

Bulgaria

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Protection of the right to life

Deaths of children placed in public care; lack of prompt and effective investigation into these deaths.

Significant progress: The material living conditions of children with disabilities have been improved since the closure of the former care homes and the opening of new family-type residential centres.

Nencheva and Others (48609/06)
Judgment final on 18/09/2013

Enhanced supervision
Status of execution

Failure to protect a woman's life in the context of repeated incidents of domestic violence, of which the authorities were informed.

Y. and Others (9077/18)
Judgment final on 05/09/2022

Enhanced supervision
Status of execution

Failure to provide adequate protection, in law and in practice, to a minor victim of domestic violence; discrimination on account of the authorities' failure to adequately address domestic violence against women.

A.E. (53891/20)
Judgment final on 23/08/2023

Enhanced supervision
Status of execution

Actions of security forces – effective investigations

Deaths, torture, ill-treatment, excessive use of force, or lack of medical assistance in due time, occurring on arrest, in police detention or in penitentiary facilities and lack of effective investigations.

Significant progress: Several significant reforms adopted concerning, *inter alia*, the “absolute necessity” test for the use of force, rules on identification of police officers participating in special operations and the reinforcement of the framework on safeguards against ill-treatment, creation of National Preventive Mechanism, judicial review of refusals to open investigation for certain categories of offences and criminalisation of torture.

Dimitrov and Others (77938/11 – former **Velikova group**)
Judgment final on 17/11/2014

Enhanced supervision
Status of execution

Lack of effective investigations into various criminal offences: rapes, unlawful confinement, incitement to prostitution.

Significant progress: important reforms of May 2023 introducing, *inter alia*, judicial review of refusals to open an investigation for certain categories of offences.

S.Z. (29263/12)
Judgment final on 03/06/2015

Enhanced supervision
Status of execution

Ineffectiveness of the investigation into the murder, in 2002, of a high-ranking prosecutor on account of the lack of guarantees in Bulgarian law for the independence of criminal investigations.

Kolevi (1108/02)
Judgment final on 05/02/2010

Enhanced supervision

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Significant progress: important reforms of May 2023 introducing a mechanism for independent investigation of a Chief Prosecutor.

Status of execution

Conditions of detention

Detention facilities and prisons: lack of appropriate medical care; prolonged application of a restrictive penitentiary regime amounting to inhuman and degrading treatment, including in combination with poor conditions of detention; lack of effective remedies.

Significant progress: The European Court has considered that the domestic remedies introduced in response to the *Neshkov and Others* pilot judgment can be regarded as effective. Overcrowding was almost entirely eradicated, and material conditions of detention were improved.

Gavazov (54659/00)
Judgment final on 06/06/2008

Harakchiev and Tolumov
(15018/11)
Judgment final on 08/10/2014

Enhanced supervision
Status of execution

Lawfulness of detention and related issues

Unsatisfactory procedures for placement in social care homes of persons with mental disorders and lack of judicial review of lawfulness of detention; inhuman conditions of placement and lack of an effective remedy in this respect; impossibility for partially incapacitated persons to request before courts the restoration of their legal capacity.

Significant progress: Following legislative reforms of 2017 persons under partial guardianship now have direct access to court to request restoration of their legal capacity.

Stanev (36760/06)
Judgment final on 17/01/2012

Enhanced supervision
Status of execution

Reception / Expulsion / Extradition

Expulsion and deportation of foreign nationals on national security grounds:

- lack of adequate safeguards in deportation proceedings and insufficient review of relevant facts;
- lack of judicial control of the expulsion measure's proportionality, notably as regards respect for family life; non-compliance with the principle of adversarial proceedings;
- lack of publicity of judicial decisions;
- lack of suspensive effect of appeals in case of risk of ill-treatment in the destination country.

Significant progress: Adoption of important legislative reform on expulsion of aliens (indication of the destination country in a legally binding act, which is amenable to judicial review; temporary automatic suspensive effect of appeals against expulsion orders based on national-security grounds, containing substantiated allegations of important risk of death or ill-treatment in the destination country, which may be prolonged by decision of the domestic courts; provisions on swift judicial review of detention pending expulsion).

C.G. and Others group (1365/07+)
Judgment final on 24/07/2008

Enhanced supervision
Status of execution

Auad group (46390/10+)
Judgment final on 11/01/2012

Standard supervision
Status of execution

M. and Others (41416/08)
Judgment final on 26/10/2011

Standard supervision
Status of execution

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Protection of private and family life

Correspondence and secret surveillance: insufficient guarantees against the arbitrary use of the powers assigned by the law on special surveillance means; absence of an effective remedy.	<i>Ekimdzhiev and Others</i> (70078/12) (former <i>Association for European Integration and Human Rights and Ekimdzhiev group</i>) Judgment final on 11/04/2022 Enhanced supervision Status of execution
Eviction or demolition of unlawfully constructed dwellings: planned enforcement of a removal order against occupants of Roma origin of an unlawful settlement in Sofia where many of them had lived for decades with the authorities' acquiescence or planned demolition concerning the home of other applicants, based on legislation not requiring any examination of proportionality for removals or demolitions.	<i>Yordanova and Others</i> (25446/06) Judgment final on 24/09/2012 <i>Ivanova and Cherkezov</i> (46577/15) Judgment final on 21/07/2016 Enhanced supervision Status of execution
Failure of the authorities to provide the applicants, Bulgarian nationals of Roma ethnic origin, with the requisite protection of their private and family life and their home in connection with demonstrations by the local population against Roma inhabitants of the village.	<i>Paketova and Others</i> (17808/19) Judgment final on 04/01/2023 Enhanced supervision Status of execution
Prolonged placement in a closed boarding school, without an assessment of the best interests of the child or measures to facilitate family reunification and lack of periodic judicial review of placement in closed boarding school.	<i>I.G.D.</i> (70139/14) Judgment final on 07/09/2022 Enhanced supervision Status of execution
Unjustified refusals of the domestic courts to grant the requests of transgender applicants for recognition of gender reassignment .	<i>P.H.</i> (46509/20) Judgment final on 27/09/2022 Enhanced supervision Status of execution
Lack of a specific legal framework providing for the recognition and protection of the applicants' union as persons of the same sex	<i>Koilova and Babulkova</i> (40209/20) Judgment final on 05/12/2023 Enhanced supervision Status of execution

Freedom of religion

Unjustified refusals to register the applicant organisations on the ground that these religious organisations had the same beliefs or practices as the Bulgarian Orthodox Church, or the names chosen by the applicant churches were similar to the name of the Bulgarian Orthodox Church.	<i>Bulgarian Orthodox Old Calendar Church and Others group</i> (56751/13) Judgment final on 20/04/2021 Enhanced supervision Status of execution
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MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

Freedom of assembly and association

Unjustified refusals by the courts to register associations aiming to achieve the recognition of "the Macedonian minority in Bulgaria", based on considerations of national security, protection of public order and the rights of others (alleged separatist ideas) and on the constitutional prohibition on associations pursuing political goals, as well as failure to meet formal legal requirements.

The United Macedonian Organisation Ilinden and Others group (59491/00+ and 34960/04+)
Judgment final on 19/04/2006

Enhanced supervision
Status of execution

Protection of property

Absence of any procedural safeguards against arbitrariness surrounding the revocation of a bank's licence in 2005 and in 2014: impossibility to challenge the withdrawal of the licence and the decisions of prosecuting authorities, affecting the bank's management, as well as the freezing of accounts of two private individuals.

Unfair insolvency proceedings on account of the lack of proper representation of the applicant's bank and of the failure by the domestic court to examine the merits of the findings of the Bulgarian National Bank regarding the applicant bank's insolvency.

Significant progress: The legal framework was amended in the context of Bulgaria's accession to the Single Supervisory Mechanism (SSM) and the adoption by the European Central Bank (ECB) of Decision (EU) 2020/1015 establishing close cooperation between ECB and the Bulgarian National Bank. As a result, in the future the examination of any appeal against a withdrawal of a banking licence will take place before the Court of Justice of the European Union whose case law ensures Convention-compliant examination, in particular concerning the proper representation of a bank for the sake of challenging the revocation of a bank's licence.

International Bank for commerce and development AD and Others group (7031/05)
Judgment final on 17/10/2016

Enhanced supervision
Status of execution

Different violations related to restitution of or compensation for property (agricultural or forestry land) nationalized during the Communist regime.

Mutishev and Others (18967/03)
Judgment final on 03/03/2010

Standard supervision
Status of execution

Lyubomir Popov (69855/01)
Judgment final on 07/04/2010

Standard supervision
Status of execution

Sivova and Koleva (30383/03)
Judgment final on 04/06/2012

Standard supervision
Status of execution

Tomov and Nikolova (50506/09)
Judgment final on 21/10/2016

Standard supervision
Status of execution

MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION

➡ *Electoral rights*

Automatic and indiscriminate ban on prisoners' voting rights enshrined in a constitutional provision.

Kulinski and Sabev (63849/09)
Judgments final on 21/10/2016

Enhanced supervision
Status of execution

Automatic and indiscriminate ban on voting rights of persons under partial guardianship enshrined in a constitutional provision.

Anatoliy Marinov (26081/17)
Judgment final on 15/05/2022

Enhanced supervision
Status of execution

➡ *Freedom of expression*

Disciplinary proceedings against a judge and disciplinary sanctions imposed on her by the Supreme Judicial Council (SJC) in retaliation against her criticism of the SJC and the executive, and an interference in the exercise of her right to freedom of expression not "necessary in a democratic society".

Miroslava Todorova (40072/13)
Judgment final on 19/01/2022

Enhanced supervision
Status of execution