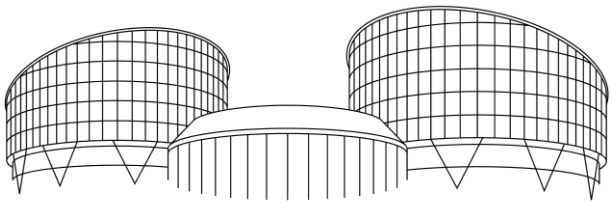

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF STAMOSE v. BULGARIA

(Application no. 29713/05)

STRASBOURG

27 November 2012

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 Stamose v. Bulgaria,

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

Ineta Ziemele, *President*,
David Thór Björgvinsson,
Päivi Hirvelä,
George Nicolaou,
Ledi Bianku,
Zdravka Kalaydjieva,
Vincent A. De Gaetano, *judges*,
and Lawrence Early, *Section Registrar*,

Having deliberated in private on 6 November 2012,

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

PROCEDURE

1. The case originated in an application (no. 29713/05) against the Republic of Bulgaria lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Bulgarian national, Mr Teodor Vasilious Stamose ("the applicant"), on 22 July 2005.

2. The applicant was represented by Mr B. Tsanov, a lawyer practising in Sofia. The Bulgarian Government ("the Government") were represented by their Agent, Ms M. Dimova, of the Ministry of Justice.

3. The applicant alleged, in particular, that a ban on his leaving the territory of Bulgaria for a period of two years on account of breaches of the immigration laws of the United States of America had been unjustified; that this ban, which had prevented him from travelling to the United States of America, where his mother and brother lived, had amounted to an unjustified interference with his family life; and that in examining his legal challenge to the ban the courts had not reviewed its proportionality.

4. On 28 September 2009 the Court (Fifth Section) decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1 of the Convention).

5. Following the re-composition of the Court's sections on 1 February 2011, the application was transferred to the Fourth Section.

6. Noting that the applicant had not submitted any observations on the admissibility or merits of the case or a claim for just satisfaction within the time-limit fixed by the President of the Fifth Section, on 2 August 2011 the Registry of the Court sent the applicant a registered letter, advising him of the terms of Article 37 § 1 (a) of the Convention. In a fax of 4 November

2011, followed by a letter postmarked 4 November 2011, the applicant stated that he wished to pursue his application and that his earlier failure to submit observations and claims had been due to a problem of communication between him and his legal representative.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1974 and lives in Sheffield, the United Kingdom, where he moved in February 2010.

8. In 1998 the applicant, who had enrolled in a university in the State of Missouri, entered the United States of America on a student visa. However, he later abandoned his studies and took up paid employment. In January 2000 the authorities, considering that he had thereby infringed the terms and conditions of his visa, opened deportation proceedings against him. He was deported to Bulgaria on 29 October 2003.

9. Meanwhile, in April 2000 the applicant's mother married an American national, and in May 2000 became a permanent resident, and later a national, of the United States of America. The applicant's brother also resided permanently in the United States of America.

10. In an order of 29 October 2003 the head of the border police service of the Bulgarian Ministry of Internal Affairs, acting under section 76(6) of the Bulgarian Identity Papers Act 1998 (see paragraph 17 below), and having regard to a letter from the Ministry's international cooperation division, with which was enclosed a letter from the embassy of the United States of America, imposed a two-year travel ban on the applicant, starting from 20 October 2003, and directed the competent authorities to seize his passport. Accordingly, on 4 November 2003 the Burgas police requested the applicant to surrender his passport.

11. The applicant sought judicial review of the order, arguing, *inter alia*, that the administrative authorities had erred in not taking into account his personal situation and choosing to exercise their discretion against him.

12. On 11 May 2004 the Sofia City Court dismissed the application. It held, *inter alia*, that in issuing the order the authorities had taken into account all the relevant facts namely, that the applicant had been deported and that the Bulgarian authorities had been informed of that. The reasons for the deportation and the personal circumstances of the applicant were immaterial, as was the possibility of his receiving another visa allowing him to re-enter the United States of America. The order was consistent with the aim of the law to impede Bulgarian citizens who had breached the immigration rules of foreign countries from travelling freely.

13. The applicant appealed on points of law, reiterating his argument that the authorities should have taken account of his individual circumstances.

14. In a final judgment of 30 March 2005 (реш. № 2952 от 30 март 2005 г. по адм. д. № 6206/2004 г., ВАС, V о.) the Supreme Administrative Court upheld the lower court's judgment. It held, *inter alia*, that section 76(6) of the Bulgarian Identity Papers Act 1998 gave the authorities discretion to impose or refrain from imposing the impugned measure, and their choice in this matter was not reviewable by the courts. In the case of the applicant, the authorities had had regard to all the relevant circumstances and had determined that the measure had been called for.

II. RELEVANT DOMESTIC LAW

15. Article 35 § 1 of the 1991 Constitution provides, *inter alia*, that anyone has the right to leave the country, and that this right can be restricted only by law for the purpose of protecting national security, public health, or the rights and freedoms of others.

16. Section 33(1) of the Bulgarian Identity Papers Act 1998 (*Закон за българските документи за самоличност*) (in October 2009 the Act's title was changed to Bulgarian Personal Papers Act – *Закон за българските лични документи*) ("the 1998 Act") provides that any Bulgarian national has the right to leave the country and to return to it with a passport or an equivalent document. Under section 33(3), those rights cannot be subject to restrictions unless they are provided for by law and are necessary for the protection of national security, public order, health or the rights and freedoms of others.

17. Section 76(6) of the Act, as originally enacted, provided that a Bulgarian national who had been deported from another country on account of breaches of that country's immigration laws could be prohibited from leaving Bulgaria and be refused a passport for a period of one year. The subsection was amended with effect from 31 March 2003 to provide that the prohibition was to last two years.

18. In its case-law under this provision, the Supreme Administrative Court consistently held that the courts were not competent to review whether the authorities had exercised properly their discretionary power to assess the need for such a measure; the only thing which the courts had to verify was whether the underlying deportation had taken place, regardless of the grounds for it (реш. № 10917 от 3 декември 2002 г. по адм. д. № 7044/2002 г., ВАС, V о.; реш. № 2365 от 14 март 2003 г. по адм. д. № 10736/2002 г., ВАС, V о.; реш. № 9652 от 22 ноември 2004 г. по адм. д. № 4636/2004 г., ВАС, V о.; реш. № 9653 от 22 ноември 2004 г. по адм. д. № 4637/2004 г., ВАС, V о.; реш. № 9654 от 22 ноември 2004 г. по адм. д. № 4635/2004 г., ВАС, V о.; реш. № 3497 от 18 април

2005 г. по адм. д. № 542/2005 г., ВАС, V о.; реш. № 94 от 5 януари 2006 г. по адм. д. № 5672/2005 г., ВАС, V о.; реш. № 5034 от 11 май 2006 г. по адм. д. № 9710/2005 г., ВАС, V о.; реш. № 5229 от 17 май 2006 г. по адм. д. № 535/2006 г., ВАС, V о.; реш. № 5966 от 2 юни 2006 г. по адм. д. № 829/2006 г., ВАС, V о.; реш. № 7176 от 28 юни 2006 г. по адм. д. № 3700/2006 г., ВАС, V о.; реш. № 10919 от 6 ноември 2006 г. по адм. д. № 4522/2006 г., ВАС, V о.; реш. № 12533 от 13 декември 2006 г. по адм. д. № 6522/2006 г., ВАС, V о.; реш. № 12551 от 13 декември 2006 г. по адм. д. № 7065/2006 г., ВАС, V о.; реш. № 1869 от 22 февруари 2007 г. по адм. д. № 9680/2006 г., ВАС, V о.).

19. On 21 August 2009 the Government laid before Parliament a bill for the amendment of the 1998 Act which proposed, *inter alia*, to repeal section 76(6). Parliament enacted the bill on 1 October 2009 and the amending Act came into force on 20 October 2009. In its ensuing case-law the Supreme Administrative Court held that the repeal did not automatically invalidate travel bans under section 76 imposed before it had come into force (реш. № 13819 от 17 ноември 2009 г. по адм. д. № 6999/2007 г., ВАС, III о.; реш. № 15106 от 10 декември 2009 г. по адм. д. № 7052/2009 г., ВАС, V о.; реш. № 10449 от 13 август 2010 г. по адм. д. № 1609/2010 г., ВАС, VII о.). The matter was settled with the adoption of paragraph 5 of the transitional and concluding provisions of a further Act for the amendment of the 1998 Act. It came into force on 10 April 2010 and specified that within three months of its entry into force all measures imposed under, *inter alia*, section 76(6) would cease to have effect.

III. RELEVANT STATISTICAL DATA

20. According to a report published by the International Labour Office in its International Migration Papers series (August Gächter, *The Ambiguities of Emigration: Bulgaria since 1988*, available at http://www.ilo.org/public/english/protection/migrant/download/imp/imp39.pdf (accessed on 6 November 2012)), gross emigration from Bulgaria between 1989 and 1998 amounted to 747,000 persons. 2,253 of them emigrated to Switzerland, 124,383 to Germany, 32,978 to Greece, 344,849 to Turkey, and 6,307 to the United States of America.

IV. OTHER RELEVANT MATERIALS

21. By virtue of Article 1 § 1 of, and the Annex to, Council Regulation (EC) No. 2317/95 of 25 September 1995, Bulgarian nationals were required to be in possession of visas when crossing the external borders of the Member States of the European Union. That was changed with Article 1 § 2 of, and Annex II to, Council Regulation (EC) No. 539/2001 of 15 March

2001, whereby Bulgarian nationals became exempt from the visa requirement for stays of no more than three months in all.

22. A paper published by the Centre for European Policy Studies (*What about the Neighbours? The Impact of Schengen along the EU's External Borders*, CEPS Working Document No. 210/October 2004, available at http://aei.pitt.edu/6641/1/1171_210.pdf (accessed on 6 November 2012)), said that "in the space of six years the European Union placed itself in the position of requiring substantial concessions on a wide variety of issues relating to borders and movement of persons as the price for removing the visa requirement. In this period the Bulgarian government and society as a whole started working on the comprehensive strategy aiming at the ultimate exemption of Bulgarian citizens from the requirement of visas."

23. The paper went on to refer to a 2001 European Commission report which had led to the abolition of visa requirements (*Report from the Commission to the Council regarding Bulgaria in the perspective of the adoption of the regulation determining the list of third countries whose nationals must be in a possession of visas when crossing the external borders and those whose nationals are exempt of that requirement* COM(2001) 61 final, 2 February 2001, Brussels). Under the heading "Sanctions concerning illegal emigration to the Member States", that report noted that "under Article 76 [of the 1998 Act] as [then] in force a ban on leaving the country for a one-year period [wa]s imposed on Bulgarian nationals who ha[d] violated the immigration law of another country or ha[d] been expelled from another country." In reviewing the further legislative steps that were being taken by the Bulgarian authorities, the report noted that "a draft amendment of Article 76 provide[d] for extending to 2 years the duration of the prohibition to leave the country which [could] be imposed on Bulgarian citizens". Having reviewed all relevant legislative provisions, the report concluded that "[f]rom the information forwarded by the Bulgarian authorities to the Commission services and from the Commission's mission, it [wa]s clear that Bulgaria ha[d] at its disposal the necessary legal instruments to allow it to combat illegal immigration ... from its territory".

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4

24. The applicant complained under Article 2 of Protocol No. 4 that the ban on his leaving the territory of Bulgaria had been unjustified and disproportionate.

25. Article 2 of Protocol No. 4 reads, in so far as relevant:

"...

2. Everyone shall be free to leave any country, including his own.

3. No restrictions shall be placed on the exercise of [this right] other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

..."

26. The Government submitted that the decisions taken by the administrative authorities and the courts in relation to the applicant had been lawful and correct. The reasons given had corresponded to the requirements of section 76(6) of the 1998 Act. The prohibition had been prompted by a letter from the embassy of the United States of America. In those circumstances, the authorities had, in the exercise of their discretion, rightly found that the measure was necessary to achieve the aims of the law. The courts had been entitled to review the lawfulness of the measure but not its necessity, and had applied the law correctly. Lastly, the Government pointed out that in October 2009 section 76(6) had been repealed.

27. The applicant did not submit observations.

28. The Court considers that this complaint 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.

29. On the merits, the Court starts by observing that this case raises a somewhat novel issue, as the Court has thus far not had occasion to deal with travel bans designed to prevent breaches of domestic or foreign immigration laws. In previous cases under Article 2 of Protocol No. 4 it or the former Commission have been concerned with such bans imposed in connection with pending criminal proceedings (see *Schmidt v. Austria*, no. 10670/83, Commission decision of 9 July 1985, Decisions and Reports (DR) 44, p. 195; *Baumann v. France*, no. 33592/96, ECHR 2001-V; *Földes and Földesné Hajlik v. Hungary*, no. 41463/02, ECHR 2006-XII; *Sissanis v. Romania*, no. 23468/02, 25 January 2007; *Bessenyei v. Hungary*, no. 37509/06, 21 October 2008; *A.E. v. Poland*, no. 14480/04, 31 March 2009; *Iordan Iordanov and Others v. Bulgaria*, no. 23530/02, 2 July 2009; *Makedonski v. Bulgaria*, no. 36036/04, 20 January 2011; *Pfeifer v. Bulgaria*, no. 24733/04, 17 February 2011; *Prescher v. Bulgaria*, no. 6767/04, 7 June 2011; and *Miażdżyk v. Poland*, no. 23592/07, 24 January 2012), enforcement of criminal sentences (see *M. v. Germany*, no. 10307/83, Commission decision of 6 March 1984, DR 37, p. 113), lack of rehabilitation in respect of criminal offences (see *Nalbantski v. Bulgaria*, no. 30943/04, 10 February 2011), pending bankruptcy proceedings (see *Luordo v. Italy*, no. 32190/96, ECHR 2003-IX), refusal to pay customs fines (see *Napijalo v. Croatia*, no. 66485/01, 13 November 2003), failure to pay taxes (see *Riener v. Bulgaria*, no. 46343/99, 23 May 2006), failure to pay

judgment debts to private persons (see *Ignatov v. Bulgaria*, no. 50/02, 2 July 2009, and *Gochev v. Bulgaria*, no. 34383/03, 26 November 2009), knowledge of "State secrets" (see *Bartik v. Russia*, no. 55565/00, ECHR 2006-XV), failure to comply with military service obligations (see *Peltonen v. Finland*, no. 19583/92, Commission decision of 20 February 1995, DR 80-A, p. 38, and *Marangos v. Cyprus*, no. 31106/96, Commission decision of 20 May 1997, unreported), mental illness coupled with the lack of arrangements for appropriate care in the destination country (see *Nordblad v. Sweden*, no. 19076/91, Commission decision of 13 October 1993, unreported), and court orders prohibiting minor children from being removed to a foreign country (see *Roldan Texeira and Others v. Italy* (dec.), no. 40655/98, 26 October 2000, and *Diamante and Pelliccioni v. San Marino*, no. 32250/08, 27 September 2011). The Court considers that in spite of the differences with those cases the principles applicable to the present case are the same.

30. Article 2 § 2 of Protocol No. 4 guarantees to any person the right to leave any country for any other country of that person's choice to which he or she may be admitted. The prohibition for the applicant to leave Bulgaria undoubtedly amounted to an interference with that right. The attendant seizure of his passport also amounted to such interference (see *Peltonen*, at p. 43; *Baumann*, §§ 62-63; *Napijalo*, §§ 69-73; and *Nalbantski*, § 61, all cited above). It must therefore be determined whether that interference was "in accordance with law", pursued one or more of the legitimate aims set out in Article 2 § 3 of Protocol No. 4, and whether it was "necessary in a democratic society" for the achievement of such an aim.

31. The interference was based on section 76(6) of the Bulgarian Identity Papers Act 1998 (see paragraphs 10 and 17 above), and thus clearly had a legal basis in national law. The applicant has not sought to argue that it was not otherwise "in accordance with law", and the Court sees no reason to hold that it did not comply with that requirement.

32. It is furthermore apparent from the context in which the statutory provisions which served as a basis for the measure against the applicant were enacted and later tightened (see paragraphs 21-23 above) that the interference was designed to discourage and prevent breaches of the immigration laws of other States, and thus reduce the likelihood of those States refusing other Bulgarian nationals entry to their territory, or toughening or refusing to relax their visa regime in respect of Bulgarian nationals. Even if the Court were prepared to accept that the interference pursued the legitimate aims of maintenance of *ordre public* or the protection of the rights of others, in the instant case it is not necessary to pursue further this point, since in any case, as explained below, the travel restrictions failed the "necessary in a democratic society" test and the implicit proportionality test.

33. The Court observes that the travel ban imposed on the applicant did not last very long – by law its duration was exactly two years (see paragraph 17 above). However, this is not the main issue (contrast *Nalbantski*, cited above, § 56); the salient point is whether it was at all proportionate automatically to prohibit the applicant from travelling to any and every foreign country on account of his having committed a breach of the immigration laws of one particular country.

34. The Court cannot consider such a blanket and indiscriminate measure as being proportionate. The normal consequences of a serious breach of a country's immigration laws would be for the person concerned to be removed from that country and be prohibited (by the laws of that country) from re-entering its territory for a certain period of time. Indeed, the applicant suffered such consequences as a result of the infringement of the terms of his student visa – he was deported from the United States of America (see paragraph 8 above). It appears quite draconian for the Bulgarian State – which could not be regarded as directly affected by the applicant's infringement – to have in addition prevented him from travelling to any other foreign country for a period of two years.

35. Moreover, the authorities did not give any reasons for their order and apparently did not consider it necessary to examine the individual situation of the applicant, and later the courts held that they could not review the exercise of the authorities' discretion in this matter (compare, *mutatis mutandis*, with *Riener*, § 126, *Gochev*, § 54; and *Nalbantski*, § 66, all cited above). Thus, although the relevant provision gave them discretion with regard to the imposition or otherwise of the impugned measure, there is no indication that in the exercise of that discretion the authorities took into account any factors specific to the applicant, such as the gravity of the breach which had prompted his deportation from the United States of America, the risk that he might commit further breaches of another State's immigration rules, his family situation, his financial and personal situation, or the existence of any antecedents. The Court has previously held, albeit in different contexts, that such general and virtually automatic restrictions cannot be regarded as justified under Article 2 of Protocol No. 4 (see *Riener*, §§ 127-28; *Bartik*, § 48; *Gochev*, §§ 53 and 57; and *Nalbantski*, §§ 66-67, all cited above).

36. It is true that during the period that preceded the enactment of the statutory provision on which it was based Bulgaria had become a source of migrants (see paragraph 20 above), and that in those circumstances it is at least arguable that the Bulgarian State could consider it necessary, for reasons of international comity and practical reasons, to assist other States in the implementation of their immigration rules and policies (see paragraph 32 above). It also appears that that statutory provision was enacted and subsequently tightened (see paragraph 17 above) as part of a package of measures designed to allay the fears of, *inter alia*, the then

Member States of the European Union in respect of illegal emigration from Bulgaria, and that it played a part in the Union's decision in March 2001 to exempt Bulgarian nationals from the visa requirement for short-term stays (see paragraphs 21-23 above). Eight years after that, in 2009, when the need for it had apparently receded, that provision was repealed (see paragraph 19 above). However, the fact that the law enabling the impugned measure was enacted against this background does not make it immune from scrutiny under the Convention (see, *mutatis mutandis*, *Capital Bank AD v. Bulgaria*, no. 49429/99, § 110-11, 24 November 2005). Nor can the measure itself as applied to the applicant be justified by the mere fact that it might have been prompted by such pressure (see paragraph 10 above), and the respondent State cannot validly confine itself to relying on such reasons to justify it (see, *mutatis mutandis*, *Nada v. Switzerland* [GC], no. 10593/08, § 196, 12 September 2012). Although the Court might be prepared to accept that a prohibition to leave one's own country imposed in relation to breaches of the immigration laws of another State may in certain compelling situations be regarded as justified, it does not consider that the automatic imposition of such a measure without any regard to the individual circumstances of the person concerned may be characterised as necessary in a democratic society.

37. There has therefore been a violation of Article 2 of Protocol No. 4

II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

38. The applicant complained under Article 8 of the Convention that the ban, which had prevented him from travelling to the USA, where his mother and brother lived, had amounted to an unjustified interference with his family life.

39. Article 8 of the Convention provides, in so far as relevant:

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

40. The Government submitted that the travel ban had been imposed in accordance with the law, in relation to an adult who was thirty years old. Moreover, the possibility for the applicant to join his mother and brother in the United States of America did not depend on the Bulgarian authorities but on the immigration policy of that country. Lastly, there had been no impediments on the applicant's relatives to visit him in Bulgaria.

41. The applicant did not submit observations.

42. The Court considers that this complaint 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.

43. However, in view of the finding of a breach of Article 2 of Protocol No. 4, the Court does not consider it necessary to examine the travel ban imposed on the applicant also by reference to Article 8 of the Convention (see *Riener*, § 134; *A.E. v. Poland*, §§ 53-54; and *Pfeifer*, § 62, all cited above, and contrast *İletmiş v. Turkey*, no. 29871/96, §§ 42-50, ECHR 2005-XII, and *Paşaoğlu v. Turkey*, no. 8932/03, §§ 41-48, 8 July 2008, where the Court examined prohibitions to travel abroad under Article 8 of the Convention and not under Article 2 of Protocol No. 4 because the latter had been signed but not ratified by Turkey).

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

44. The applicant complained that in examining his legal challenge to the ban the courts had not reviewed the proportionality of this measure.

45. The Court considers that this complaint falls to be examined under Article 13 of the Convention, which provides as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

46. The Government did not comment on this complaint in their observations.

47. The applicant did not submit observations.

48. The Court considers that this complaint 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.

49. Where there is an arguable claim that an act of the authorities may infringe an individual's right under Article 2 § 2 of Protocol No. 4, Article 13 of the Convention requires the national legal system to give him or her the effective possibility of challenging the measure complained of and of having the relevant issues examined with sufficient procedural safeguards and thoroughness, thus making it possible for the individual concerned to put forward all arguments impacting on the proportionality – in the Convention sense of the word – of the measure (see *Riener*, §§ 138 and 142, and *Pfeifer*, § 67, both cited above).

50. Having regard to its findings in relation to the travel ban imposed on the applicant, the Court considers that his complaint under Article 2 § 2 of Protocol No. 4 was arguable. It must therefore be determined whether he had at his disposal a remedy complying with the above requirements.

51. The chief issue here seems to be whether the courts examined the applicant's requests and ensuing appeals with sufficient thoroughness and

with reference to the factors relevant to the justification of the ban under the Convention (see *Pfeifer*, cited above, § 71). As can be seen from their rulings (see paragraphs 12 and 14 above), they treated as irrelevant the applicant's arguments which bore on the justification for the measure, being concerned solely with the ban's formal validity and specifically holding that they could not scrutinise the authorities' discretionary assessment of the need for the ban – the main point raised by the applicant (see paragraphs 11 and 13 above) and a key part of the balancing exercise required under Article 2 § 3 of Protocol No. 4. A procedure which, by reason of the limited scope of review, does not afford a possibility to deal with the substance of an arguable complaint under the Convention cannot satisfy the requirements of Article 13 (see *Riener*, cited above, §§ 142-43, and, *mutatis mutandis*, *Glas Nadezhda EOOD and Anatoliy Elenkov v. Bulgaria*, no. 14134/02, §§ 69-70, ECHR 2007-XI, and *C.G. and Others v. Bulgaria*, no. 1365/07, § 62, 24 April 2008, with further references).

52. There has therefore been a violation of Article 13 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

53. 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."

54. The applicant did not submit a claim for just satisfaction.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 2 of Protocol No. 4;

3. *Holds* that there is no need to examine the complaint under Article 8 of the Convention;

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

Done in English, and notified in writing on 27 November 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early Registrar	Ineta Ziemele President