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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

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

Communication from an NGO (Bulgarian Helsinki Committee) (17/10/2024) concerning the case of Paketova and Others v. Bulgaria (Application No. 17808/19) and reply from the authorities (22/10/2024).

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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

Communication d'une ONG (Bulgarian Helsinki Committee) (17/10/2024) relative à l'affaire Paketova et autres c. Bulgarie (requête n° 17808/19) et réponse des autorités (22/10/2024) **[anglais uniquement]**

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

17 October 2024

Sent via E-mail

**Submission of the Bulgarian Helsinki Committee
to the Committee of Ministers for the forthcoming review
of Paketova and others v. Bulgaria
(No17808/19, Judgment of 04 October 2022)**

1. These observations are prepared by the Bulgarian Helsinki Committee (BHC) in response to the action plan submitted by the Government of the Republic of Bulgaria on 5 July 2023.
2. This case concerns the expulsion in January 2019 of the applicants, 51 Roma individuals, including children, elderly and people with disabilities, from their homes in Voyvodinovo, a village near Plovdiv, through the combined efforts of the local Bulgarian population, the village and the municipal mayors and representatives of the Government. It also concerns the failure of the competent authorities to ensure the necessary protection during the expulsion, as well as their return. As a result, the applicants were made homeless in the middle of the winter, all their houses were subsequently made uninhabitable and subsequently destroyed.
3. It has to be underlined that the 51 applicants were those who managed to submit valid applications to the Court. The rest, more than 50 other Roma from Voyvodinovo, were also expelled. Thus, the entire Roma community of that village, which was established there more than 150 years ago, was destroyed and uprooted. After their expulsion, the applicants and the other Roma, who were expelled, found refuge in different villages and cities of Bulgaria, some more than 300 km away. Some had to emigrate abroad and never returned to Bulgaria.
4. As the Court underlines in the Paketova judgment, the intent of the authorities was clear – to “cleanse” the village from its Roma inhabitants, an aim, which was ultimately achieved. There are no Roma in the Voyvodinovo neighborhood at present – only weeds, huge amounts of garbage and some construction material. The Court found violations of the Convention because “the cumulative effect of the omissions of the different relevant authorities, namely the mayors, police and prosecutor’s offices, in

terms of their positive obligations, resulted in a situation where all of the applicants had been driven away from their home and for which there had been no legal consequences” (§ 167 of the judgment).

5. The “cleansing” of the Roma neighborhood of Voyvodinovo was thus a serious crime, committed by public officials and private individuals, a hate crime, which calls for a comprehensive investigation and a severe punishment. In its short action plan of 5 July 2023 however the Government of Bulgaria does not see it that way. It states that no individual measures are necessary as “the payment of just satisfaction is such as to adequately redress the consequences of the violation found by the Court”. This has to be rejected. The small compensation awarded to the applicants by the Court cannot compensate the applicants’ anguish and suffering, the loss of their homes and of their joint community life. Moreover, payment by the Government of the just satisfaction award and leaving the perpetrators of this serious hate crime without facing any consequences, is likely to encourage other perpetrators to commit similar crimes. The appropriate measure in this case therefore should be re-examination of the criminal proceedings and bringing the perpetrators, who are well-known, to justice.
6. The Government should also consider some form of compensation or support for the permanent loss by the applicants of their homes. Their houses in Voyvodinovo were destroyed, there is no way they can return and rebuild their community life there. All of them at present face difficulties finding homes at other places. These losses and difficulties are a direct consequence of the violations, which the Court found in the present case. It should therefore be just for the Government to offer some support or compensation as a reparation.
7. In its action plan the Government is equally minimalistic with regard to general measures. It envisages translation and distribution of the judgment but no other measures. The Government is of the view that this case is “isolated” as it originated in a “specific context”. It also mentions some vague plans of the Municipality of Maritsa to use land plots for building social houses for the implementation of the National Strategy for Roma Inclusion. It is unclear what these plans have to do with the situation of the applicants in the present case as none of them at present lives on the territory of that municipality, from which they were expelled and not allowed to return in 2019.
8. The attack on the Roma community and the “cleansing” of the Voyvodinovo Roma neighborhood is not an isolated case. Several months later a similar incident took place

in Gabrovo with dozens of Roma expelled from the city and several houses destroyed by angry mobs. Similar incidents in the past took place in the villages of Podem, Stezherovo and Dolno Belotintsi. A year ago, a criminal “cleansing” of a Roma neighborhood took place in the Sofia district of Orlandovtsi (there is a pending case before the Court on this occasion). Attacks on Roma neighborhoods without “cleansing” of their inhabitants have been more frequent during Bulgaria’s democratic transition. These are well-documented cases by local and international human rights organisations. Almost without exception the perpetrators of these incidents have not been brought to justice. This suggests both a problem with the legislation and with the willingness of the law enforcement officials to investigate and punish such crimes. In terms of general measures for the implementation of the Paketova judgment, the Government of Bulgaria should consider amending the Criminal Code to deal with crimes like the present one. It should also consider amending the legislation to be able to effectively compensate violations as the one found in this case.

Recommendations

- Re-examination of the criminal proceedings and bringing the perpetrators to justice.
- Compensation or support for the permanent loss by the applicants of their homes.
- Amendments the Criminal Code to deal with crimes like the present one.
- Other amendments to the legislation to be able to effectively compensate violations as the one found in this case.

Sincerely,

Adela Katchaounova

Co-chair

of the Bulgarian Helsinki Committee

Submissions of the Bulgarian Government with respect to
a Communication from the Bulgarian Helsinki Committee in the case of *Paketova and Others*
v. Bulgaria (Application No. 17808/19)

In response to the communication of the applicant concerning the execution of the abovementioned judgment the Bulgarian Government submit the following.

1. First and foremost, it should be emphasized that the applicants' constructions were not destroyed following the events of 6 January 2019. Accordingly, the presented communication contains untrue, distorted and manipulative information. The issues that the impugned constructions were not destroyed are subject to pending applications before the European Court of Human Rights, a fact of which the Bulgarian Helsinki Committee is well aware whereas it carries out the procedural representation of the applicants before the Court. Relevant arguments as to the alleged violation of Article 8 taken alone and in conjunction with Article 14 of the Convention were submitted before the Court in the context of the ongoing proceedings. Consequently, there are no grounds to comment pending applications within a procedure before the Committee of the Ministers. Let alone there are any reasons to submit arguments within an examination that could be brought to the attention of the Court by the opposing party, which is the legal representative of the applicants under the pending applications.

2. Second, as for the allegation that some of the applicants had settled in different villages in Bulgaria, some of which were 300 km away, it should be recalled that a number of applicants possessed immovable property elsewhere even before the impugned events. Other applicants, in particular those in respect of whom an interim measure had been indicated, following the issue of the demolition orders had acquired property, in the village of Orizovo, region of Stara Zagora. That village definitely is not 300 km away of Voyvodinovo. Moreover, this argument of the Bulgarian Helsinki Committee is irrelevant since there are no data that members of the Roma community currently continue to reside in Voyvodinovo and that the necessity to move had curtailed any presumed relations with the others. Next, even in the course of the proceedings before the Court there were data that some of the applicants resided abroad. Indeed, the Court had not taken into account this information and according to its reasoning, it was sufficient to have an address registration in Voyvodinovo in order to be able to claim Convention violation. However, the information that applicants had emigrated abroad following the events of 6 January 2019 is highly speculative, uncorroborated and could not lead to the conclusion that such a conduct ensue directly of the Convention violation.

3. Third, with regard to the submissions that the compensation awarded by the Court was insufficient to reimburse the suffering sustained by the applicants, it should be taken into account that the just satisfaction awarded under Article 41 of the Convention was determined on equitable basis following a thorough assessment of the facts performed by the ECHR. The compensation was considered to provide sufficient redress as regards the consequences ensuing of the violation found. Furthermore, the applicants had not made a request under Article 43 of the Convention for the application to be referred to the Grand Chamber, which substantiates the inference that they were satisfied of the outcome of the proceedings. Accordingly, there are no grounds to seek additional compensation since the violation in no way concern the alleged “permanent loss of home”.

4. In this respect, it should be emphasized that the applicants had obtained redress with regard to the complaint for discrimination on ethnicity grounds since according to the reasoning of the SAC¹ the statement of the Deputy Prime Minister did not refer to specific individuals rather to each person, which recognizes himself/herself as representative of the impugned ethnic group. Likewise, they had obtained redress with regard to the actions of the village mayor. The conduct of the mayor of the village had already been recognised on national level by the Commission for Protection from Discrimination² as discriminatory treatment in breach of the provisions of the Protection Against Discrimination Act (PADA). The applicants have the procedural avenue to obtain redress on national level by bringing judicial proceedings under Article 74 (1) of the PADA. They are entitled to approach the court on the grounds of the aforesaid provision to be awarded compensation for the discriminatory treatment on behalf of the Deputy Prime Minister and on a separate ground for the breaches of the anti-discrimination legislation performed by the mayor of the village. Accordingly, the national legislation provides sufficient procedural possibilities to obtain pecuniary compensation.

5. Next, the Bulgarian Helsinki Committee reiterate the allegation that the applicants’ constructions were destroyed and that they could not return therein. The Government stress that this information is utterly untrue and relevant evidence in this respect was submitted to the Court in the context of the exchange of papers in the framework of the submission of observations on the admissibility and the merits on pending applications before the Court whose subject matter refers to quite similar issues. Therefore, the Government is reluctant to dig into

¹ Решение № 8085/28/06/2024 г. по адм. д. № 2122/2024 г.

² Решение на КЗД от 26/07/2022 г.

details, which might to a certain extent affect the outcome of the proceedings before the Court. Accordingly, the Committee of Ministers should take into account that specific limitations are to be envisaged while examining the execution of the Paketova and Others whereas there are pending applications before the Court having similar subject matter.

6. The Government maintain that the case of Paketova and Others is of isolated character seeing that there are no identical applications in which the Court had found Convention violation. Therefore, any reference to other examples of alleged “expel” of Roma population is irrelevant.

7. Last but not least the execution of the case at issue is pending since relatively short period and the authorities should be provided with sufficient time to consider and discuss possible general measures that should be adopted. Furthermore, the Committee of Ministers should have in mind the political situation in Bulgaria, in particular the prolonged period with interim governments and the short legislative term of the National Parliament.

Lastly, the Bulgarian Government would like to stress that the communication in question involves speculations and exaggerated comments on issues which are not subject to the supervision process. The Government find it unnecessary to further comment on these speculative allegations.

CONCLUSION

In the light of the above and the Bulgarian Government kindly invite the Committee of the Ministers to duly take into account that there are pending application before the Court with similar or identical subject matter. Consequently, any decision taken by the Committee of the Ministers might influence the outcome of the pending proceedings. Furthermore, any possible decision or submission made in the context of the examination might distort the equality of the arms of the parties in the proceedings before the Court. Having regard to the above, the Committee of the Ministers is kindly invited to take precautions not to prejudge the Court's consideration of the communicated case

21 October 2024