

**SECRETARIAT GENERAL**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



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Meeting: 1172 DH meeting (4-6 June 2013)

Item reference: Updated action report (22/05/2013)

Communication from Bulgaria concerning the case of Dimitrov-Kazakov against Bulgaria (Application No. 11379/03)

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Réunion : 1172 réunion DH (4-6 juin 2013)

Référence du point : Bilan d'action mis à jour

Communication de la Bulgarie relative à l'affaire Dimitrov-Kazakov contre Bulgarie (requête n° 11379/03) (**anglais uniquement**).

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## ACTION REPORT

Case DIMITROV-KAZAKOV *v. Bulgaria*

Application No 11379/03

Judgment of 10 February 2011

Final on 10 May 2011



### 1. Convention violation found

This case concerns the violation of the applicant's right to respect for his private life due to the enlistment of his name in the police records concerning the «offenders» (between 1997 and 2003) on the basis of a confidential internal instruction of the ministry of Interior from 1993 and despite the fact that no charges have ever been brought against the applicant. The Court found that the interference with the applicant's right to respect for his private life was not «in accordance with the law» within the meaning of Article 8 § 2, as the instruction of 1993 was not accessible to the public (violation of Art. 8). The Court also found that the applicant did not have an effective remedy in this respect (violation of Art. 8 taken in conjunction with Art. 13).

### 2. Individual measures

The applicant's name was struck out from the police records in 2002 (see § 11 from the Court's judgment).

The Court did not award compensation to the applicant.

No further individual measures are necessary for execution of the judgment.

### 3. General measures

#### a) main legislative amendments and administrative measures

##### i. *Violation of Article 8*

There is a new legal framework adopted after the period concerned –Ministry of Interior Act, in force from 01.05.2006 and new secondary legislation - rules, regulations, decrees, etc.

The relevant instruction of the Minister of internal affairs – No I-90/24.12.1993, was revoked in the beginning of 2002.

New decrees which regulate the order for the police registration were promulgated in State Gazette in 2003 and 2007. The Decrees were public.

Currently, Decree No Iz-701/17.03.2011 on police registration, promulgated in State Gazette on 01.04.2011, is in effect and this secondary legislation is also public.

According to the current legal framework police registration of personal data is made only when charges are brought in relation to a serious wilful crime. The relevant police authorities

*ex officio* or upon request from the person concerned are under obligation put an end to the police registration, inter alia, in the cases when the criminal proceedings at stake are discontinued or the person is acquitted (Art. 160 of the Ministry of Interior Act).

*ii. Violation of Article 13*

Chapter III Decree No Iz-701/17.03.2011 on police registration defines the rules for striking off data from the police records, including *ex officio*. Everyone can appeal against a refusal of the police authorities before the administrative courts.

The Court noted in its judgment that a domestic remedy has been introduced back in 2003 (see § 37 of the judgment).

*iii. Other relevant measures*

The Code of Ethics adopted by the Interior Ministry lists a number of rules of conduct for police officers. Special training courses are being organized for employees.

Within the Interior Ministry there is a permanent Standing Committee on Human Rights and Police Ethics, whose activities include the analysis and implementation of the ECHR decisions<sup>1</sup>.

The Commission for Personal Data Protection (hereafter “CPDP”), on the basis of the provision of Section 2 § 2 (2) and (3) of the Protection of Personal Data Act, prohibiting the further processing of data for purposes other than those for which the information was originally collected, has established a firm practice to control the police registration and in its decisions (see, for example Decision № 8 of 03.21.2007 year and Decision № 16 of 05.07.2006 year) and has already found violations of the Ministry of Interior when filling in police registrations. In both of the above-mentioned cases the CPDP considered the processing of personal data by the Ministry incorrect and illegal and the Ministry of Interior has undertaken to destroy the police registrations of the applicants.

**b) publication and dissemination of the judgment**

In addition to the legislative and other measures described above, the translation of the judgment in Bulgarian will be available soon on the Ministry of Justice website at <http://www.justice.government.bg/>. The translation of the judgment will be sent to the competent authorities through a circular letter drawing their attention on the main conclusions of the ECHR’s judgment.

Such decisions of the ECHR are included in National Institute of Justice lectures.

Moreover, the translation of this judgment in Bulgarian was published in the review edited by the Supreme Lawyers’ Council.

NGOs work on the dissemination of the decisions of ECHR on that issue. The Foundation “Access to Information” discussed the issue in its Informational Bulletin ISSN 1313-6496.

**Conclusion:** the Government considers that it has fulfilled its obligations and that no further individual or general measures are necessary in this case.

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<sup>1</sup> See the report for measures taken at [http://www.mvr.bg/NR/rdonlyres/065FFA5C-7050-4398-BDC3-FC9C083A5344/0/otchet\\_2009.pdf](http://www.mvr.bg/NR/rdonlyres/065FFA5C-7050-4398-BDC3-FC9C083A5344/0/otchet_2009.pdf) ).