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

Item reference: Action Plan (16/10/2024)

Communication from Bulgaria concerning the case of Pengezov v. Bulgaria (Application No. 66292/14)

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

Référence du point : Plan d'action (16/10/2024)

Communication de la Bulgarie concernant l'affaire Pengezov c. Bulgarie (requête n° 66292/14) (**anglais uniquement**)

DGI

16 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH**ACTION PLAN****On the Execution of the Judgment of the ECHR in the case
PENGEZOV v. Bulgaria
application № 66292/14****I. Introduction:**

This case concerns the insufficient scope of judicial review carried by the Supreme Administrative Court (SAC) in the period 2015-2016 of a decision of the Supreme Judicial Council (SJC) to suspend the applicant, a judge, from his duties, because of pre-trial charges against him, to preserve the authority of the judiciary (violation of Article 6 § 1). The prolonged suspension from duties of the applicant, for two and a half years, without a possibility to request the lifting of that measure, disproportionately interfered with his right to respect for his private life (violation of Article 8).

The Court considered that the interference with the applicant's rights was the result of the cumulative effect of various factors. The decision of the SJC was not accompanied by sufficient safeguards, *inter alia* because it did not set out any real reasons as to the necessity of that measure and because of the inability of the applicant to appear to present his arguments before the SJC. The review by the SAC was limited in scope and focused on formal legality of the suspension decision, without an independent analysis of the facts or consideration of the reasonableness of the prosecutorial decision to bring pre-trial charges against the applicant (despite the lack of judicial review of pre-trial charges). The Court furthermore highlighted the absence of specific criteria for the suspension of a magistrate in the law and in the internal directives of the SJC; the absence of a review of the proportionality of the suspension measure by the SAC; the lack of any time limits for the application of the suspension measure; the absence of genuine response to the applicant's arguments. It considered that the absence of any verification by the SAC whether the prosecution which justified the removal was arbitrary, abusive or lacking in factual basis, risks placing judges at the mercy of charges which may be the product of prosecutorial abuse and poses an inherent risk to the independence of judges.

II. Individual measures

The sums awarded in this case in respect of non-pecuniary damage and costs and expenses were transferred to the applicant on 6th March 2024.

Therefore, it appears that no further specific individual measures are needed as regards the established violations.

III. General measures

The ECHR's judgment was translated in Bulgarian and it is available on the Ministry of Justice official website <http://www.justice.government.bg>¹ recently was transferred to the HUDOC database. The judgment was also officially disseminated to the SAC, the Sofia City Court, the

¹ <https://www.justice.government.bg/home/index/48312690-3f31-497b-88ba-3ee5e458e500>

SJC, the Prosecutor's office of Republic of Bulgaria, as well as to the National Institute of Justice for inclusion in the initial and ongoing trainings of magistrates.

The general measures are under assessment. The Government will analyze the current practice of the SJC and the SAC in cases of suspension from duties due to pre-trial charges against magistrates.

The Government will keep the Committee informed of the relevant new developments regarding the execution of the case.

Sofia, 16 October 2024