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Meeting: 1569th meeting (September 2026) (DH)

Item reference: Action Report (16/07/2026)

Communication from Bulgaria concerning the case of Marzouki and Others v. Bulgaria (Application No. 48636/19)

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Réunion : 1569^e réunion (septembre 2026) (DH)

Référence du point : Bilan d'action (16/07/2026)

Communication de la Bulgarie concernant l'affaire Marzouki et autres c. Bulgarie (Requête n° 48636/19)
[anglais uniquement]

**Action report on the execution of the judgment of the European Court of human
rights *Marzouki and Others v. Bulgaria* (Application No 48636/19)
delivered on 27 February 2025
Final on 27 February 2025**

DGI

16 JUIL. 2026

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Case Description:

The case concerns the refusal of entry into Bulgaria on 1 February 2018 of the first applicant, a Tunisian national, where he had his permanent residence, and his separation from the two other applicants - his daughter and the child's mother, Bulgarian nationals, which resulted in breach of the first and second applicants' right to respect for private and family life (violation of Article 8 and Article 13 in conjunction with Article 8). The European Court could not accept that the standard refusal form given to the first applicant at the border, containing general statements and not mentioning the State Agency for National Security (SANS) decision for his removal could be equated to an effective notification of that decision, allowing him to contest it in a meaningful manner and within the time-limits provided for under domestic law.

1. Individual measures

The amounts awarded in respect of just satisfaction, costs and expenses were duly paid. By a letter dated 31 July 2025, the Supreme Administrative Court (SAC) has informed the Government Agent's Office that the applicant had sought the resumption of the domestic proceedings on the grounds of the violations found by the ECHR. Judicial proceedings were opened based on the resumption request and a court hearing was scheduled for 16 October 2025. By a decision dated 27 November 2025, the SAC repealed the ruling of the SAC of 6 March 2019 and remitted the case for new examination. By a ruling dated 9 December 2025, the SAC terminated the proceedings and sent it as per the rules of the local jurisdiction to the Sofia-City Administrative Court (SCAC). According to Article 46 (2) item 2 of the Foreigners in the Republic of Bulgaria Act the orders imposing a prohibition on entering and residing in the territory of European Union Member States on the grounds of Article 10, paragraph 1, item 1 and 1a are amendable to judicial review before the relative administrative court.

By a final judgment dated 7 July 2026, the court reasoned that the defendant's main argument that the applicant attempted to acquire explosive substances in 2014 was not proven under the case. This incident occurred approximately four years prior to the issuance of the contested order in 2018, which prohibited the foreign national from entering the Republic of Bulgaria for a period of five years on the grounds that he posed a threat to national security.

The SCAC held that it should be taken into account that even if the information contained in the proposal and the SANS report contained elements of crimes under the Criminal Code, it was not disputed in the case that the appellant has no prior convictions.

Likewise, he also has not been charged with any crime, nor is there any record of breaches of the public order. According to the court, it is precisely these facts that are relevant in connection with the criterion of “the nature and seriousness of the violation committed by the appellant.” In addition, the fact that the appellant resided legally in Bulgaria for more than 10 years until 2018 and had a minor child was considered as significant. During this prolonged period, the competent authorities did not identify or prove any breaches or crimes committed by him. The Court observed that the SANS has not provided specific factual or temporal details regarding the alleged intention of the appellant to acquire explosive materials. In the light of these considerations, the court found that, in issuing the contested order, the administrative authority erred in its assessment of the balance between the foreign national’s personal interests, on the one hand, and the public interest in safeguarding national security, on the other. Applying the criteria set forth in the case of *Üner v. the N.*, the court held that the imposed measure disproportionately affects significant, defensible interests of the person concerned, including those related to his fundamental rights under Article 8 of the ECHR.

The SCAC went on to say that in light of the general principles summarized by the European Court of Human Rights, the panel was under the obligation to determine whether the petitioner actually poses a threat to national security. It examined whether the evidence presented under the case substantiated the impugned order prohibiting entry into the Republic of Bulgaria. In light of the court’s previously stated reasoning regarding the content of the internal documents, as well as the fact that the individual has no criminal convictions in Bulgaria, it was concluded that there were no compelling evidence within the meaning of Article 170, (1) of the Administrative Procedure Code. In particular, it was not proven by the administrative authority that the appellant’s personal conduct constituted a real and serious threat to the national security. Accordingly, the administrative measure imposing a ban on entry into the Republic of Bulgaria was considered to be imposed in violation of fundamental rights under Article 8 § 1 of the Convention.

The court relied on a judgment of the ECJ dated April 25, 2024, in Joined Cases C-420/22 and C-528/22 whereby it was held that Article 20 TFEU, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as precluding national legislation that requires national authorities to revoke or refuse to issue, on grounds of national security, a residence permit to a third-country national who might have a derived right of residence under that article, by merely relying on an unmotivated binding opinion from an authority with specialized functions related to national security, without strictly examining all individual circumstances and the proportionality of that decision to revoke or refuse a residence permit.

Based on the foregoing, the SCAC found that Order No. 3-332/01.02.2018 of the Chairperson of the SANS was issued in breach of the requirement that the authority has to substantiate a real and serious threat based on substantial grounds that were provided to the defense. Therefore, the court held that the contested act resulted of erroneous application of substantive law pursuant to Article 146 (4) of the Administrative Procedure Code; as such, it was unlawful and was revoked.

2. As concerns the general measures

The violations stem from the refusal of the SAC to exercise judicial review over the decision of the SANS on account of the provision of Article 61 (2) of the Code of Administrative Procedure. The impugned provision, currently repealed, read that a Communication may be effected through oral notification of the content of the act, which is to be certified by a signature of the notifying official.

In accordance with the newly adopted provision of Article 18a (7) of the same Code, the oral notification of an administrative decision has to be certified in written manner, while the addressee is entitled to ask for a paper copy.

With a view of the foregoing, it should be considered that the national law provides for sufficient guarantees against arbitrariness. Furthermore, it appears that the case under consideration is of isolated nature.

- Publication, translation and dissemination

The judgment has been translated into Bulgarian by the Ministry of Justice and has been sent to the Registry for dissemination in the HUDOC database. It was published on the web page of the Ministry of justice – www.mjs.bg, available to the general public. It has been formally notified to the Supreme administrative Court, to the border police and the SANS.

Conclusion

The Government consider to have complied with its obligation under Article 46 § 1 of the Convention since the requirements that arise from the Court's judgment are fulfilled. Therefore, the Government look forward to the Committee's decision to close the examination of the case.

Sofia, 16 July 2026