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Contact: Clare Ovey
Tel: 03 88 41 36 45

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Meeting: 1310th meeting (March 2018) (DH)

Item reference: Action plan (20/02/2018)

Communication from Bulgaria concerning the case of MARINOVA AND OTHERS v. Bulgaria (Application No. 33502/07)

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Réunion : 1310^e réunion (mars 2018) (DH)

Référence du point : Plan d'action

Communication de la Bulgarie concernant l'affaire MARINOVA ET AUTRES c. Bulgarie (Requête n° 33502/07) (*anglais uniquement*)

ACTION PLAN

on the Implementation of the Judgments of the ECHR in the Group of cases Marinova and Others v. Bulgaria

I. List of cases

Application	Case	Judgment of	Final on
33502/07	MARINOVA AND OTHERS V. BULGARIA	12/07/2016	12/10/2016
18312/08	ZDRAVKO STANEV V. BULGARIA (No. 2)	12/07/2016	12/10/2016

II. Introduction:

These cases concern the proportionality of interference with the freedom of expression of the applicants, Bulgarian citizens, as a result of their convictions for defamation of civil servants (violation of Article 10).

III. Individual measures

1) Payment of Compensations:

All sums awarded by the Court were transferred to the applicants' bank accounts respectively on 27.12.2016 (to Ms. Marinova, Mr. Findulov and Mr. Stanev) and on 06.01.2017 (to Mr. Zlatanov).

2) Other Individual Measures:

Following the entry into force of the present judgments, the Supreme Prosecutor's Office of Cassation initiated proceedings in front of the Supreme Court of Cassation (SCC) for the renewal of the domestic cases of the applicants.

SCC issued decisions for Ms. Marinova's case - on 15 March 2017, for Mr. Findulov's case - on 04 April 2017, for Mr. Zlatanov's case - on 23 February 2017, and for Mr. Stanev's case - on 24 January 2017. With them it quashed the sentences of the lower instances, declared all applicants innocent and rejected the claims for damages in full (see Appendix 1).

The Government believe that no further individual measures seem necessary.

IV. General measures

1) Publication and Dissemination of the Judgments

The full translations of the judgments are available on the Ministry of Justice website at <http://www.justice.government.bg/47/2638/> and <http://www.justice.government.bg/47/1628/>.

The judgment on *Marinova and Others* was communicated to the National Institute of Justice with a proposal to be included in the magistrates' training in the future.

The translations of the judgments were sent to the respective competent national courts (the Burgas, Kavarna, Tervel and Stara Zagora Regional Courts and the Burgas, Dobrich and Stara Zagora District Courts) by letters dated 06 and 07 April 2017.

2) Proportionality of the interference:

In its judgment the Court examined the issue of proportionality by analysing the nature and exact manner of communication of the statements, the contexts in which they were made, the extent to which they affected the officials concerned, and the severity of the sanctions imposed on the applicants. It reached the conclusion that the statements were made in the exercise of the right for a private person to report alleged irregularities, they did not pass the limits of acceptable criticism, they were not made publicly, and there were serious consequences for the applicants including criminal and administrative sanctions as well as substantial monetary obligations.

In September 2016, the Ministry of Justice initiated a working group for amendments in the Criminal Code, one of its tasks being amendments in the provisions concerning insult and defamation (Articles 146-148a of the Criminal Code). The proposed amendments included:

- abolition of the minimum amounts of fines in art. 146 and 147;
- abolition of the automatic aggravated qualification, if the victim of defamation or insult is a civil servant under Art. 148 (1) p. 3 in connection with (2) of the Criminal Code;
- non-punishability in case the perpetrator acted legally with the purpose to protect public or private interests;
- decrease of the minimum amounts of fines in art. 148, para 1, p. 4, para 2 and art. 148a
- amendments of art. 78a (release of criminal liability and imposition of administrative punishment) in cases concerning insult or defamation of state officials who exercise authority in their official capacity.

Due to the political crisis in the autumn of 2016 and the pro-term parliamentary elections in March 2017, the activity of the working group was held up and subsequently terminated. A new working group was created in February 2018 particularly with regard to the necessary legislative amendments under the present group of cases. Its first session will be held in the beginning of March 2018.

Conclusion

The Government will keep the Committee of Ministers duly informed on any future developments with regard to individual and general measures.

The Republic of Bulgaria underlines its willingness to continue to follow the main principles and values laid down under the Convention.

Sofia, February 20, 2018