



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

THIRD SECTION

CASE OF MARINOV v. BULGARIA

(Application no. 45501/22)

JUDGMENT

STRASBOURG

22 September 2026

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

In the case of Marinov v. Bulgaria,

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

Darian Pavli, *President*,

Diana Kovatcheva,

Vasilka Sancin, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the application (no. 45501/22) 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”) on 15 September 2022 by a Bulgarian national, Mr Petar Stankov Marinov (“the applicant”), who was born in 1999, lives in Karlovo and was represented by Mr S. Yankov, a lawyer practising in Plovdiv;

the decision to give notice of the application to the Bulgarian Government (“the Government”), represented by their Agent, Ms M. Ilcheva from the Ministry of Justice;

the parties’ observations;

Having deliberated in private on 1 September 2026,

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

SUBJECT MATTER OF THE CASE

1. The case concerns the applicant’s short-term detention.

2. On 22 March 2019, the applicant was detained by the police for approximately one hour and 40 minutes after refusing to comply with a police check and attempting to flee. He was apprehended, taken to a police station, and subsequently released when no prohibited items were found in his possession. The detention was justified with the applicant obstructing a police operation. However, later the administrative courts declared the detention unlawful, finding that the applicant had been subjected to “police provocation” and had not been aware that the individuals approaching him had been police officers.

3. The applicant initiated tort proceedings against the police. His claims were dismissed on 27 October 2021 by the Plovdiv Administrative Court, which held that he had not demonstrated any non-pecuniary damage arising from the detention. The Supreme Administrative Court upheld this judgment on 2 June 2022, noting that although mental suffering did not require strict proof, considerations of equity might justify refusing compensation. In the present case, the applicant had been detained for less than two hours and had not shown that this short detention had caused him any harm.

4. The applicant complained under Article 5 §§ 1 and 5 of the Convention that his detention on 22 March 2019 had been unlawful, and that the national courts had wrongly refused to award him compensation.

THE COURT'S ASSESSMENT

I. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

5. The Government submitted additional factual information concerning the admissibility of this complaint. They explained that the prosecution authorities had brought charges against the applicant in connection with the incident of 22 March 2019 – specifically, for obstructing a police check and for injuring a police officer while resisting arrest. Those criminal proceedings were discontinued in December 2019. The applicant subsequently filed a tort action against the prosecution authorities and was awarded compensation for the unjustified charges. In its 2023 judgment, later upheld on appeal, the first-instance court listed the factors relevant to determining such compensation, noting among them “the distress at the time of arrest”.

6. Relying on these findings, the Government raised two pleas of inadmissibility. First, they argued that the applicant could no longer claim to be a victim of the alleged violation of Article 5 § 1 of the Convention, as the domestic courts had “practically afforded redress” for his unlawful detention. Second, the Government contended that the applicant had abused his right to individual petition, by not informing the Court of the developments above.

7. The applicant opposed these arguments. He pointed out that the proceedings against the prosecution authorities had concerned only the charges brought and maintained by the prosecution, not the detention ordered by the police. He had never received compensation for the unlawful detention; on the contrary, the administrative courts had refused to award such compensation. The proceedings against the prosecution authorities had had “nothing to do” with the complaints he had lodged before the Court.

8. The Court notes that the applicant was arrested on 22 March 2019 for obstructing a police operation (see paragraph 2 above). This detention occurred outside the framework of any criminal proceedings. The tort proceedings relied upon by the Government (see paragraph 5 above) concerned the criminal charges brought eventually against the applicant, and were directed against the prosecution authorities. In these circumstances, the Court cannot accept that the first-instance court’s brief reference to the applicant’s “distress at the time of arrest” amounted to compensation for the deprivation of liberty. As the applicant correctly pointed out, the detention had been ordered by the police, while the courts competent to examine his claims related to it had expressly refused to award any compensation.

9. In view of the considerations above, the Court finds that the applicant has not lost his victim status. While the unlawfulness of his detention was acknowledged at the domestic level (see paragraph 2 above), no compensation has been awarded specifically in that regard.

10. In the light of its findings above, the Court also rejects the Government’s plea based on abuse of the right to individual petition (see

paragraph 6 above). The facts the applicant omitted to submit before the Court – concerning the criminal proceedings against him and the ensuing tort action against the prosecution authorities – did not concern “the very core of the case” (see, for the requirements with regard to abuse, among other authorities, *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *Saakashvili v. Georgia* (dec.), no. 6232/20, § 64, 1 March 2022).

11. Finally, the Court notes that the complaint under examination is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

12. On the merits, the Court observes that any detention will be in breach of Article 5 § 1 if it does not follow “a procedure prescribed by law”. Subparagraph (b) of Article 5 § 1 referring to detention “to secure the fulfilment of any obligation prescribed by law” also requires that such detention should be “lawful”.

13. In the present case, the applicant’s detention by the police on 22 March 2019 was found by the domestic courts to be unjustified, and as such in breach of domestic law (see paragraph 2 above). Accordingly, it did not meet the requirements of lawfulness described in the previous paragraph (see, for a similar approach, *Dzhabarov and Others v. Bulgaria*, nos. 6095/11 and 2 others, § 70, 31 March 2016).

14. There has accordingly been a violation of Article 5 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 5 OF THE CONVENTION

15. The Government submitted that the national courts had effectively examined the applicant’s claims against the police and had not acted with undue formalism. They argued that his case, concerning a very short period of detention, was of a “much lesser gravity” than other similar cases where the Court had found violations of Article 5 § 5 of the Convention – such as *Danev v. Bulgaria* (no. 9411/05, 2 September 2010) or *Dzhabarov and Others* (cited above).

16. The applicant maintained that he had experienced distress and fear as a result of his unlawful detention, regardless of its brief duration. In his view, such emotional harm did not always require formal proof.

17. The Court observes that the national courts found the applicant’s detention of 22 March 2019 unlawful. It likewise found a violation of Article 5 § 1 of the Convention on that basis (see paragraphs 2 and 13-14 above). Article 5 § 5 is therefore applicable.

18. The applicant did not dispute that a tort claim against the police, as provided for under domestic law (see, for a description of the relevant provisions and practice, *Dzhabarov and Others*, cited above, §§ 47-50), could in principle represent a remedy satisfying Article 5 § 5. His complaints

concerned the manner in which the national courts had applied that remedy in his case.

19. The general position under Article 5 § 5 is that an award of compensation may be made dependent upon the ability of the person concerned to show damage resulting from the breach of the previous paragraphs of Article 5 (see, among other authorities, *Wassink v. the Netherlands*, 27 September 1990, § 38, Series A no. 185-A).

20. The Court has held that unlawful detention normally gives rise to a presumption of some mental suffering, even if it does not amount to psychological trauma and even if it produces no outward symptoms. Such harm does not always lend itself to strict proof, and requiring expert evidence in every case is excessively formalistic and incompatible with Article 5 § 5 (see *Dzhabarov and Others*, cited above, § 84, with further references).

21. In the present case, the Plovdiv Administrative Court appears to have taken the formalistic approach previously criticised by the Court, as it dismissed the applicant's claims primarily because the applicant had not proven non-pecuniary damage (see paragraph 3 above). However, on appeal, the Supreme Administrative Court accepted that mental suffering does not always require strict proof. It instead relied on considerations of equity and concluded that, given the very short duration of the detention, awarding compensation was not warranted (*ibid.*).

22. In these circumstances, the Court cannot find that the tort proceedings were ineffective, or that the national courts applied the flawed approach criticised in its earlier judgments. On the contrary, the Supreme Administrative Court's reasoning, though concise, was based on the specific facts of the case.

23. Against this background, the Court finds that the applicant had an enforceable right to compensation for his unlawful detention, as required by Article 5 § 5 of the Convention (compare the similar findings in *Venskutė v. Lithuania*, no. 10645/08, § 88, 11 December 2012).

24. Accordingly, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. The applicant claimed compensation for non-pecuniary damage in an amount set by the Court. He claimed another 1,000 euros (EUR) for the cost of his legal representation before the Court.

26. The Government opposed the claim related to legal representation, pointing out that the applicant had not established having actually incurred the costs claimed.

27. As attested by the adjective "just" and the phrase "if necessary" in Article 41 of the Convention, the Court enjoys a certain discretion in the exercise of the power to afford the injured party such satisfaction as appears

to it to be appropriate (see, as a recent authority, *Molla Sali v. Greece* (just satisfaction) [GC], no. 20452/14, § 32, 18 June 2020). In some cases, the public vindication of the wrong suffered by the applicant, in a judgment binding on the Contracting State, can be an appropriate form of redress in itself (ibid., § 33, with reference to *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 224, ECHR 2009).

28. In the present case the Court found a violation of Article 5 § 1 of the Convention, and dismissed the complaint under Article 5 § 5 as inadmissible. In these particular circumstances, the Court is of the view that the finding of violations constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicant (compare, for a similar approach, *Zelčs v. Latvia*, no. 65367/16, § 81, 20 February 2020).

29. As to costs and expenses, according to the Court's well-established case-law an award can be made only in so far as the expenses claimed have been actually and necessarily incurred. A legal representative's legal fees are actually incurred if the applicant has paid them, or remains liable in that regard (see, among other authorities, *Merabishvili v. Georgia* [GC], no. 72508/13, § 371, 28 November 2017). In the present case, the applicant has not shown that he paid his representative's legal fees claimed before the Court, or that he remains liable to pay them. This means that the costs claimed have not been actually incurred, and the claim in that regard is to be dismissed.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 5 § 1 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 1 of the Convention;
3. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;
4. *Dismisses* the applicant's remaining claims for just satisfaction.

MARINOV v. BULGARIA JUDGMENT

Done in English, and notified in writing on 22 September 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Darian Pavli
President