

Bulgaria

EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS' JUDGMENTS

MAIN ACHIEVEMENTS IN MEMBER STATES

The present survey presents short summaries¹ of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms referring, however, also to important earlier developments.

In view of the wealth of cases closed, the selection concentrates on those which have led to changes of legislation or government regulations or the adoption of new policies or general guidelines from superior courts. As a rule, the survey does not cover information on measures aiming at providing individual redress to applicants.

The presentation is organised country-by-country and reforms are, in principle, presented in the order corresponding to the thematic domains used in the Council of Europe's specialised database HUDOC EXEC and the Committee of Ministers' Annual Reports on the Supervision of the Execution of the European Court of Human Rights' judgments.

Many reforms address issues which appear to be on-going challenges in the member State. The effects of reforms adopted at one point in time may thus need to be monitored and possibly re-evaluated as conditions change.²

¹ The summaries are the sole responsibility of the Department for the execution of the judgments of the European Court of Human Rights.

² The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued [Recommendation \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

► Actions of security forces and effectiveness of investigations

The efficiency of investigations conducted into alleged abuses was improved after the adoption of a new Criminal Procedure Code in 2006, ensuring the victims' and their relatives' active participation in the investigations. In June 2011, an amendment to the Criminal Code introduced racist or xenophobic intentions as aggravated circumstances for murder and bodily harm, thus allowing closer investigations into offences' underlying motivations (notably related to Roma³). New rules concerning the use of fire-arms by ordinary and military police were adopted in 2012 and 2016. The "absolute necessity" test for the use of force was introduced and the framework on safeguards against ill-treatment was reinforced. An amendment to the Ministry of Interior Act, in force since 1 January 2019, provides that police officers who take part in special police operations must wear individual identification numbers. When special forces are involved, the requirement to visibly display an anonymous form of identification aims at preventing impunity for serious human rights violations. In 2023, an important legislative reform introduced, *inter alia*, judicial review of refusals to open investigation for certain categories of offences and criminalisation of torture. Several outstanding issues continue to be examined in the *Dimitrov and Others* case (77938/11).

Seidova and Others
 (310/04)

Final Resolution
 CM/ResDH(2013)101

Nachova and Others
 (43577/98+)

Final Resolution
 CM/ResDH(2017)97

Tzekov (45500/99)

Final Resolution
 CM/ResDH(2016)274

Hristovi (42697/05)

Final Resolution
 CM/ResDH(2019)236

Velikova group (41488/98+)

Final Resolution
 CM/ResDH(2023)482

► Protection against ill-treatment by third parties

In 2006, strict deadlines were adopted for pre-trial investigations and their monitoring by a supervisory prosecutor. According to legislative amendments adopted in 2016, the preliminary inquiries must not exceed two months; this time-limit can only be prolonged by one month. In 2017, the introduction of an acceleratory remedy for the accused, the victims and for civil parties made the speeding up of proceedings possible. At the same time, the obligation to automatically terminate criminal proceedings after the expiry of a certain period of time (depending on the gravity of the offence) was abolished. Several outstanding issues continue to be examined in the *S.Z. group* (29263/12).

Angelova and Iliev
 (55523/00+)

Final Resolution
 CM/ResDH(2017)383

Shishkovi (17322/04)

Final Resolution
 CM/ResDH(2017)406

► Conditions of detention / remedies

Measures were taken to address poor conditions of detention, overcrowding, lack of adequate health care and restrictive penitentiary regimes. A specific prohibition of inhuman and degrading treatment of convicted prisoners was introduced in the Penal Sanctions and Detention in Custody Act of 2009 and extended explicitly to prisoners on remand in 2017. The scope of the prohibition of inhuman and degrading treatment was also extended in 2017 to cover issues related to access to prisoners' physical activities, prolonged isolation.

Yankov (39084/97)

CM/ResDH(2013)102

Evgeni Ivanov (44009/02+)

CM/ResDH(2012)164

Bochev (73481/01)

CM/ResDH(2017)382

Petyo Petkov (32130/03)

CM/ResDH(2017)257

► Right to liberty and security

Compulsory detention on remand, especially in cases of recidivism, was revoked in 1997. The provisions of the Code of Criminal Procedure relating to detention on

Nankov (28882/95)

CM/ResDH(2001)59

³ The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Cale, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "Gens du voyage", as well as persons who identify themselves as Gypsies.

remand were amended in 1999: 72 hours were determined as the maximum period of detention without judicial review, where detention on remand was requested by a prosecutor (24 hours if requested by an investigator). The review is to be decided by a single-judge court after a public hearing attended by the person accused, his counsel and the prosecutor. The guarantees were strengthened in important respects through several legislative reforms in the period 2000-2006, notably to prevent continuation of detention despite release orders and excessively lengthy detention, as well as to grant a possibility to obtain compensation for detention in violation of Article 5 of the Convention. Legislative amendments of 2023 introduced judicial review of the lawfulness of detention after conviction which allows determining whether (i) periods of pre-trial detention had been properly deducted from a prison sentence by the Prosecutor's Office; (ii) the execution of the prison sentences was time-barred.

Assenov and Others (24760/94)
[CM/ResDH\(2000\)109](#)

Evgeni Ivanov (44009/02+)
[CM/ResDH\(2012\)164](#)

Bojilov (45114/98+)
[CM/ResDH\(2012\)166](#)

Yankov (39084/97)
[CM/ResDH\(2013\)102](#)

Bochev (73481/01)
[CM/ResDH\(2017\)382](#)

Svetoslav Dimitrov (55861/00)
[CM/ResDH\(2023\)406](#)

Stoichkov (9808/02)
[CM/ResDH\(2023\)366](#)

► **Functioning of justice**

► Fairness of proceedings

Several legislative reforms between 2000 and 2011 have secured and improved the possibility to obtain the reopening of criminal cases heard *in absentia*.

Kounov (24379/02)
[Final Resolution CM/ResDH\(2008\)70](#)

Aliykov (333/04)
[Final Resolution CM/ResDH\(2014\)259](#)

► Remedies against excessive length of proceedings

The possibility to seek acceleration of pending proceedings was introduced in the Code of Administrative Procedure of 2006 and in the Civil Procedure Code of 2007. The possibility to obtain compensation for excessive length of civil and criminal proceedings was introduced in 2012. As regards the duration of preliminary investigations, the Judiciary Act was amended in 2016 so as to limit the duration of the preliminary inquiries to two months; this time-limit can be prolonged only by one month.

Finger, Dimitrov and Hamanov in the Djangofov and Kitov groups (37346/05 and 48059/06+)
[Final Resolution CM/ResDH\(2015\)154](#)

Arabadzhiev and Alexiev group (20484/05)
[Final Resolution CM/ResDH\(2017\)57](#)

► Publicity in civil proceedings involving secret surveillance material

The judicial practice in civil cases has evolved, currently ensuring the publicity of court hearings and rendered judgments where material obtained through secret surveillance is used. The legal ground which served for the classification of the court's judgment was repealed in 2013. In an interpretative decision of 2014, the Supreme Court of Cassation held in respect of an analogous provision in criminal cases that the mere fact that a case involved secret surveillance material was not sufficient to examine it in private; the public should be excluded only from steps genuinely involving State secrets; judgments in such cases must as a rule be published in their entirety.

Vasil Vasilev (7610/15)
[Final Resolution CM/ResDH\(2023\)403](#)

► **Freedom of religion**

Excessive executive interference with freedom of religion, notably direct interference with the choice of church leadership, and discrimination in the area of church registrations are no longer possible since the competence for these registrations was transferred in 2002 from the executive to the courts. The sweeping powers of the public prosecution to restore in quick and urgent cases the initial factual situation in cases, used to order eviction of religious ministers and staff who identified themselves

Boychev and Others (77185/01)
[Final Resolution CM/ResDH\(2012\)169](#)

Ivanova (52435/99)
[Final Resolution CM/ResDH\(2012\)155](#)

with the alternative Synod of the Bulgarian Orthodox Church, were based on a provision which does not exist anymore in the Bulgarian legal order. There are now rules on contesting unlawful actions and inactions of State bodies and abundant case-law effectively compensating victims of unlawful state bodies interventions. There is a long record of respecting authoritative decisions of the community on leadership and confirming the absence of inappropriate interference in the organisational autonomy of the Church by State bodies demonstrating a change in administrative practice. Issues concerning the registration of alternative Orthodox churches are currently examined in the context of the *Bulgarian Orthodox Old Calendar Church and Others v. Bulgaria* group.

An amnesty was enacted for persons convicted of refusing to perform military service in the period between the entry into force of the Constitution in 1991 and that of the Law on the replacement of military obligations by alternative service in 1998.

Hasan and Chaush
(30985/96)

[Final Resolution
CM/ResDH\(2011\)193](#)

Stefanov (32438/96)

[Final Resolution
CM/ResDH\(2004\)32](#)

*Holy Synod of the Bulgarian
Orthodox Church
(Metropolitan Inokentiy)
and Others* (412/03+)

[Final Resolution
CM/ResDH\(2023\)400](#)

► Protection of private and family life

➤ Review of expulsion orders

Judicial review of expulsion orders based on national security grounds has developed in practice and was expressly provided for in the 2007 Aliens Act. Further changes introduced in 2009 and 2011 require that before expelling a foreign national residing permanently in Bulgaria, the authorities should take into account their personal and family situation, level of integration and the strength of connections with the country of origin. Detention of foreign nationals pending expulsion was better circumscribed in 2009 through the introduction of an exhaustive and limited list of grounds for such detention, the definition of a maximum length of detention and its periodic review.

Al-Nashif (50963/99)

[Final Resolution
CM/ResDH\(2015\)44](#)

Djalti (31206/05)

[Final Resolution
CM/ResDH\(2017\)229](#)

➤ Prisoners' correspondence

The Law on the Execution of Punishments was amended in 1998 in order to protect prisoners' correspondence with, among others, the UN and Council of Europe bodies. In 2009 a new Execution of Punishments and Pre-Trial Detention Act entered into force regulating the right to correspondence and telephone use of prisoners.

Mironov (30381/96)

[Final Resolution
CM/ResDH\(2004\)15](#)

Petyo Petkov (32130/03)

[Final Resolution
CM/ResDH\(2017\)257](#)

Petrov (15197/02)

[Final Resolution
CM/ResDH\(2014\)258](#)

➤ Filiation / paternity actions

In 2020, amendments to the Family Code were adopted to provide that any person who claims to be the parent of a recognized child may contest the parental link established by recognition within one year after becoming aware of it. In its decision, the competent court shall take into account the interests of the child.

L.D. and P.K. (7949/11)

[Final Resolution
CM/ResDH\(2021\)212](#)

Furthermore, the amendments to the Family Code also extended the possibility to challenge the legal presumption of paternity beyond the current statutory one-year time-limit after learning of the child's birth to a one-year period after learning of "new circumstances" (e.g. DNA-results) but before the child concerned reached the age of majority and taking into consideration the child's best interests.

Doktorov (15074/08)

[Final Resolution
CM/ResDH\(2021/145\)](#)

➤ Secret surveillance

Significant improvements of the regulatory framework of secret surveillance was carried out through, *inter alia*, introduction of domestic judicial remedy, oversight mechanism, reinforced rules on judicial authorisation, etc. The outstanding questions concerning several shortcomings of the system and effectiveness of the domestic remedies continue to be examined in the *Ekimdzhev and Others* case (70078/12).

Association for European Integration and Human Rights and Ekimdzhev group (62540/00)
[Final Resolution CM/ResDH\(2023\)258](#)

➤ Freedom of expression

➤ Defamation

Prison sentences for insult were abolished in 2000. In July 2023 the Criminal Code was amended abolishing the automatic aggravated qualification, if the victim of defamation or insult is a civil servant, and allowed waiving of criminal liability and imposition of administrative punishment in cases concerning insult or defamation of state officials who exercise authority in their official capacity.

Raichinov (47579/99)
[Final Resolution CM/ResDH\(2011\)5](#)
Bozhkov (3316/04)
[Final Resolution CM/ResDH\(2023\)339](#)

➤ Broadcasting

Under the 2001 Radio and Television Act the Council for Electronic Media (CEM) is an independent specialized body that regulates media services. The above Act provides for a tender procedure for issuing licenses for analogue radio and television broadcasting. In 2018, the Supreme Administrative Court underlined that the scope of its judicial review comprises the validity and the justification of CEM's decisions, including compliance with the procedural rules and national law. Thus, the applicable legal framework and the resulting case-law of the Supreme Administrative Court concerning the licensing of radio and television broadcasting, today, provide sufficient safeguards and an effective remedy in that respect.

Glas Nadejda EOOD and Elenkov (14134/02)
[Final Resolution CM/ResDH\(2019\)335](#)

➤ Access to public information

The right of access to public information was strengthened. Since 2015, this right can only be refused if an affected third party has explicitly prohibited access and if there is no prevailing public interest justifying restriction.

Guseva (6987/07)
[Final Resolution CM/ResDH\(2017\)75](#)

➤ Freedom of association

To facilitate the registration of associations, this competence was transferred from the courts to the Registration Agency attached to the Ministry of Justice. The competence was limited to ensure respect of the formal requirements set by law. Possible refusals may be appealed to the regional court within seven days.

Zhechev (57045/00)
[Final Resolution CM/ResDH\(2017\)360](#)

➤ Protection of property rights

In the context of a legislative reform initiated in 2018, the 1969 Administrative Offences and Punishments Act was amended. By these amendments (which entered into force in December 2021) an avenue of complaint enabling owners of forfeited goods to participate in the relevant administrative-penal proceedings and challenge interferences with their property rights is introduced.

Microintellect OOD (34129/03)
[Final Resolution CM/ResDH\(2021\)144](#)

In 2021, the Constitutional Court declared unconstitutional a provision in the Criminal Code which provides for confiscation in favour of the State of the vehicle or means of transport used for contraband goods even when it was not the property of the

UNSPED PAKET SERVISI SAN. VE TIC A.S. (3503/08)
[Final Resolution CM/ResDH\(2023\)214](#)

perpetrator. Currently, the domestic courts do not apply this provision on the basis of the Constitutional Court's decision.

➤ **Freedom of movement**

The possibility to impose travel bans for unpaid taxes was abolished following a decision by the Constitutional Court in 2011. The provisions of the Aliens Act enacting the same ban for foreign nationals were repealed in March 2013. Since 2006 accused persons may contest an exit ban at any time during criminal proceedings.

Riener (46343/99)

**Final Resolution
CM/ResDH(2013)100**

Makedonski (36036/04)

**Final Resolution
CM/ResDH(2013)2**