

## **New Legal Practice of the European Court of Human Rights after the Amendments of the Bulgarian Legislation**

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In the context of the numerous decisions against Bulgaria and the two pilot judgments dated 10 May 2011 of the European Court of Human Rights in Strasbourg, i.e. *Dimitrov and Hamanov v. Bulgaria* and *Finger v. Bulgaria*, the Bulgarian authorities were invited to introduce a compensatory remedy in respect of unreasonably long proceedings.

As a result, the Judiciary Act and the State and Municipalities Liability for Damage Act have been amended. Thus the Bulgarian legislation has created opportunities for individuals and legal entities to seek remedy for the violation of two fundamental rights enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms, i.e. the right to liberty and security (Art. 5 of the Convention) and the right to a fair trial (Art. 6 of the Convention).

After the entry into force of the amendments to the Judiciary Act on 1 October 2012 and to the State and Municipalities Liability for Damage Act on 15 December 2012, the European Court of Human Rights held that the compensatory proceedings introduced in the Republic of Bulgaria constituted effective compensatory remedies under Art. 6 § 1 of the Convention in respect of complaints of lengthy proceedings. The Court held that the rule of exhaustion of domestic remedies had to be applied even by applicants who had lodged their complaints in Strasbourg prior to their introduction. That view was reflected in the admissibility decisions in the cases of *Balakchiev and Others v. Bulgaria* ((No. 65187/10, 18 June 2013) and *Valcheva and Abrashev v. Bulgaria* (Nos. 6194/11 and 34887/11, 18 June 2013).

After the amendments to the legislation, the persons who have already lodged complaints with the European Court of Human Rights in respect of unreasonable length of proceedings should invoke the domestic compensatory remedy, while bringing the necessary proceedings also with the Court in Strasbourg. The persons who intend to lodge applications with such a complaint should seek compensation under the amended national laws. This refers only to complaints concerning the length of proceedings. Where other rights protected by the Convention are violated, the six-month time limit should be observed for the complaints to be lodged.

Otherwise the application might be considered inadmissible.