

Programme

Workshop on the execution of judgments of the European Court of Human Rights concerning conditions of detention and effective remedies to challenge these conditions¹

Sofia, 18 - 19 December 2014

Background information:

The European Court of Human Rights has rendered a number of judgments finding conditions of detention in Bulgaria incompatible with the Convention requirements. Given the continuous flow of new applications in this area, the European Court communicated in March 2014 six applications concerning poor conditions in several Bulgarian prison facilities. In its communication, the European Court raised a number of issues, among others, the question of whether the facts of the cases have revealed the existence of a systemic problem calling for the application of the pilot judgment procedure.

The pilot judgment procedure was developed by the European Court as a technique of identifying structural problems underlying repetitive cases and of giving indications of the type of remedial measures needed to solve these shortcomings. The examples of pilot judgments concerning conditions of detention are *Ananyev and others v. Russian Federation* and *Torreggiani v. Italy*. In the latter case, the Court gave one year to Italy for introducing a remedy or combination of remedies which will provide redress in respect of violations of the Convention resulting from prison overcrowding.

The implementation of the judgments is supervised by the Committee of Ministers which examined the cases concerning conditions of detention against Bulgaria on several occasions. The latest decision on these cases dates back to June 2013. The Committee of Ministers acknowledged, on the one hand, the efforts of the Bulgarian authorities to solve the systematic problem of overcrowding and, on the other hand, considered that further measures are necessary, in particular concerning the current situation in prisons for men. In this context, the Committee of Ministers encouraged the authorities to develop further the use of alternative measures to imprisonment, to improve substantially material conditions of detention and to set up a preventive remedy to challenge conditions of detention at the domestic level.

¹ Simultaneous interpretation will be ensured from/into English and Bulgarian.

Objective:

The Workshop aims at providing support to the Bulgarian authorities in their reflection on possible avenues to be taken to implement the judgments of the European Court concerning conditions of detention. It is expected that the presentations and the discussions will help to identify a number of possible concrete measures in this area. The Workshop will focus on the preventive and compensatory remedies to challenge conditions of detention.

Day 1: 18 December 2014**10:00 – 10:20****Opening remarks***Chairperson:**Ms Milena Kotzeva, Government Agent of Bulgaria*

- Opening remarks by the Deputy Minister of Justice (tbc) (10 min)
- Opening remarks by Mr Fredrik Sundberg, Council of Europe (10 min)

10:20 – 12:00**Session I:****Case-law of the European Court of Human Rights***Chairperson:**Ms Milena Kotzeva, Government Agent of Bulgaria*

10:20 – 11:15

Case-law of the European Court of Human Right concerning conditions of detention with a particular emphasis on the case-law against Bulgaria by Mr Evgueni Boev, lawyer at the Registry of the European Court of Human Rights

11:15 – 12:00

Discussion (Questions & Answers)

12:00 – 13:30

*Lunch Break***13:30 – 17:15****Session II:****Effective preventive and compensatory remedies to challenge conditions of detention***Chairperson:**Mr Fredrik Sundberg, Deputy Head of the Department for the Execution of Judgments of the European Court of Human Rights*

13:30 – 13:50

Introduction to the reflection on possible preventive and compensatory remedies by Mr James McManus

13:55 – 14:15

The Italian experience in setting up the domestic remedies to challenge conditions of detention by Mr Mauro Palma

14:15 – 15:00

Discussion

15:00 – 15:20

Coffee break

- 15:30 – 15:50 Reflection on how to improve the existing compensatory remedy by Ms Tanya Kutzarova, judge at the Supreme Administrative Court of Bulgaria
- 15:55 – 16:15 Reflection on the possible preventive remedy to challenge conditions of detention in Bulgaria by Ms Maria Dimitrova, Government Agent of Bulgaria
- 16:15 – 17:15 *Discussion*

17:15 End of the first day

Key issues to be discussed:

- *Preventive remedy able to put a halt to any situation deemed in breach of Article 3 of the European Convention in relation to conditions of detention*
- *Compensatory remedy enabling detainees to receive compensation for periods of detention in conditions in breach of Article 3 of the European Convention in relation to conditions of detention*

Day 2: 19 December 2014

9:00 - 13:30

Session III: Combating further prison overcrowding

Chairperson: Mr Sava Petrov, prosecutor

- 9:00 – 9:20 Introduction to the reflection on possible measures to combat prison overcrowding by Mr James McManus
- 9:20 – 9:40 The Italian experience in reducing prison overcrowding by Mr Mauro Palma
- 9:40 – 11:00 *Discussion*
- 11:00 – 11:20 *Coffee break*
- 11:20 – 11:40 Reflection on possible avenues to be explored and concrete measures to be taken to combat prison overcrowding by Mr Rosen Zhelyazkov, Director General of Directorate of the Execution of Sentences
- 11:40 - 12:15 *Discussion*
- 12:15 - 12:30 Conclusions by Mr Fredrik Sundberg, Council of Europe
- 12:45 – 13:30 *Lunch*

13:30 End of the Workshop

Key issues to be discussed:

- *The need for increased cooperation within the criminal justice system*
- *Providing new detention facilities and renovating old ones*
- *Prisoner and detainee allocation policy*
- *Alternatives to detention, including extending parole*

Relevant documentation:

- Report drawn up by Mr James McManus to support the Bulgarian authorities in the implementation of the *Kehayov* group of cases;
- Communication by the European Court of Human Rights issued on 20 March 2013;
- Compilation of selected decisions and related notes of the Committee of Ministers relevant for the supervision of the execution of judgments concerning conditions of detention;
- Action Plan of the Bulgarian authorities on the implementation of the *Kehayov* group of cases concerning conditions of detention.
- Inadmissibility decision of *Stella and others v. Italy* issued on 16 September 2014.
