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Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

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Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Report (27/11/2024)

Communication from Bulgaria concerning the group of cases of STOINE HRISTOV v. Bulgaria (II) (Application No. 36244/02)

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Réunion : 1514^e réunion (décembre 2024) (DH)

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Communication de la Bulgarie concernant le groupe d'affaires STOINE HRISTOV c. Bulgarie (II) (requête n° 36244/02) (*anglais uniquement*)

ACTION REPORT

on the Implementation of the Judgment of the ECtHR in the case of

Stoine Hristov v. Bulgaria (II)

Application no. 36244/02

I. Case description

The case concerns the excessive length of criminal proceedings, which were initiated by the relevant prosecutor's office in Sofia and unfolded before the Sofia district Court and the Sofia Court of Appeal, which were among the most overburdened courts (violation of Articles 6 § 1).

II. Individual measures

The proceedings have ended. The applicant received just satisfaction for moral damages and costs and expenses. In view of the above, the Government consider that at present no further individual measures seem possible or necessary.

III. General measures

1. Compensatory remedies introduced after the pilot judgments *Dimitrov and Hamanov and Finger*.

In 2012 the authorities introduced an administrative compensatory remedy (Chapter 3a in the Judiciary Act) and a judicial compensatory remedy (Section 2b of the State and Municipalities Liability for Damage Act) for breaches of the right to examination and determination of the case within a reasonable time. On 18 June 2013, the Court adopted two inadmissibility decisions in the cases of *Valcheva and Abrashev* and *Balakchiev and Others* in which it was found that, taken together, the two remedies could be considered effective. The examination of the pilot judgments was closed by the Committee by Final Resolution CM/ResDH(2015)154.

2. Acceleratory remedies in criminal proceedings:

In 2017 the Code of Criminal Procedure was amended to remove the possibility of automatically closing an investigation due to the length of its duration and to introduce instead an acceleratory remedy accessible to both the accused and the victim.

At the pre-trial investigation stage, this remedy could be used if, depending on the gravity of the offence, more than six months or more than two years have passed since the bringing of the pretrial charge.

At the judicial stage, it could be used if more than two years have elapsed since the beginning of the proceedings at first instance or more than one year on appeal. It does not seem possible to use this remedy to complain about delays before the Supreme Court of Cassation. If the competent court establishes an unjustified delay, it will set a deadline for performing the necessary actions.

The Committee decided to continue the examination of the functioning of the acceleratory remedy in criminal proceedings in the S.Z / Kolevi group.

3. Measures aimed at reducing the length of criminal proceedings in general:

The new Code of Criminal Procedure (in force since 2006) has made the use of short procedures more widely applicable, introduced strict time-limits at the pre-trial investigation stage and limited the referrals of cases. In September 2015, the Committee therefore decided to close the examination of certain cases relating to the number of hearings held before the less overburdened criminal courts.

In addition, a 2016 reform limited to three months the duration of the preliminary inquiry before the opening of pre-trial investigation. In view of all the above reforms, the Committee decided, by Final Resolution CM/ResDH(2017)57, to close the examination of cases in which delays were caused by long periods of inactivity at the pre-trial stage.

As regards certain other causes of delays closely linked to the effectiveness of the investigation, the Committee took note of the authorities' commitment to continue the execution process in the context of the S.Z./ Kolevi group of cases.

Finally, to limit the impact of the investigation on the suspect before bringing charges against him/her, a reform of July 2017 provided that a decision to open a criminal investigation should not mention the suspect's name.

4. Measures aimed at ensuring the expeditiousness of the proceedings before the most overburdened courts:

The analysis of the statistics of the Supreme Judicial Council (hereinafter "SJC") shows that only certain jurisdictions, most of them located in Sofia, have high caseload.

a) Sofia District Court

As regards the Sofia District Court, calculations made on the basis of information from the SJC's annual statistics¹ show that the clearance rate² for all types of criminal cases for 2023, 2022, 2020, 2019 was slightly above 100 % and only for 2021 it was slightly below 100 %. The disposition time for all types of criminal cases in 2023 was approximately 102 days (approximately 116 days in 2022).

As regards the examination of publicly prosecuted cases (category not including some types of short proceedings), the clearance rate has been constantly above 100 % for the past six years; the pending cases in the end of the year and the disposition time decreased between 2018 and 2023. The disposition time in 2023 was 212 days. While this is just an average theoretical time taken by a court to resolve all pending cases and some cases are likely to be examined for longer than 212 days, this good average theoretical time for publicly prosecuted cases and the increased number of judges in that court (see below) suggests that the court is overall well-equipped to deal with its case-load in a timely manner and to meet the requirements of the case-law of the European Court's in this regard.

Sofia District Court – Criminal Law Divisions-overall number of all types of criminal cases - Appendix No. 77 of the respective SJC statistics			
	New cases	Resolved cases	Clearance rate (%) calculated for the purpose of this action report (not featuring in the SJC tables)
2023	17888	18508	103.46 %
2022	16692	18242	109.28 %
2021	18136	18063	99.60 %
2020	17244	17579	101.94 %
2019	20418	21049	103.09 %

¹ [Statistical reports of the Supreme Judicial Council](#), 2019-2023

² A clearance rate of over 100% means that on a yearly basis the number of resolved cases had exceeded the number of new cases.

Sofia District Court – Criminal Law Divisions-publicly prosecuted cases- Appendix 71 of the respective statistics of the SJC						
Year	New cases	Resolved cases	Pending in the end of the year	Clearance rate (%)	case turnover ratio	disposition time
	SJC statistics			calculated for the purpose of this action report (not featuring in the SJC tables)		
2023	2478	2653	1539	107,06	1,72	212
2022	2357	2650	1715	112,43	1,54	237
2021	2437	2492	2048	100,76	1,21	301
2020	2193	2257	1934	102,91	1,16	314
2019	2552	2675	2007	104,81	1,33	274
2018	3013	3202	2183	106,27	1,47	248

b) Sofia City Court

As to Sofia City Court, the clearance rate for all types of criminal cases for 2019 and 2022 is slightly above 100 %, while for 2020, 2021 and 2023 it is slightly below this threshold. The disposition time for all types of criminal cases was 57 days in 2023 (67 days in 2022).

i) First instance publicly prosecuted cases

As regards **first instance publicly prosecuted cases** (not including some types of short proceedings), the clearance rate was below 100 % in 2020 and 2021 during the Covid pandemic, but it has been above 100 % the in 2018, 2019, 2022 and 2023. The lower clearance rate during the Covid pandemic led to an increase of the cases pending in the end of the year. A further increase occurred in 2022, which appears to be the result of the closure of the Specialised Criminal Court (SpCC). The SpCC dealt as first instance court with complex cases on organised crime and corruption; all cases in which trial had started were transferred to the Sofia City Court together with approximately 10 judges.³ In 2023, the number of the pending cases before the Sofia City Court in the end of the year slightly decreased.

The disposition time increased between 2018 and 2022 and decreased slightly in 2023 as compared to 2022; in 2023 the disposition time was around 250 days. In 2023, out of 534 finalised cases, 157 were finalised by a judicial act on the merits; 251 were finalised by some form of plea bargain, 8 were returned for further investigation and 118 were terminated on other grounds. While 250 days is just a theoretical time needed to resolve all pending publicly prosecuted first instance cases and some cases are likely to be examined for longer than 250 days, this disposition appears reasonable when examined in the context of the Sofia City Court, which has specific jurisdiction and deals with some of the most complex first instance cases in the country; and which inherited a considerable part of the cases of the Specialised Criminal Court, closed in the second half of 2022.

ii) Second instance publicly prosecuted cases

As regards the **second instance cases publicly prosecuted cases**, the clearance rate was well below 100 % in 2021 during the Covid pandemic and also somewhat below 100 % in 2023 but was above 100% in 2018, 2019, 2020, 2022. The overall number of pending cases in the end of the year decreased between 2018 and 2023. The disposition time increased between 2018 and 2023, but this should be seen against the background of considerable decrease in the number of newly registered cases, entailing a decrease in the number resolved cases, which could mean that the nature of the caseload had evolved. While further analysis is needed to understand the above changes, it appears that a

³ On 30 June 2022, the SpCC had 190 pending cases according to the SJC statistics (Appendix 39 of the statistics for the first half of 2022). Part of these cases were transferred to the Sofia City Court.

disposition time of 223 days at second instance is sufficiently good for publicly prosecuted cases (which category does not include some short proceedings), bearing in mind that almost 90 % of this category of cases were resolved by a judicial act on the merits in 2023.⁴ This means that there is a closer correspondence between the theoretical disposition time and the time needed in practice to resolve publicly prosecuted cases at second instance.

In any event, the authorities consider that because of the increased number of judges (see below) the Sofia City Court is overall well-equipped to deal with its caseload in criminal matters in a timely manner and thus meet the requirements of the case-law of the European Court's in this regard.

Criminal Law Divisions- Sofia City Court – overall number of all types of cases – Appendix No. 46 of the respective SJC statistics

	New cases	Resolved cases	Clearance rate (%) calculated for the purpose of this action report (not featuring in the SJC tables)
2023	7448	7364	98,87%
2022	5739	5783	100,77%
2021	5128	4896	95,47%
2020	4821	4767	98,87%
2019	5390	5411	100,38%

Sofia City Court- Publicly prosecuted criminal cases – First instance Appendix no. 39 of the respective SJC statistics

Year	New cases	Resolved cases	Pending end of the year	Clearance rate (%)	Case turnover ration	Disposition time
	SJC statistics			calculated for the purpose of this action report (not featuring in the SJC tables)		
2023	531	534	366	100,56 %	1,459016	250,1685
2022	504	515	369	102,18 %	1,395664	261,5243
2021	526	505	323	96 %	1,563467	233,4554
2020	481	422	302	87,73 %	1,397351	261,2085
2019	493	502	243	101,82 %	2,065844	176,6833
2018	504	547	252	108,53 %	2,170635	168,1536
2017	586	553	276	94,36 %	2,00362	182,17
2016	574	592	243	103,13	2,436	149,835

⁴ In 2023, 424 out 474 second instance publicly prosecuted cases ended with a judicial act on the merits by the Sofia City Court.

Sofia City Court – Publicly prosecuted criminal cases – <u>Second instance</u> - Appendix 42 of the relevant SJC statistics						
Year	New cases	Resolved cases	Pending end of the year	Clearance rate (%)	Case turnover ration	Disposition time
SJC statistics				calculated for the purpose of this action report (not featuring in the SJC tables)		
2023	493	474	290	96,14	1,634483	223,3122
2022	498	529	271	106,22	1,95203	186,9848
2021	602	540	302	89,7	1,788079	204,1297
2020	545	572	240	104,95	2,383333	153,1469
2019	737	775	267	105,15	2,902622	125,7484
2018	1104	1243	350	112,59	3,551429	102,7755

c) Sofia Court of Appeal

As regards the Sofia Court of Appeal, the clearance rate for all types of criminal cases is constantly near or above 100 %. The disposition time in 2023 for all types of criminal cases was 45,96 days.

The clearance rate for publicly prosecuted criminal cases has been constantly above 100 % since 2019. While the overall number of pending cases and the disposition time increased slightly between 2018 and 2023, it should be kept in mind that in 2022 the Sofia Court of Appeal inherited significant part of the cases of the closed Specialised Criminal Court of Appeal concerning organised crime and corruption. Part of the judges of the closed Specialised Criminal Court of Appeal also joined the Sofia Court of Appeal. The disposition time and the pending cases increased in 2022, but started decreasing again in 2023 and was 193 in 2023, which appears as a good theoretical time for the resolution of the often serious and complex cases examined by the Sofia Court of Appeal, bearing in mind that around 95 % of this category of cases were resolved by a judicial act on the merits in 2023.⁵ This means that there is a closer correspondence between the theoretical disposition time and the time needed in practice to resolve publicly prosecuted cases at second instance.

The authorities consider that this court is overall well-equipped to deal with its caseload in criminal matters in a timely manner.

Sofia Court of Appeal– Criminal Law Divisions- overall number of all types of criminal cases - Appendix № 7 of the respective SJC statistics			
	New cases	Resolved cases	Clearance rate (%) calculated for the purpose of this action report (not featuring in the SJC tables)
2023	1542	1580	102.46 %
2022	1479	1462	98,85 %
2021	1397	1424	101.93 %
2020	1431	1429	99.86 %
2019	1481	1524	102.90 %

⁵ In 2023, 272 out 286 second instance publicly prosecuted cases ended with a judicial act on the merits by the Sofia Court of Appeal.

Sofia Court of Appeal - Criminal Law Divisions- publicly prosecuted cases – Appendix 5.						
Table 3 of the respective SJC statistics						
	New cases	Resolved cases	Pending end of the year	Clearance rate (%)	case turnover ratio	disposition time
	SJC statistics			calculated for the purpose of this action report (not featuring in the SJC tables)		
2023	275	286	153	104	1.869281046	195
2022	271	278	164	102.5830258	1.695121951	215
2021	226	241	90	106.6371681	2.677777778	136
2020	228	236	105	103.5087719	2.247619048	162
2019	278	285	113	102.5179856	2.522123894	145
2018	279	259	120	92.8315412	2.158333333	169

The Supreme Judicial Council has already implemented some of the measures announced in 2015, such as the adoption of more precise statistical and qualitative criteria for the workload of judges within the system of random assignment of cases. Moreover, renovated buildings were made available to the Sofia District Court in 2015 and 2017.

As of the end of 2023, the number of judicial positions in the district courts with the most considerable workload has increased compared to the end of 2018, in particular in the Sofia District Court, but also in the Burgas, Varna and Plovdiv district courts. While the theoretical number of positions is higher than the number of available judges, due to reasons such as maternity leave or secondment, the increase of the positions as a rule translates in practice in a higher number of available judges.

In the Sofia City Court, in the period 2018-2022 both the actual number of available judges and the total number of positions constantly increased. It could be noted that in 2022 the Sofia City Court inherited some of the cases of the former Specialised Criminal Court, which stopped functioning at that time; part of the judges of the former court also joined the Sofia City Court. In 2023 seven judicial posts remained unoccupied (as compared to 6 in 2022; 25 in 2021; 24 in 2020; 20 in 2019 and 38 in 2018). The other major high-volume courts do not have high number of judicial vacancies.⁶

Sofia City Court⁷

Year	Actual number of junior judges	Actual number of judges	Actual number of non-judicial staff	Total theoretical positions for junior judges	Total theoretical places for judges	Theoretical number of non-judicial staff
2023	17	156	464	33	163	498
2022	19	157	476	32	163	499
2021	25	126	436	32	151	451
2020	20	127	423	31	151	430
2019	17	131	412	29	151	421
2018	16	107	400	25	145	411

⁶ [Statistical reports of the Supreme Judicial Council](#), 2018-2023

⁷ See the annual reports of the Sofia City Court for [2023](#) (p. 4), [2022](#) (p.4), [2021](#) (p.4), [2020](#) (p.4) and [2019](#) (p.3) and [2018](#) (p. 7).

Sofia District Court⁸

Year	Number of functioning judicial formations in the end of the year	Actual number of occupied posts (including judges on maternity leave, seconded judges, etc.)	Total places for judges
2023	179	213	214
2022	177	206	213
2021	175	213	213
2020	173	-	207
2019	172	-	207
2018	164	-	194

The authorities have already completed some of the steps to implement the “reform of the judicial map” which aims, among other things, to improve the speed of the proceedings before the most overburdened courts. In addition, they continue taking short-term measures, such as the transfer of places, as evidenced by the overall increase of judicial positions and judges in the high-volume courts.

The available data shows that the disposition time for criminal cases is significantly lower than the COE Median, meaning that these cases are generally resolved within a reasonable time frame and excessive length of the proceedings is less likely to occur.⁹

Criminal Cases	Instance	Disposition time in days for 2022	COE Median for 2022
	Highest Instance	90	101
	2 nd Instance	66	110
	1 st Instance	61	133

5. Other organisational measures for speeding the work of the courts

In 2022, the procedure to integrate voice-to-text software advanced even further, aiming to accelerate the creation of judicial acts through dictation by automatically converting oral speech to written text.

Additionally, in 2021 email summoning, with certain procedural modalities, had been introduced in both civil and criminal proceedings.

Certain buildings are being renovated to create additional workspace and court rooms for courts currently housed in the main Judicial Palace in Sofia; once the renovation works are finalised, this could allow speedier examination of cases.

6. Overall assessment of the current situation

The Government consider that the very good clearance rate and disposition time of the Sofia District Court, the balanced clearance rate and good disposition time of the Sofia Court of Appeal and the reasonable disposition time in the Sofia City Court, as well as the increased number of judges in these courts (including the fact that additional criminal law judges joined the Sofia City Court) and in other high-volume courts demonstrate that clear progress has been achieved, which sufficiently addresses

⁸ This table is prepared on the basis of the annual reports of the Sofia District Court for [2018](#), [2019](#), [2020](#), [2021](#), [2022](#) and [2023](#).

⁹ [European judicial systems CEPEJ Evaluation Report, 2024 Evaluation cycle \(2022 data\), Part 2 Country profiles, Bulgaria](#), p. 38 and following

the outstanding questions identified in the decisions of the Committee of December 2017, adopted in the Kitov group of cases (CM/Del/Dec(2017)1302/H46-9).

As regards the Sofia City Court, the authorities consider that this court is overall well-equipped to deal with its caseload in criminal matters in a timely manner.

As regards the second instance publicly prosecuted criminal cases of the Sofia City Court, the government consider that the various indicators do not raise any particular question regarding the reasonable time requirement.

As regards the indicators concerning the first instance publicly prosecuted cases of the Sofia City Court, account should be taken of the fact that this court examines some of the most complex cases in the country and that it absorbed considerable part of the cases of the closed Specialised Criminal Court in the second half of 2022, which were also complex and that some time is needed to finalise these cases. Seen in this context, the relevant indicators do not appear concerning. In any event, the Government consider that this court has the necessary resources to deal with its current caseload and that any questions regarding the treatment of complex criminal cases is closely linked to the question of the effectiveness of the trial stage in criminal matters, which are also examined in the S.Z. case.

The Government is determined to continue consolidating the results achieved, including through further work on the judicial map, more expedient judicial competitions, creating conditions for speedier examination of cases through practical measures (e.g., as regards the timely preparation of forensic reports), or other practical measures related to the functioning of case-management systems, equipment and availability of court rooms, regular review of procedural rules, etc. It is also determined to monitor the situation of the Sofia courts, based *inter alia* on statistics collected by the SJC every six months, and to take further measures in the event of specific difficulties. The Government will draw in the context of its future reform efforts on the resources available in the Council of Europe.

Finally, as regards the aspects that are also of relevance for the effectiveness of criminal investigations (including the functioning of the acceleratory remedy, the availability of forensic experts, the possibility to introduce the separation of criminal proceedings at the trial stage, or other measures to avoid that criminal cases become delayed or prescribed, etc.), the Government will continue providing information in the context of the supervision of the S.Z. group of cases.

Conclusion

The Government consider that sufficient individual and general measures have been adopted in this case. In view of that, the examination of the present case could be considered for closure.

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