicants went on to argue that Mr Siderov's statements, which had negatively stereotyped all Jews and had called for their exclusion from political life, had been capable of affecting the sense of identity and self-worth of the group's members, and had in fact done so in the case of the applicants. Those statements had manifested a consistent position, and had clearly been discriminatory in both intent and effect. Article 14 of the Convention had therefore likewise been engaged.

(iii) The third party

53. The Greek Helsinki Monitor, a non-governmental organisation based in Glyka Nera, Athens, referred at length to the practice of the United Nations Committee on the Elimination of Racial Discrimination regarding the question of whether individuals – even if not personally targeted – could be seen as sufficiently affected by offensive remarks directed against the ethnic or national group of which they were members. The intervenor also referred to judgments given by the Court of Justice of the European Union which, it argued, had a bearing on that question. It went on to note that various United Nations and Council of Europe bodies had emphasised the need to counter negative racial and ethnic stereotypes (in particular when spread by politicians), and cited reports that had expressed concern about the prevalence – particularly in Bulgaria – of such remarks. Lastly, it pointed out that while the Court's case-law under Article 10 of the Convention with respect to hate speech was quite well developed, the same could not be said of its case-law regarding the same point under Article 8 of the Convention. The case at hand was thus an excellent opportunity to bring the Court's case-law into line with emerging trends and provide the victims of hate speech proper protection.

(b) The Court's assessment

(i) Applicability of Article 8 of the Convention

54. "Private life" within the meaning of Article 8 § 1 of the Convention is a broad term not susceptible to exhaustive definition. It is settled that it covers a person's moral integrity (see *X and Y v. the Netherlands*, 26 March 1985, § 22, Series A no. 91; *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 95, ECHR 2012; and *Couderc and Hachette Filipacchi Associés* v. *France* [GC], no. 40454/07, § 83, ECHR 2015 (extracts)), and that it may encompass a person's zone of interaction with others, even in a public context (see *Von Hannover (no. 2)*, cited above, § 95; *Couderc and Hachette Filipacchi Associés*, cited above, § 83 *in fine*; and *Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland* [GC], no. 931/13, § 131, 27 June 2017).

55. The question in this case is whether negative public statements about a social group can be seen as affecting the "private life" of individual members of that group to the point of triggering the application of Article 8 of the Convention in relation to them.

56. The point, which goes to the Court's jurisdiction *ratione materiae*, falls to be examined as an admissibility issue (see *Denisov v. Ukraine* [GC], no. 76639/11, §§ 92-93, 25 September 2018).

(1) Judgments and decisions bearing on the point

57. In the first two cases in which it was confronted with this issue, the Court declared the complaints under Article 8 of the Convention inadmissible without formulating general criteria.

58. In the first case, *Pirali v. Greece*, a naturalised Turkish refugee in Greece had been aggrieved by an anti-immigrant letter published in a newspaper. He had brought criminal proceedings coupled with a claim for damages against the newspaper's publisher, director and editor-in-chief, but the proceedings had been discontinued owing to the expiry of the relevant limitation period. The applicant complained under Articles 8 and 14 of the Convention that the State had failed to protect his honour. The Court held that the applicant had not been personally affected by the publication at issue (since it had concerned all immigrants in Greece) and that the discontinuance of the proceedings could not engage the State's liability under Articles 8 or 14 (see *Pirali v. Greece* (dec.), no. 28542/05, 15 November 2007).

59. In the second case, *L.Z. v. Slovakia* (cited above), a Slovak national of Jewish ethnic origin living in the Czech Republic had been aggrieved by the renaming of a street in a Slovak village after a well-known Nazi collaborator. He had unsuccessfully brought proceedings in Slovakia in relation to that, and complained under Article 8 of the Convention that the renaming of the street had infringed his right to respect for his private life. The Court noted that (a) the substance of the applicant's arguments (before both the domestic courts and itself) against the renaming of the street was of a public-interest nature; (b) the applicant did not live in Slovakia and had no ties to the village where the street was located, not even having visited it; and (c) there was no evidence that the renaming of the street had negatively affected the applicant's private life. The complaint therefore amounted to an *actio popularis* (ibid., §§ 72-79).

60. The next case which threw up the point, *Aksu* (cited above), gave rise to a judgment by the Grand Chamber of the Court. In that judgment, the Grand Chamber laid down the general principle that, to be seen as capable of impacting on the sense of identity of an ethnic or social group and on the feelings of self-worth and self-confidence of the group's members to the point of triggering the application of Article 8 of the Convention in relation to them under its private-life limb, the negative stereotyping of the group

"must reach a certain level" (ibid., § 58). The Grand Chamber did not, however, articulate expressly the factors which may bear on the point.

61. That case concerned a Roma living in Turkey who had been aggrieved by passages in an academic book about Roma in Turkey and by the definitions of the word "Gypsy" in two dictionaries (all three publications had been partly funded by the authorities). According to him, they contained language that negatively stereotyped Roma in Turkey as a group and thus offended his Roma identity. The Court found that although the applicant had not been personally targeted, he could have felt offended by the statements concerning the ethnic group to which he belonged, and that there had been no dispute in the domestic proceedings about his standing to sue in that regard. He could hence be considered as a victim in respect of the impugned remarks, and the publications allegedly affecting the identity of the group to which he belonged had therefore affected his "private life" (ibid., §§ 53 and 60).

62. The Grand Chamber of the Court was again presented with the issue in *Perinçek v. Switzerland*. In that case, a Turkish politician had been convicted in Switzerland in relation to public speeches that he had made there, in which he had denied that the mass killings of Armenians in the Ottoman Empire in 1915 and over the following years had amounted to genocide. He complained under Article 10 of the Convention. The Grand Chamber found that the applicant's statements had affected the right of Armenians to respect for their and their ancestors' dignity – including their right to respect for their identity, which was constructed around the understanding that their community had suffered genocide. It held that these were rights protected under the "private life" heading of Article 8 of the Convention (see *Perinçek v. Switzerland* [GC], no. 27510/08, § 227, ECHR 2015 (extracts)). It noted in that regard that the Armenian community attached immense importance to the question of whether the tragic events of 1915 and the following years were to be regarded as genocide and was acutely sensitive to any statements regarding that point (ibid., § 252). It did not, however, set out more generally the types of factors which bore on its assessment.

63. In a subsequent case, *Lewit v. Austria*, an Austrian national of Jewish ethnic origin who was one of the last living survivors of the Mauthausen concentration camp had been aggrieved by an article in a right-wing periodical which had asserted that people freed from the camp in 1945 had engaged in robbing, plundering and killing, had called them a "plague for the people" ("*Landplage*"), and had commented favourably on the discontinuance of criminal proceedings opened with respect to a nearly identical earlier article. The applicant had, together with others, lodged a claim for damages against the owner of the periodical in relation to the second article, and it had been dismissed on the basis that he had not been personally affected by the article and thus had no standing to initiate

proceedings respect of it. With reference to *Aksu* (cited above, § 58), the Chamber of the Court dealing with the case found that the last living survivors of the Mauthausen camp could be seen as a "(heterogeneous) social group", and that Article 8 of the Convention applied because the facts underlying the case fell within the scope of the applicant's "private life", even though the article had not personally named him (see *Lewit v. Austria,* no. 4782/18, §§ 46-47, 10 October 2019).

64. The issue also arose in a case, *Panayotova and Others v. Bulgaria*, which bore strong factual similarities with the present one. There, ethnic Roma living in Bulgaria had been aggrieved by an anti-Roma brochure published by Mr Siderov's political party, Ataka, in October 2011, and had unsuccessfully asked the prosecuting authorities to open a criminal investigation against Mr Siderov in relation to that brochure. They complained, *inter alia*, under Article 8 of the Convention of the authorities' refusal to do so. In assessing the applicability of Article 8, the Committee of the Court dealing with the case fully based itself on *Aksu* (cited above, § 58), and found that in view of its content and the manner in which it had been arranged and presented, the brochure had clearly sought to portray Roma in Bulgaria as exceptionally prone to crime and depravity, and thus to stigmatise and vilify them. Those assertions had been far stronger than the statements at issue in *Aksu* (cited above), and it could hence be accepted that they had affected the applicants' "private life" (see *Panayotova and Others v. Bulgaria* (dec.) [Committee], no. 12509/13, § 56, 7 May 2019).

(2) Principles emerging from the relevant judgments and decisions of the Court

65. Thus, as matters stand, the general proposition flowing from the Court's case-law in this domain is that laid down in *Aksu* (cited above, § 58): that, to be seen as capable of impacting on the sense of identity of an ethnic or social group and on the feelings of self-worth and self-confidence of the group's members to the point of triggering the application of Article 8 of the Convention in relation to them, the negative stereotyping of the group "must reach a certain level". What emerges from the Court's reasoning in *Aksu* itself, and then in *Perinçek* and *Lewit* (both cited above), is that this point can only be decided on the basis of the entirety of the circumstances of the specific case.

66. It appears, however, necessary to spell out more explicitly the kinds of considerations which may bear on the assessment of that point. They can be distilled from the Court's findings in those cases, even though they were not expressly articulated in them. Some guidance can also be derived from the Court's general approach to the applicability of Article 8 of the Convention in cases in which the assertion is that someone's "private life" has been negatively affected by a statement or an act. In *Denisov* (cited above, §§ 112-14), the Grand Chamber of the Court held that in such cases

the effects of the statement or act must rise above a "threshold of severity". Although the specific issue in *Denisov* (cited above) was whether a dismissal from one's professional position could engage Article 8, the broader point made there has subsequently been applied in cases raising very different issues. For instance, in *Hudorovič and Others v. Slovenia* (nos. 24816/14 and 25140/14, §§ 115 and 157, 10 March 2020), which concerned access to safe drinking water and sanitation by members of the Roma minority, the Court expressly referred to *Denisov* (cited above, § 114) and then relied on it to emphasise that the State's alleged failure to provide the applicants with access to safe drinking water would only raise an issue under Article 8 if there was convincing evidence that this failure had effectively eroded their core rights under that provision. In *Beizaras and Levickas v. Lithuania* (no. 41288/15, § 117, 14 January 2020), which concerned a matter much closer to the one under examination here, the Court found that violently homophobic statements made under a photograph published on the applicants' Facebook page had attained a sufficient level of seriousness to affect their "private life", and that Article 8 was thus engaged with respect to those statements. The Court emphasised in that connection that for Article 8 to come into play, an attack on a person must attain a certain level of seriousness and be made in a manner causing prejudice to the personal enjoyment of the right to respect for one's private life (ibid., § 109). By contrast, in *Vučina v. Croatia* ((dec.), no. 58955/13, §§ 30-31 and 34-51, 24 September 2019), the application of the "threshold of severity" approach led to the conclusion that the publication of a photograph in a magazine with an erroneous caption identifying the applicant as someone else had not affected her to a degree attracting the application of Article 8.

67. Based on the case-law summarised in paragraphs 58 to 66 above, the Court finds that in cases such as the present one, where the allegation is that a public statement about a social or ethnic group has affected the "private life" of its members within the meaning of Article 8 of the Convention, the relevant factors for deciding whether that is indeed so include, but are not necessarily limited to, (a) the characteristics of the group (for instance its size, its degree of homogeneity, its particular vulnerability or history of stigmatisation, and its position *vis-à-vis* society as a whole), (b) the precise content of the negative statements regarding the group (in particular, the degree to which they could convey a negative stereotype about the group as a whole, and the specific content of that stereotype), and (c) the form and context in which the statements were made, their reach (which may depend on where and how they have been made), the position and status of their author, and the extent to which they could be considered to have affected a core aspect of the group's identity and dignity. It cannot be said that one of those factors invariably takes precedence; it is the interplay of all of them that leads to the ultimate conclusion on whether the "certain level" required

under *Aksu* (cited above, § 58) and the "threshold of severity" required under *Denisov* (cited above, §§ 112-14) has been reached, and on whether Article 8 is thus applicable. The overall context of each case – in particular the social and political climate prevalent at the time when the statements were made – may also be an important consideration.

(3) Application of those principles

68. In this case, as borne out by the content of Mr Siderov's statements (see paragraphs 11 to 13 above), the group targeted by him were Jews. It is beyond doubt that, in view of the historical persecutions to which they have been subjected, in particular during the Second World War, Jews in Europe, including those who live in Bulgaria, can be seen as a vulnerable minority.

69. It can readily be recognised that, in view of their tone and manner of presentation (see paragraphs 11 to 13 above), Mr Siderov's statements were virulently anti-Semitic. Although some of them referred to specific facts, they all rehearsed timeworn anti-Semitic narratives.

70. As regards (in particular) the statements denying the reality of the Holocaust and casting it as a story contrived as means for financial extortion (see paragraphs 12 and 13 above), the Court and the former Commission have invariably seen such statements as attacks on the Jewish community and as incitement to racial hatred, anti-Semitism and xenophobia (see *Perinçek*, cited above, § 209, with further references, and, more recently, *Williamson v. Germany* (dec.), no. 64496/17, § 26, 8 January 2019, and *Pastörs v. Germany*, no. 55225/14, §§ 39 and 48, 3 October 2019). Indeed, the Court has stated that Holocaust denial must, as matters stand, be invariably regarded as particularly upsetting for the persons concerned (see *Perinçek*, cited above, § 253 *in fine*).

71. It can hardly be questioned that all these statements amounted to extreme negative stereotyping meant to vilify Jews and to stir up prejudice and hatred towards them.

72. It is true that the most virulent of Mr Siderov's statements were made in two books which do not appear to have been in massive circulation. Their impact was thus bound to be, at first, rather limited. However, his later becoming the chairman of an ascendant political party and his winning second place in a presidential election a few years later (see paragraph 5 above) must have added considerably also to the notoriety of his statements about Jews. Indeed, the applicants lodged their claim against Mr Siderov precisely at the time when his political career was on the rise (see paragraphs 4-5 and 8 above) and when his utterances were thus gaining more notoriety. The fact that the applicants did so jointly with many others is not, in the circumstances, a material consideration (compare *Lewit*, cited above, § 18).

73. In view of all these factors, which in this case point in the same direction and reinforce each other, the Court accepts that the statements made by Mr Siderov and impugned by the applicants were capable of having a sufficient impact on the sense of identity of Jews in Bulgaria and on the feelings of self-worth and self-confidence of individual Jewish people there to have reached the "certain level" (see *Aksu*, cited above, § 58) or "threshold of severity" (see *Denisov*, cited above, §§ 112-14) required, and thus affected the applicants' "private life". Article 8 of the Convention is hence applicable.

(ii) Applicability of Article 14 of the Convention

74. Article 14 of the Convention has no independent existence, and only applies if the facts at issue fall within the ambit of one or more of the substantive provisions of the Convention or its Protocols (see, among many other authorities, *Konstantin Markin v. Russia* [GC], no. 30078/06, § 124, ECHR 2012 (extracts)). Since, as found above, the facts of the present case fall within the ambit of Article 8 of the Convention, Article 14 is applicable, and the complaint will hence also be examined in its light.

3. Exhaustion of domestic remedies

(a) The parties' submissions

75. The Government submitted that by opting for proceedings before the civil courts rather than proceedings before the CPD, the applicants had failed to exhaust domestic remedies. In view of the nature of the redress that they had sought with respect to Mr Siderov, proceedings before the CPD would have been more suitable. A direct claim before the civil courts was more apt if the alleged victims asserted that they had personally suffered damage as a result of harassment or incitement to discrimination, which was not the applicants' case. Proceedings before the CPD would also have been faster and more effective, and could have led to sanctions against Mr Siderov. The applicants had not explained their preference for civil-court proceedings. Moreover, they had waited for quite a while after the publication of the two books before bringing those proceedings.

76. The applicants submitted that they had legitimately opted for one of the alternative avenues of redress provided by the 2003 Act, which at the time had been a recent piece of legislation that had not given rise to abundant case-law. They had not sought damages; rather they had sought (a) a judicial declaration under the 2003 Act that Mr Siderov's statements had constituted racial harassment and (b) an apology, because they had considered that those gestures, rather than monetary compensation, would constitute the most fitting form of redress, given that they saw their claim as strategic litigation aimed at supressing hate speech, which affected all of the country's minority groups.

(b) The Court's assessment

77. The general principles regarding the requirement to exhaust domestic remedies are summarised in *Vučković and Others v. Serbia* ((preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014). Regarding situations in which different avenues of redress are available, the Court reiterates that an applicant who has made use of a remedy that is apparently effective and sufficient cannot be required also to have tried others that were available but probably no more likely to be successful (see *Aquilina v. Malta* [GC], no. 25642/94, § 39, ECHR 1999-III). Where a remedy has been pursued, use of another remedy which has essentially the same objective is not required (see *Micallef v. Malta* [GC], no. 17056/06, § 58, ECHR 2009).

78. The 2003 Act provides for two avenues of redress with respect to discrimination and harassment allegedly perpetrated by private persons: (a) proceedings before a special commission (possibly followed by proceedings in the administrative courts for judicial review of the commission's decision, and by proceedings for damages in the civil courts), and (b) proceedings directly before the civil courts – the route chosen by the applicants. It cannot be said that the former would have presented any clear advantages in terms of the remedial options available. The applicants wished to obtain an official finding that Mr Siderov's statements had amounted to harassment and an incitement to discrimination, an order that he stop making such statements, and a restoration of the *status quo ante* by way of an apology (see paragraph 10 above). They could have achieved that in either procedure. The special commission can find a breach of the Act and order that the breach be stopped and that the *status quo ante* be restored, and so can the civil courts (see paragraphs 36 and 38 above). Indeed, recently the General Meeting of the Civil Chambers of the Supreme Court of Cassation and of all judges of the Supreme Administrative Court expressly noted that the two procedures were alternatives between which the people concerned were entitled freely to choose (see paragraph 39 above).

79. Nor can it be said that, as matters stood when the applicants brought their claim against Mr Siderov, it was clear that the alternative remedy – proceedings before the special commission – would have offered better chances of success. It is true that, as borne out by the case-law cited in paragraphs 30 to 32, such proceedings appear to have so far yielded more success to people complaining of racial harassment by way of general statements stigmatising their ethnic group. But the final decisions in those cases date from 2009, 2010 and 2016, whereas the applicants launched the proceedings at issue here earlier, in January 2006. At that time, the 2003 Act had been in operation for just over two years (see paragraph 26 above), and there was apparently nothing to suggest that one of the two alternative remedial routes under it gave better prospects of success.

80. Nor is it apparent that proceedings before the special commission would have been capable of providing the applicants redress faster than proceedings in the civil courts. It should not be overlooked in this connection that the commission's decisions are not final but amenable to judicial review (see paragraph 36 *in fine* above).

81. In sum, the applicants cannot be criticised for not having had recourse to a remedy which would have been directed essentially to the same end as the one attempted by them and which, as matters stood when they were faced with a choice between the two, did not appear to offer a better prospect of redress (see, *mutatis mutandis*, *A. v. France*, 23 November 1993, § 32, Series A no. 277-B; *Iatridis v. Greece* [GC], no. 31107/96, § 47, ECHR 1999-II; *Guberina v. Croatia*, no. 23682/13, § 50, 22 March 2016; and *Lewit*, cited above, §§ 72-73).

82. The Government's objection must therefore be rejected.

4. Whether the complaint is partly manifestly ill-founded

(a) The parties' submissions

83. The Government submitted that the book *The Power of Mammon* had not been presented in its entirety during the domestic proceedings, which meant that no conclusion could be drawn about its overall content. Mr Siderov's speech in Burgas had not been duly adduced as evidence during the domestic proceedings either. As for his speech in Parliament, it had not mentioned Jews at all. So far as it concerned the statements featuring in that book and in those two speeches, the complaint was therefore manifestly ill-founded.

84. The applicants submitted that a copy of the whole book *The Power of Mammon* had been presented in the domestic proceedings. They also pointed out that, as noted by the Bulgarian courts, Mr Siderov had not contested his own authorship of any of his statements. Neither his book nor any of his statements of them could hence be excluded from consideration in the present case.

(b) The Court's assessment

85. As already noted, the applicants' complaint does not concern Mr Siderov's statements as such, but rather the Bulgarian courts' refusal to accord to the applicants redress with respect to them. Nothing in the reasons that those courts gave for dismissing the applicants' claim suggested that they did so because they were unable to put the statements made in *The Power of Mammon* into their proper context, or because they were somehow misled about the tenor of those statements owing to the lack of evidence about the context in which they had been made.

86. As for Mr Siderov's speech in Burgas, it was specifically analysed by the Sofia City Court (see paragraph 19 above).

87. Lastly, the question of whether by declaring "Bulgaria above all – Bulgaria for Bulgarians!" in Parliament (see paragraph 14 *in fine* above) Mr Siderov engaged in anti-Semitic speech which required that redress be afforded to the applicants necessitates a more thorough analysis and is more appropriately examined, in the context of the other statements made by him, at the merits stage.

88. The complaint cannot therefore be rejected as manifestly ill-founded in respect of the statements outlined by the Government.

5. Conclusion regarding the admissibility of the complaint

89. It has already been found that the complaint is not inadmissible because the applicants could not be regarded as victims, or because of its alleged incompatibility *ratione materiae* with the provisions of the Convention, or because of a failure by the applicants to exhaust domestic remedies, or owing to its being in part manifestly ill-founded. Nor can it be said that the complaint is manifestly ill-founded as a whole, or inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

90. In the applicants' view, the historical treatment of Jews in Bulgaria, which they described at length, together with the rise in nationalist movements engaging in anti-Semitic rhetoric since 2005, had created a pressing social need to protect their private life, which included their ethnic background as Jewish people, and to protect them from discrimination. The dismissal of their claim against Mr Siderov had been in breach of Bulgaria's positive obligations under Articles 8 and 14 of the Convention in that respect.

91. The applicants analysed in detail the above-mentioned passages from the book *The Boomerang of Evil*, and argued that even if some of those passages contained factual statements, the overall narrative was clearly anti-Semitic. The fact that in many parts the book simply repeated conspiracy theories previously invented by others was irrelevant, since Mr Siderov clearly threw his own weight behind them.

(b) The Government

92. The Government noted that the complaint concerned the balance that needed to be struck between the rights under Article 8 of the Convention and the right to freedom of expression under Article 10 of the Convention. They highlighted several factors that in their view showed that the

Bulgarian courts had struck that balance correctly. For the purposes of striking a balance, it was appropriate to divide Mr Siderov's statements, which had to be seen in their proper context, into two groups: those featuring in his books and those featuring in his two speeches.

93. The statements in the first group, although pseudoscientific, biased, and of dubious historical and artistic value, could not, when seen in their proper context, be branded as hate speech. The passages in the book *The Boomerang of Evil* about Judaism and Christianity had to be viewed as an expression of Mr Siderov's views on philosophical and religious matters in respect of which there was no consensus. Most of his statements about the Bolshevik Revolution, though exaggerated and biased, were rooted in historical facts. His statements about the Holocaust consisted of his simply repeating conspiracy theories previously spun by others. It was telling in this connection that he had not expressed approval of, or any justification for, the Nazi regime. Bulgarian Jews had not been mentioned in the books, and nothing suggested that he had targeted them in any way. It had to be recognised also that Mr Siderov had resorted to inflated language in order to attract attention. In any case, the book *The Power of Mammon* had not been submitted by the applicants in its entirety, and was no longer on sale. No conclusion could therefore be drawn about its content and overall message.

94. As for Mr Siderov's speech in Parliament, it had not mentioned Jews at all, and could not be read as seeking to exclude ethnic minorities. As could be deduced from the text of the speech as a whole, when speaking of "Bulgarians", Mr Siderov had simply meant Bulgarian citizens. Although populist in content and strongly worded, the speech had not incited hatred towards minorities, but had rather targeted other politicians. Seen in this context, the slogan "Bulgaria above all – Bulgaria for Bulgarians!" did not have discriminatory connotations, because it meant "Bulgaria for the ordinary citizens", and could not be equated to the notorious Nazi slogan to which the applicants sought to liken it. As for the speech in Burgas, that had not been adduced as evidence in the domestic proceedings, other than by way of witness testimony, or in the proceedings before the Court.

95. The Government went on to note that the historical context of the Holocaust in Bulgaria was quite different from that in the countries directly affected by it: that is to say although Bulgaria had been allied with Nazi Germany, it had not sent its Jews to death camps, and had not enforced its anti-Jewish legislation with the same vigour as some other European States. Moreover, anti-Semitism had never been widespread in Bulgarian society, and Bulgarians did not perceive Jews as non-Bulgarians. By contrast with the situation in some other European countries, the Government were not aware of attacks carried out on Jews on the basis of their identity in Bulgaria. It also had to be borne in mind that the applicants' claim had been lodged four years after *The Boomerang of Evil* had been published.

96. Another material factor was the extent to which Mr Siderov's statements had affected the Jewish community in Bulgaria. His writings about Judaism, though strongly worded, were an expression of his personal opinion, which was entitled to protection even if it offended, shocked or disturbed. His statements about Trotsky and media owners in the United States of America were factual, and it was unclear how they had offended the applicants. His statements about the Holocaust had to be assessed against the backdrop of the absence of the Holocaust or death camps in Bulgaria and the fact that the applicants' ancestors had not suffered from, or lived with the consequences of, those horrific events.

97. Considering all these elements, the Bulgarian courts had correctly balanced the applicants' right to respect for their private life and Mr Siderov's right to freedom of expression.

2. The Court's assessment

98. It is settled that Article 8 of the Convention gives rise to positive obligations, and that these obligations may require the adoption of measures designed to secure "respect for ... private life" even in the sphere of the relations of individuals between themselves (see, among other authorities, *X and Y v. the Netherlands*, § 23; *Von Hannover (no. 2)*, § 98; and *Aksu*, § 59, all cited above).

99. In *Aksu* (cited above, §§ 61 and 81), the Court held, in relation to public statements alleged to have negatively stereotyped a minority ethnic group (Roma in Turkey), that since those statements could be seen as affecting the "private life" of the group's individual members, there was a positive obligation to afford them redress with respect to those statements.

100. In discharging this duty, the national authorities must, however, also have regard to the rights of the author of the statements under Article 10 of the Convention. Thus, in such cases the chief question becomes whether the authorities have struck a proper balance between the aggrieved party's right to respect for his or her "private life" and the right of the author of the statements to freedom of expression. The general principles governing the analysis of this point have been set out in *Aksu* (cited above, §§ 62-68; see also *Perinçek*, cited above, §§ 198-99 and 228). There is no need to repeat them in full here, except to emphasise that the key consideration is the relative weight that should be ascribed to these two rights – which are in principle entitled to equal respect – in the specific circumstances of each case, and that this turns on the comparative importance of the concrete aspects of the two rights that are at stake in the case in question, and the need to restrict (or, as the case may be, protect) each of them. The national authorities have a margin of appreciation in making this assessment, but their conclusion can be accepted by the Court only if they have carried out the balancing exercise in conformity with the criteria laid down in its case-law.

101. According to that case-law, expression on matters of public interest is in principle entitled to strong protection under Article 10 of the Convention, whereas expression that promotes or justifies violence, hatred, xenophobia or another form of intolerance cannot normally claim protection (see *Perinçek*, cited above, § 230, with further references). The Court has also recognised the vital role played by the media in a democratic society (see *Fressoz and Roire v. France* [GC], no. 29183/95, § 52, ECHR 1999-I; *Stoll v. Switzerland* [GC], no. 69698/01, § 102, ECHR 2007-V; and *Pentikäinen v. Finland* [GC], no. 11882/10, § 91, ECHR 2015), and has consistently emphasised the importance of freedom of expression for members of parliament (see *Karácsony and Others v. Hungary* [GC], nos. 42461/13 and 44357/13, § 137, 17 May 2016, with further references). It has, at the same time, accepted that it may be justified to impose even serious criminal-law sanctions on journalists or politicians in cases of hate speech or incitement to violence (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 115, ECHR 2004-XI; *Otegi Mondragon v. Spain*, no. 2034/07, § 59, ECHR 2011; and in particular *Atamanchuk v. Russia*, no. 4493/11, §§ 67 and 70, 11 February 2020), and stated that even statements made by members of parliament deserve little, if any, protection if their content is at odds with the democratic values of the Convention system, since the exercise of freedom of expression, even in parliament, carries with it the "duties and responsibilities" referred to in Article 10 § 2 (see *Pastörs*, cited above, § 47).

102. Since the statements in respect of which the applicants sought redress were (as is obvious from the very terms used in them) prima facie anti-Semitic in intent (see, specifically in relation to statements denying the Holocaust, *Perinçek*, cited above, §§ 234, 243 and 253 *in fine*), in the present case that analysis must also be coloured by the duties stemming from Article 14 of the Convention – in particular the duty to combat racial discrimination, which includes discrimination on account of someone's ethnic origin (contrast *Aksu*, cited above, §§ 43-45).

103. It is not for the Court to say whether the impugned statements amounted to "harassment" or "incitement to discrimination, persecution and racial segregation" within the meaning of section 5 of the 2003 Act and paragraph 1(1) of the 2003 Act's additional provisions (see paragraphs 27 and 28 above). It is for the national authorities – especially the courts – to interpret and apply domestic law. The Court's task is limited to reviewing their decisions in the light of the requirements of the Convention.

104. In this case, by contrast with *Aksu* (cited above, §§ 69-72 and 82-87), it cannot be said that the Bulgarian courts assessed the tenor of Mr Siderov's statements in an adequate manner. Although the courts acknowledged the vehemence of the statements, they downplayed their capacity to stigmatise Jews as a group and arouse hatred and prejudice against them, and apparently saw them as no more than part of a legitimate

debate on matters of public concern (see paragraphs 15 and 18-20 above). However, in view of the language used by Mr Siderov and the overall thrust of his message (see paragraphs 11 to 13 above), it can readily be seen that the impugned statements in his two books were meant to vilify Jews and stir up prejudice and hatred towards them: as already noted in paragraphs 69 and 70, they all rehearsed timeworn anti-Semitic and Holocaust-denial narratives. This becomes evident from their very wording, regardless of the broader content of the two books in which they featured. Viewed in the light of those earlier statements and of the anti-Semitic discourse in which Mr Siderov's political party was engaging (see paragraphs 41 *in fine* and 42 above), his statements at the pre-election rally in Burgas and in Parliament (see paragraph 14 above) can also be seen as directed against, *inter alia*, Jews – even though Mr Siderov did not elaborate on the point.

105. The manner in which the Bulgarian courts assessed the tenor of Mr Siderov's statements reflected on the way in which they balanced his right to freedom of expression against the applicants' right to respect for their private life. Although they recognised the tension between those two rights, the courts cannot be said to have properly weighed their relative importance in the circumstances. The Court and the former Commission have consistently held that anti-Semitic discourse is entitled to no or very limited protection under Article 10 of the Convention, read in the light of Article 17 (see *Kühnen v. Germany*, no. 12194/86, Commission decision of 12 May 1988, Decisions and Reports 56, p. 205, at p. 209; *Ochsenberger v. Austria*, no. 21318/93, Commission decision of 2 September 1994, unreported; *Lowes v. the United Kingdom*, no. 13214/87, Commission decision of 9 December 1988, unreported; *W.P. and Others v. Poland* (dec.), no. 42264/98, ECHR 2004-VII; *Pavel Ivanov*, cited above; *Balsytė-Lideikienė*, cited above, §§ 78-86; and *M'Bala M'Bala v. France* (dec.), no. 25239/13, §§ 34-42, ECHR 2015 (extracts)). This includes statements denying the Holocaust or aspects of it (see the numerous cases cited in *Perinçek*, cited above, §§ 209-12, and, more recently, *Williamson*, §§ 20 and 26-27, and *Pastörs*, §§ 39-48, both cited above). The fact that the author of the statements is a politician or speaks in his or her capacity as a member of parliament does not alter that (see *Pastörs*, cited above, §§ 38-39 and 47). By in effect ascribing considerable weight to Mr Siderov's right to freedom of expression in relation to the statements impugned by the applicants, and by playing down the effect of those statements on the applicants as ethnic Jews living in Bulgaria (the country in which Mr Siderov had made the statements), the Bulgarian courts failed to carry out the requisite balancing exercise in line with the criteria laid down in the Court's case-law. The specific historical context in respect of Bulgaria, as opposed to that in respect of other European States, matters little in that regard (see *Perinçek*, cited above, §§ 243 and 253 *in fine*).

106. By refusing to grant the applicants redress in respect of Mr Siderov's discriminatory statements, the domestic authorities failed to respond adequately to discrimination on account of the applicants' ethnic origin and to comply with their positive obligation to secure respect for the applicants' "private life". There has therefore been a breach of Article 8 of the Convention read in conjunction with Article 14.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

107. The applicants complained under Article 13 of the Convention that by dismissing their claim against Mr Siderov the courts had denied them an effective remedy with respect to their complaint under Articles 8 and 14 of the Convention.

108. The parties made no submissions in relation to this complaint.

109. The complaint concerns the same issue as that examined by reference to Articles 8 and 14 of the Convention – namely whether the procedural mechanisms available in Bulgaria enabled the applicants to obtain effective redress with respect to statements such as those at issue in the present case. It does not, therefore, require separate examination.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

110. 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

111. The applicants claimed 1,000 euros (EUR) each in respect of the non-pecuniary damage that they had allegedly suffered as a result of the refusal of the Bulgarian courts to afford them redress with respect to the statements of Mr Siderov.

112. The Government submitted that the claim was inadmissible for non-exhaustion of domestic remedies, as the applicants had not sought damages in the domestic proceedings. The claim was also ill-founded, there being no evidence that they had suffered any discrimination as a result of those of the statements made by Mr Siderov that are at issue in the instant case.

113. According to the Court's case-law, the rule that domestic remedies need to be exhausted does not apply to just satisfaction claims submitted under Article 41 (formerly Article 50) of the Convention (see *De Wilde, Ooms and Versyp v. Belgium* (Article 50), 10 March 1972, § 15, Series A no. 14; *Salah v. the Netherlands*, no. 8196/02, § 67, ECHR 2006-IX

(extracts); and *Dimitrovi v. Bulgaria* (just satisfaction), no. 12655/09, § 16, 21 July 2016). The mere fact that an applicant has not sought compensation at domestic level is therefore no bar to his or her claiming just satisfaction from the Court (see *KIPS DOO and Drekalović v. Montenegro*, no. 28766/06, § 144, 26 June 2018).

114. That said, in the circumstances of the case the finding of a breach of Article 8 of the Convention, read in conjunction with Article 14 of the Convention, can be seen as amounting to sufficient just satisfaction in respect of any non-pecuniary damage suffered by the applicants as a result of the dismissal of their claim against Mr Siderov.

B. Costs and expenses

115. The applicants sought the reimbursement of the EUR 5,375 that (they submitted) they had incurred in lawyers' fees for a total of fifty-three hours and three quarters of work on the domestic proceedings against Mr Siderov and on the proceedings before the Court, at the hourly rate of EUR 100. They submitted that their representatives – three lawyers working with the Bulgarian Helsinki Committee – had worked for twenty-six hours and a quarter on the domestic proceedings and for twenty-seven and a half hours on the proceedings before the Court. The applicants requested that any award under this head be paid directly to the Bulgarian Helsinki Committee. In support of their claim, they submitted a time sheet and fee agreements between each of them and the Bulgarian Helsinki Committee. Those agreements, concluded on 30 November 2012, related solely to the proceedings before the Court.

116. The applicants also claimed EUR 35.94 in respect of postage. They submitted receipts and invoices for postal services in support of that claim.

117. The Government pointed out that the claim relating to the domestic proceedings was not supported by any documents, since the agreement between the applicants and the Bulgarian Helsinki Committee only covered the proceedings before the Court. They furthermore argued that the hourly rate was excessive, and that the case had not required as much work as claimed, given the fact that it had been of a relatively simple nature. As for the postal receipts and invoices, some of them, which dated from 2011 and 2012, could not have concerned correspondence sent to the Court, since the instant application had only been lodged with the Court in April 2013.

118. 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 (see, among many other authorities, *Merabishvili v. Georgia* [GC], no. 72508/13, § 370, 28 November 2017).

119. In this case, the claim relating to the lawyers' fees allegedly incurred by the applicants in the domestic proceedings against Mr Siderov was not supported by any documents. There is therefore no basis on which to establish that these have actually been incurred by them. This head of claim must accordingly be rejected.

120. As regards the fees incurred in respect of the proceedings before the Court, the main point of contention is whether they were reasonable as to quantum. The Court is not bound by domestic scales or standards in that assessment (see *Dimitrov and Others v. Bulgaria*, no. 77938/11, § 190, 1 July 2014, with further references). It notes that the hourly rate charged by the applicants' representatives for their work is the same as that charged in respect of two relatively recent cases against Bulgaria (see *Myumyun v. Bulgaria*, no. 67258/13, § 83, 3 November 2015, and *Tomov and Nikolova v. Bulgaria*, no. 50506/09, § 66, 21 July 2016). It can thus be seen as reasonable. In view of the relatively high complexity of the issues raised by the case and the length and content of the submissions made on behalf of the applicants, the number of hours claimed can also be seen as reasonable. The applicants are hence to be awarded EUR 2,750, plus any tax that may be chargeable to them. As requested by them, this sum is to be paid directly into the bank account of the Bulgarian Helsinki Committee.

121. As for the postal expenses allegedly incurred by the applicants, only the receipts relating to correspondence sent on 23 April 2013 and 25 June 2018 – for a total sum of 24.50 Bulgarian levs – appear clearly to concern the case at hand. The applicants are therefore to be awarded EUR 12.53 under this head. As requested by them, this sum is likewise to be paid directly into the bank account of the Bulgarian Helsinki Committee.

C. Default interest

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

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Articles 8 and 14 of the Convention admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention read in conjunction with Article 14 of the Convention;

3. *Holds* that there is no need to examine the admissibility or merits of the complaint under Article 13 of the Convention;

4. *Holds* that the finding of a violation of Article 8 of the Convention read in conjunction with Article 14 of the Convention constitutes sufficient just satisfaction for any non-pecuniary damage suffered by the applicants;

5. *Holds*
   (a) that the respondent State is to pay the applicants, in respect of costs and expenses, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 2,750 (two thousand seven hundred fifty euros), plus any tax that may be chargeable to the applicants, as well as EUR 12.53 (twelve euros and fifty-three cents), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, and to be paid directly into the bank account of the Bulgarian Helsinki Committee;[2]
   (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 16 February 2021, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth	Tim Eicke
Deputy Registrar	President

[2] Rectified on 4 March 2021. The following text was added: ", and to be paid directly into the bank account of the Bulgarian Helsinki Committee".