Contribution by the Department for the Execution of Judgments
of the European Court of Human Rights

Introduction

The European Convention on Human Rights of 1950 (*the Convention*) was the first regional convention creating a collective guarantee for some of the rights contained in the Universal Declaration of Human Rights. The Convention system has subsequently seen, through 14 Protocols, a number of additions to the initial catalogue of rights and a number of reforms of the supervisory machinery.

An important element of the implementation of the Convention today is the right of individual petition to the European Court of Human Rights (*the Court*). In accordance with Article 46 of the Convention, the member states of the Council of Europe undertake to abide by all final judgments of the Court in cases to which they are parties. **The information below deals with the national situation as it emerges from the supervision of the execution of the judgments of the Court**.

It may be noted that since 2000 the Committee has adopted 7 recommendations to member states regarding the national implementation of the Convention (including the execution of the Court's judgments)[1].

The proper execution of the Court's judgments is supervised by the Committee of Ministers of the Council of Europe (*the Committee*).

The Committee's execution supervision aims at ensuring that:

- **Individual measures** have been taken, i.e. the applicant received, as far as possible *restitutio in integrum*, including through :

  a) the payment of any monetary *just satisfaction* (Art. 41) awarded by *the Court,* and, where necessary
  b) the adoption of further individual measures (such as the reopening of criminal proceedings, the destruction of information gathered in breach of the right to privacy, the enforcement of unenforced domestic judgments or the revocation of a deportation order issued despite a real risk of torture or other form of ill-treatment in the country of destination);

- **General measures** are adopted and implemented so as to prevent new violations similar to that/ those found and/or put an end to continuing violations. The obligation to take such measures may, depending on the violation, imply a review of legislation, government regulations and/or judicial practice. Some cases may even require constitutional changes. Remedying violations may also require other kinds of measures such as the refurbishing of a prison, an increase in the number of judges or of prison personnel or improvements of administrative arrangements or procedures. An increasingly important aspect of general

[1] *-Recommendation Rec(2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights;*
-Recommendation Rec(2002)13 on the publication and dissemination in the Member States of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights;
-Recommendation Rec(2004)4 on the European Convention on Human Rights in university education and professional training;
-Recommendation Rec(2004)5 on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights;
-Recommendation Rec(2004)6 on the improvement of domestic remedies.
- Recommendation Rexc(2008)2 on improved domestic capacity for rapid execution of the judgments of the European Court of Human Rights;
-Recommendation Rec(2010)3 on effective remedies for excessive length of proceedings.

measures over the last years aims at ensuring that there exists, as required by the Convention (notably Art. 13) effective domestic remedies to ensure that further violations may be adequately redressed already by domestic authorities.

The Committee's supervision is carried out mainly at its regular Human Rights meetings (presently four a year). It is assisted notably by a special Secretariat, the Department for the Execution of judgments of the Court.

The Committee completes its examination of each case by adopting a final resolution. In the course of its supervision, *the Committee* may adopt interim resolutions and other forms of decisions, notably in order to provide information on the state of progress of the execution or, where appropriate, to express concern and/or to make suggestions with respect to the execution.

Interim and Final Resolutions are accessible through www.echr.coe.int on the HUDOC database. Decisions and other relevant execution information is available on the Internet site:

- of the Committee (http://www.coe.int/t/cm/humanrights_EN.asp), and/or

- of the Department for the Execution of judgments of the European Court (http://www.coe.int/t/dghl/monitoring/execution/default_EN.asp).

Since 2008, the Committee adopts an *annual report* on its activities under Article 46 of the Convention. The annual reports (for years 2007 and 2008) are available at the:
http://www.coe.int/t/DGHL/Monitoring/Execution/Documents/Publications_en.asp

The information presented below consists first of a list of the main pending cases for execution supervision, followed by an extract from the last public notes on the Committee's agenda with more detailed information on the execution situation in individual cases (highlighting both outstanding individual measures and more general reforms, whether legislative or other).

Explanatory note as to certain references made

In the presentations below the "meeting number" indicates the last Human Rights meeting at which the case was examined and/or the next meeting at which the case will be examined. The "meeting section" indicates whether the examination of the case concerns:

- *a first assessment of the execution measures needed (Section 2),*

- *the payment of any just satisfaction awarded (Sections 3.A or 3.B) or of default interest due (3.A.int)*

- *the adoption of individual and/or general execution measures (Section 4.2 (if only individual measures are examined at the meeting the case will be in a special Section 4.1) or if the cases raise more important problems section 4.3)*

- *the adoption of different measures already on their way, such as legislative reforms (Section 5.1), changes of case-law (Section 5.2), publication and awareness raising measures aimed at promoting the direct effect of ECHR case law (Section 5.3), or other measures, notably administrative nature or changes of practice (Section 5.4).*

Pending cases against Bulgaria

Application Number	English Case Title	Date of Judgment	Date of Definitive Judgment	Meeting Number	Meeting Section
61360/00	NEDELCHO POPOV	22/11/2007	22/02/2008	1086	4.1
43577/98	NACHOVA AND HRISTOVA	06/07/2005	06/07/2005	1086	4.2
47797/99	KEHAYA AND OTHERS	12/01/2006	12/04/2006	1086	4.2, 3.Aint
50479/99	STANIMIR YORDANOV	18/01/2007	18/04/2007	1086	4.2
47579/99	RAICHINOV	20/04/2006	20/07/2006	1086	4.2
49429/99	CAPITAL BANK AD	24/11/2005	24/02/2006	1086	4.2
51343/99	ANGEL ANGELOV	15/02/2007	15/05/2007	1086	4.2
50963/99	AL-NASHIF AND OTHERS	20/06/2002	20/09/2002	1086	4.2
55861/00	SVETOSLAV DIMITROV	07/02/2008	07/05/2008	1086	4.2, 3.Aint
59491/00	UMO ILINDEN AND OTHERS	19/01/2006	19/04/2006	1086	4.2
64209/01	PEEV	26/07/2007	26/10/2007	1086	4.2
71127/01	BEVACQUA AND S.	12/06/2008	12/09/2008	1086	4.2
19612/02	KALKANOV	09/10/2008	09/01/2009	1086	4.2
14134/02	GLAS NADEZHDA EOOD AND ANATOLITY ELENKOV	11/10/2007	11/01/2008	1086	4.2
77568/01	PETKOV	11/06/2009	11/09/2009	1086	4.2, 3.A
31211/03	GAVRIL GEORGIEV	02/04/2009	02/07/2009	1086	4.2, 3.B
412/03	HOLY SYNOD OF THE BULGARIAN ORTHODOX CHURCH	22/01/2009	05/06/2009	1086	4.2, 3.Aint
60018/00	BONEV	08/06/2006	08/09/2006	1086	4.2
61951/00	DEBELIANOVI	29/03/2007	29/06/2007	1086	4.2
31001/02	KAMBUROV	23/04/2009	23/07/2009	1086	4.2, 3.B
48191/99	KUSHOGLU	10/05/2007	10/08/2007	1086	4.2
75157/01	SADAYKOV	22/05/2008	22/08/2008	1086	4.2, 3.B
43278/98	VELIKOVI	15/03/2007	09/07/2007	1086	4.2
57045/00	ZHECHEV	21/06/2007	21/09/2007	1086	4.2
45114/98	BOJILOV	22/12/2004	22/03/2005	1086	4.2
16085/02	GEORGIEVA	03/07/2008	03/10/2008	1086	4.2
55523/00	ANGELOVA AND ILIEV	26/07/2007	26/10/2007	1086	4.2
41488/98	VELIKOVA	18/05/2000	04/10/2000	1086	4.2
41035/98	KEHAYOV	18/01/2005	18/04/2005	1086	4.2
65755/01	ILIYA STEFANOV	22/05/2008	22/08/2008	1086	4.2
30985/96	HASAN AND CHAUSH	26/10/2000	26/10/2000	1092	4.1

46343/99	RIENER	23/05/2006	23/08/2006	1092	4.2
57785/00	ZLINSAT	15/06/2006	15/09/2006	1092	4.2
56891/00	BORISOVA	21/12/2006	21/03/2007	1092, 1086	4.2, 3.Aint
75022/01	PETYO POPOV	22/01/2009	22/04/2009	1092	4.2
74012/01	GAVRIL YOSIFOV	06/11/2008	06/02/2009	1092, 1086	4.2, 3.Aint
33738/02	NENOV	16/07/2009	16/10/2009	1092, 1086	4.2, 3.A
391/03	ISYAR	20/11/2008	20/02/2009	1092	4.2
3991/03	BULVES	22/01/2009	22/04/2009	1092	4.2
22627/03	ZAHARIEVI	02/07/2009	10/12/2009	1092, 1086	4.2, 3.A
15239/02	VELTED-98 AD	11/12/2008	11/03/2009	1092, 1086	4.2, 3.Aint
59548/00	DODOV	17/01/2008	17/04/2008	1092	4.2
67719/01	MIHALKOV	10/04/2008	10/07/2008	1092, 1086	4.2, 3.B
39084/97	YANKOV	11/12/2003	11/03/2004	1092	4.2
23530/02	IORDAN IORDANOV AND OTHERS	02/07/2009	02/10/2009	1086, 1092	3.A, 4.2
53321/99	KARAMITROV AND OTHERS	10/01/2008	10/04/2008	1092	4.2
44079/98	UMO ILINDEN AND IVANOV	20/10/2005	15/02/2006	1092	4.2
63778/00	ZELENI BALKANI	12/04/2007	12/07/2007	1092	4.2
73281/01	GULUB ATASANOV	06/11/2008	06/02/2009	1092, 1086	4.2, 3.B
54252/00	MANOLOV AND RACHEVA-MANOLOVA	11/12/2008	11/03/2009	1092	4.2
42908/98	KIRILOVA AND OTHERS	09/06/2005	09/09/2005	1092	4.2
44076/98	ANGELOV	22/04/2004	22/07/2004	1092	4.2
72001/01	ATANASOVA	02/10/2008	02/01/2009	1092, 1086	4.2, 3.Aint
37104/97	KITOV	03/04/2003	03/07/2003	1092	4.2
45950/99	DJANGOZOV	08/07/2004	08/10/2004	1092	4.2
15158/02	KIRILOV	22/05/2008	22/08/2008	1100	4.2
52435/99	IVANOVA	12/04/2007	12/07/2007	1100	4.2
50899/99	KRASIMIR YORDANOV	15/02/2007	15/05/2007	1100	4.2
66455/01	BULINWAR OOD AND HRUSANOV	12/04/2007	12/07/2007	1100	4.2
62540/00	ASSOCIATION FOR EUROPEAN INTEGRATION AND HUMAN RIGHTS & EKIMDZHIEV	28/06/2007	30/01/2008	1100, 1086	4.2, 3.Aint
9808/02	STOICHKOV	24/03/2005	24/06/2005	1100	4.2
68490/01	STANKOV	12/07/2007	12/10/2007	1100	4.2
73481/01	BOCHEV	13/11/2008	13/02/2009	1100, 1086	4.2, 3.B
15197/02	PETROV	22/05/2008	22/08/2008	1100	4.2

Main cases or group of cases against Bulgaria

Case name :	**NEDELCHO POPOV v. Bulgaria**	**Appl N° :**	**61360/00**
Judgment of :	22/11/2007		

Final on :	22/02/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.1(01/06/2010)		
Last exam :	1072-4.1(01/12/2009)		
First exam :	1028-2.1(03/06/2008)		

NOTES OF THE AGENDA

61360/00 Popov Nedelcho, judgment of 22/11/2007, final on 22/02/2008
The case concerns the infringement of the applicant's right of access to a court competent to examine the regularity of his dismissal in 1997 from the post of adviser, which he occupied in the Bulgarian Council of Ministers (violation of Article 6§1). At the material time, the applicant could not institute proceedings for improper dismissal as, under Article 360§2 (2) (a) of the Labour Code, domestic courts were not competent to examine claims concerning dismissal from certain posts in the Council of Ministers, in particular those occupied by the applicant. By a decision of 30/04/1998, the Constitutional Court ruled this restriction to be contrary to both the Constitution and Article 6§1 of the Convention.
Referring to the decision of the Constitutional Court, the European Court concluded that the restriction on the applicant's right of access to a court was not justified.
Individual measures: The European Court awarded the applicant just satisfaction in respect of non-pecuniary damage.
• *Bilateral contacts are under way to assess the need for individual measures*.
General measures: Article 360§2 (2) (a) of the Labour Code was repealed in 2001 in the part concerning the categories of employees referred to in the judgment of the European Court. At present, these categories of employees have access to a court for work-related disputes which concern them.

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), to supervise individual measures.

Latest development

Case name :	**NACHOVA AND HRISTOVA v. Bulgaria**	**Appl N° :**	**43577/98**
Judgment of :	06/07/2005		
Final on :	06/07/2005		
Violation : paid		Payment status :	Paid outside time limit, interest
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	940-2(11/10/2005)		

NOTES OF THE AGENDA

43577/98+ Nachova and others, judgment of 06/07/2005 - Grand Chamber
45500/99 Tzekov, judgment of 23/02/2006, final on 23/05/2006
The Nachova and others case concerns the killing, on 19/07/1996, of the applicants' relatives, Mr Angelov and Mr Petkov, by a military policeman who was trying to arrest them. The two men were conscripts in the Bulgarian army, both aged 21 and of Roma origin, who were wanted by the military police following their escape from the place where they were serving short terms of imprisonment for repeated absence without leave. Neither man was armed. The European Court considered that Mr Angelov and Mr Petkov were killed in circumstances in which the use of firearms was not justified and that the relevant law and practice on the use of force during arrest, falls well short of the level of protection of the right to life required by the Convention (violation of Article 2). The case also concerns the lack of effective investigation by the Bulgarian authorities into the deaths of the two men (violation of Article 2) and finally to the authorities' failure to fulfil their procedural obligation to investigate whether or not possible racist motives may have played a role in the events (violation of Article 14 taken in conjunction with Article 2).
The Tzekov case concerns ill-treatment inflicted on the applicant by police officers in 1996, when they shot him in the course of a police operation aiming at stopping his vehicle to check his identity. It also concerns the lack of an

effective investigation by the Bulgarian authorities of this ill-treatment caused by the police officers' actions (procedural and substantive violations of Article 3). The European Court noted in particular that the National Police Act permitted the use of firearms by police officers in order to arrest an individual, even in circumstances where such a measure is not strictly necessary and proportionate.

Individual measures:

***1) Nachova case**:* The investigations into the killings had been closed by the prosecutor in 1997. Following the European Court's judgment, the Prosecutor General's Office indicated that a judgment of the European Court should be considered a new fact and should be taken into account in the evaluation of the possibility of cancelling the decision to close the criminal proceedings in the applicants' case. In accordance with these conclusions the criminal file, together with a copy of the judgment of the European Court, were sent to the Prosecutor's Office in Pleven, competent in this situation.

• *Information provided by the Bulgarian authorities (letter of 20/03/2008):* A new investigation has been opened into the killing of the applicants. Most of the concrete investigative steps omitted during the initial investigation, but pointed out by the European Court in its judgment as having been necessary, have been taken. More concretely, these comprise: a) additional questioning of the witnesses in this case, as well as questioning of two additional eye-witnesses; b) investigative experiments on the scene of the events, including reconstituting the facts and examining the shot trajectory, the possibility to see and hear, the exact placement of the bodies of the victims and of the officer who shot during the shooting; and c) new forensic and ballistic reports, which have confirmed the findings of the previous ones. Further, special attention has been paid during the additional investigation on whether the officer who shot had acted in compliance with the regulations governing the use of firearms. The competent prosecutor concluded in a decision of 30/11/2007 confirmed by the appellate prosecutor in a decision of 23/01/2008 that the officer had acted in accordance with the rules applicable at the time governing the use of firearms (Unpublished Regulations on the functioning of military police issued in 1994).

The authorities indicated that they have contacted the Prosecutor General's Office and are in the process of clarifying whether the decision of the appellate prosecutor is definitive.

• *Information is urgently awaited about this question.*

• *Assessment: underway*

2) Tzekov case: The Supreme Prosecutor's Office of Cassation expressed the view that the criminal investigation could not be reopened as the decision to discontinue it had been taken by a prosecutor and not by a court. At the same time, the decision to discontinue the proceedings was examined *ex officio* by the competent appellate prosecutor. In 2007 the appellate prosecutor upheld this decision as lawful and justified. Furthermore, the expiry of the limitation period was emphasised.

• *Assessment: in these circumstances, no further individual measure appears necessary in the Tzekov case.*

General measures:

1) Publication and dissemination: The judgments of the European Court in both cases have been published on the website of the Ministry of Justice www.mjeli.government.bg.

The Nachova judgment has been also published in the new quarterly journal *European Law and Integration*, which is published by the Ministry of Justice in 1000 copies and distributed to magistrates and academics. It has been sent to the military courts and prosecuting organs, as well as to the Ministry of the Interior and to the Ministry of Defence, with a circular letter explaining the most important conclusions of the European Court, and in particular the fact that the Convention prohibits the use of fire-arms during arrest of fugitives who are not dangerous (a copy of this letter was provided).

• *Confirmation is urgently awaited of the dissemination of the Tzekov judgment to the competent investigation organs in order to draw their attention to the deficiencies of the initial enquiry conducted in this case.*

***2) Training on the Convention's requirements in respect of use of force and firearms**:* The authorities consider that the seminars on the Convention and the European Court's case-law organised by the National Institute of Justice are relevant measures for the execution of these cases (more than 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in the period 2001-2006, of which 4 seminars on Articles 2, 3, 13 and 14).

In June 2006, the Ministry of Justice asked Prosecutor General's offices in courts of appeal for information on complaints concerning allegations of ill-treatment inflicted during arrest lodged between 2002 and 2004, and on their outcome. A report drawn up by military prosecutors was provided concerning the results of the investigations of cases of allegations of police violence for 1999-2005 (see the cases of the Velikova group, 41488/98, Section 4.2,).

3) Use of force and firearms by the military police during arrest (violation of the substantive aspect of Articles 2 and 3): Following the European Court's judgment, the Ministry of Defence adopted a regulation defining the circumstances in which military police may use force and firearms. This regulation provides an obligation of a careful assessment of the nature of the offence committed by an individual and the threat that he or she poses.

• *Are expected: A copy of this regulation and the translated summary of the relevant provisions in order to assess the necessity of adopting further measures as regards regulations concerning military police.*

4) Use of force and firearms by the police during arrest (violation of the substantive aspect of Articles 2 and 3): In October 2007, the Directorate for Legislation within the Ministry of Justice expressed the view that an appropriate legal framework on the use of force during arrest by ordinary police already existed and that the violations found by the European Court were due to the incorrect application of this legal framework.

• *Assessment: In this context it should be noted that the European Court clearly stated in the Tzekov case that the legal framework governing the use of force during arrest by ordinary police falls short of the level of protection of the right to life and the prohibition of ill-treatment required by the Convention.*

• *Information is requested in particular about what measures the Bulgarian authorities envisage taking to bring the National Police Act in line with the requirements of the European Court in the area of use of fire-arms.*

5) Violations of Articles 2 and 3 (procedural aspect): As regards the improvement of investigations carried out when individuals have been killed or injured as a result of the use of force, a great part of the general measures adopted or under way within the framework of the Velikova case are also relevant to the present case.

6) Violation of Article 14 taken in conjunction with Article 2: The authorities are of the opinion that no amendment of the Criminal Code is needed to guarantee fulfilment of prosecutors' obligation to determine whether or not possible racist motives played a role in an excessive use of force during arrest.

The Ministry of Justice indicated in the circular letter, sent to the military authorities and to the Ministry of Defence for the dissemination of the judgment (see above), that Bulgaria's obligations under the Convention can be fulfilled in an appropriate manner by drawing up instructions for the attention of prosecution authorities indicating their obligation to investigate possible racist motives in similar cases. Subsequently, the Ministry of Defence, in particular its service responsible for the military police, brought the judgment to the attention of the competent authorities. Concrete instructions were given to the military police in order to prevent similar violations in the future.

The Government Agent asked the Military Prosecutor of Appeal whether his office has drawn up instructions for the attention of investigating bodies in line with the judgment of the European Court.

• *Assessment of the instructions issued in 2000 on the use of force and firearms by the military police is under way.*

• *Copies of the other instructions mentioned above are awaited.*

The Deputies decided to resume consideration of these items at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

Case name :	**KEHAYA AND OTHERS v. Bulgaria**	**Appl N° :**	**47797/99**
Judgment of :	12/01/2006		
Final on :	12/04/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-3.Aint(02/03/2010)		
First exam :	970-2(04/07/2006)		

NOTES OF THE AGENDA

47797/99+ Kehaya and others, judgment of 12/01/2006, final on 12/04/2006 and judgment of 14/06/2007, final on 14/09/2007 (Article 41)

The case concerns the failure by the Bulgarian courts to respect the final character of a judgment of 1996, ordering the restitution of certain plots of land to the applicants (violation of Article 6§1). In 2000, following proceedings brought by the local forest authority, the Supreme Court of Cassation reconsidered the issues determined in 1996 and found that the applicants were not legally entitled to the land in question. The Supreme Court of Cassation found that the decision of 1996 did not have *res judicata* effects to the forest authority, as this decision was given in proceedings which were administrative by their nature, with the participation of the restitution commission.

The case also concerns a breach to the peaceful enjoyment of the applicants' property, as the Supreme Court of Cassation's decision of 2000 had the effect of depriving them of their possession, in violation of the principle of legal certainty. Furthermore, one of the applicants was fined in 1997 for having used the land which belonged to him according to the decision of 1996 (violations of Article 1 of Protocol No. 1).

Individual measures: Under Article 41, the respondent state was to return to the applicants the ownership and possession of the plots of land at issue or, failing such restitution, the state was to pay the applicants within the same deadlines certain sums corresponding to the value of the property. The Bulgarian authorities did not return the land at issue to the applicants, but instead paid the amounts awarded by the European Court as compensation for pecuniary damage in case of non-restitution, as well amounts awarded in respect of non-pecuniary damages and for costs and expenses, into bank accounts specially opened for that purpose in the name of the applicants.
• *Assessment: No other measure appears necessary.*
General measures: The European Court noted in its judgment that according to the case-law prevalent at the material time, judgments concerning restitution of agricultural land (under the Agricultural Land Act of 1991) do not have *res judicata* effects. The contrary was stated in a decision of the Supreme Administrative Court of 2003 (decision 1021/2003, see §45 of the judgment of the European Court).
• *Information required: on the present practice followed by the Bulgarian courts as regards this question and, if appropriate, on the measures envisaged to guarantee that disputes decided by final decisions given in the framework of land restitution proceedings are not reconsidered as regards the same parties (the state should be considered as one party, even if it is represented by different authorities).*
In any event, it seems necessary to publish the judgment of the European Court and send it out to the relevant courts in order to allow them to take into account the considerations of the Court and to draw their attention to their obligations under the Convention.

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**STANIMIR YORDANOV v. Bulgaria**	**Appl N° :**	**50479/99**
Judgment of :	18/01/2007		
Final on :	18/04/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

50479/99 Stanimir Yordanov, judgment of 18/01/2007, final on 18/04/2007
The case concerns the unfairness of the applicant's trial in that he was unable to appear and defend his case, either in person or through his lawyer, before the courts which had ruled on his case (violation of Article 6§§1 and 3 c). In February 1997 the applicant and his lawyer could not attend the hearing at which his appeal against an administrative fine was examined, as the summons to attend the hearing had been sent to the applicant's former address, despite his lawyer's repeated requests that it be sent to her offices. His application for a retrial was granted by the Sofia City Court, which, although acknowledging that the applicant had not been summoned in the proper manner, examined his appeal on the merits again without summoning him or his lawyer to appear and upheld the administrative decision imposing a penalty on the applicant.
Individual measures: The European Court awarded the applicant just satisfaction for non-pecuniary damage.
• *Information is expected on the current situation of the applicant, in particular, whether the applicant may request the reopening of the proceedings in question.*
General measures: Under Section 59 of the Administrative Offences and Punishment Act, an administrative sanction shall be subject to appeal before a district court, which is obliged under Section 61 to summon the offender. At the material time, the decision of the district court was not subject to appeal by the interested party; it was only the public prosecutor who had the possibility to seize the competent (regional) court with a request for review (Sections 65-69). In such proceedings, the competent court examined the case either in a public hearing with the participation of the parties or *in camera*. In 1998, the procedure of review at the request of the public prosecutor was repealed and replaced by an appeal on points of law. In the framework of these proceedings, the Supreme Administrative Court now holds a public hearing with the participation of the parties (Section 217§2 of the Code of Administrative Procedure).

• *Assessment: given that to a great extent the violation in this case was the result of a bad application of the procedural rules in force, the dissemination of the European Court's judgment to all administrative courts appears sufficient in terms of execution measures.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on individual and general measures, in particular the dissemination of the European Court's judgment.

Latest development

Case name :	**RAICHINOV v. Bulgaria**	**Appl N° :**	**47579/99**
Judgment of :	20/04/2006		
Final on :	20/07/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	976-2(17/10/2006)		

NOTES OF THE AGENDA

47579/99 Raichinov, judgment of 20/04/2006, final on 20/07/2006
The case concerns a violation of the applicant's freedom of expression due to his being sentenced in 1998 to a fine and to a public reprimand for having insulted a high-ranking official (violation of Article 10). The applicant, who was at that time head of the division in the Ministry of Justice responsible for financial support declared at a working meeting, with regard to a decision entrusting some financial matter to the Deputy Prosecutor-General, that in his opinion the latter was not honest and added that he could prove it. Taking into account the circumstances of the case, the European Court considered that the reaction of the Prosecutor-General who insisted on the applicant's prosecution *ex officio* and the ensuing conviction were disproportionate and failed to answer any pressing social need.
Individual measures: The European Court awarded just satisfaction including the amount of the fine paid by the applicant. The public reprimand was never enforced because the relevant prescription period expired. Furthermore, the applicant was rehabilitated automatically with the effect of erasing the sentence and its consequences (Article 88a of the Criminal Code).
• *Confirmation is awaited of the annotation of this rehabilitation in the applicant's criminal record.*
General measures:
• *Assessment: As the violation does not appear to reveal any structural problem concerning the protection of the freedom of expression in Bulgaria and having regard to the development of the direct effect given by Bulgarian courts to the Convention and to the Court's case-law, the publication and dissemination of the European Court's judgment to competent courts appear to be sufficient measures for execution.*
The judgment of the European Court has been published on the website of the Ministry of Justice www.mjeli.government.bg.
• *Information is expected on its dissemination.*
Moreover, it has been noted that following modifications of the Criminal Code introduced in 2000, insult may now only be prosecuted privately (§§30 and 50 of the European Court's judgment) and imprisonment may not longer be imposed for this kind of offences.

The Deputies decided to resume consideration of this item at the latest at their 1st meeting (2009) (DH), in the light of further information to be provided on individual measures, namely the applicant's criminal record, as well as general measures, namely the dissemination of the European Court's judgment.

Latest development

Subsequently the Committee of Ministers decided to postpone consideration of this case to the 1086th meeting (June 2010) (DH).

Case name :	**CAPITAL BANK AD v. Bulgaria**	**Appl N° :**	**49429/99**
Judgment of :	24/11/2005		
Final on :	24/02/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	966-2(06/06/2006)		

NOTES OF THE AGENDA

49429/99 Capital Bank AD, judgment of 24/11/2005, final on 24/02/2006
The case concerns the unfairness of certain proceedings resulting in the compulsory liquidation of the applicant bank in 2005 (violations of Article 6§1). The domestic courts dealing with the case considered themselves to be bound by the National Bank's finding of insolvency, without examining it on its merits. Furthermore, being represented by persons (the special administrators and later the liquidators) dependent on the other party to the proceedings (the National Bank), the applicant bank was unable to properly defend its position and protect its interests.
Finally, the fact that the applicant bank had, under the applicable law, been given no opportunity to challenge the withdrawal of its licence also infringed its right to peaceful enjoyment of its possessions (violation of Article 1 of Protocol No. 1).
Individual measures: The applicant bank has not existed since April 2005. Its entire undertaking was purchased by another bank which contracted to pay certain amounts to the creditors.
Following the judgment of the European Court, three companies, which are shareholders in the Capital Bank (and who represented it before the European Court) initiated several sets of proceedings aimed at quashing the decisions resulting in its liquidation.
They informed the Committee of Ministers of their concerns as regards the refusal of the Supreme Administrative Court and the prosecution authorities to quash these decisions:
- the Supreme Administrative Court refused to quash the decision of the National Bank withdrawing the applicant bank's licence (the decision which triggers liquidation proceedings), on the gound that the claimant, a shareholder, was not directly concerned by this decision and that it had already decided the issue in 2002 (Decisions Nos. 8088/17.07.2006 and 11643/23.11.2006). Furthermore, the Supreme Administrative Court declared inadmissible the shareholders' complaint against the tacit refusal of the National Bank itself to reconsider the withdrawal of the applicant bank's licence, since this decision had been subject to judicial control in 2002 (according to domestic law, tacit refusal by the administration to annul its own decisions may only be appealed before administrative courts if the decision concerned had not been appealed before a court – Decision No. 659/22.01.2007).
- the Prosecutor General's office refused to request the reopening of the liquidation proceedings, noting that at the time of these proceedings, one of the courts dealing with the case examined the substance of the issue of the applicant bank's insolvency (see §31 of the judgment of the European Court), and that the bank's entire undertaking was purchased by a third party of good faith (decisions of 07/04/2006, 30/05/2006 and 14/07/2006). It should be noted in this respect that Article 231§1, letter “z” of the Code of Civil Procedure provides such a possibility in principle.
- the Supreme Court of Cassation rejected the request for reopening of the liquidation proceedings (decision of 12/04/2007).
The applicants submitted detailed information to complain about the current situation.
• *The Secretariat is currently examining the information submitted in order to evaluate the need for further measures.*
General measures :
1) Violation of Article 6§1 and of Article 1 of Protocol No. 1 (lack of independent review of the withdrawal of the applicant bank's licence): A new law on credit institutions was adopted in July 2006. Unlike the law applicable at the material time (Article 21§5 of the Banks Act), which explicitly excluded from the scope of judicial review a decision of the National Bank revoking a bank's licence on the ground of insolvency, the new legislation provides the possibility of appealing such decisions before the Supreme Administrative Court. The law on credit institutions entered into force on 01/01/2007.
• *Assessment: in these circumstances, it appears that no further measure is necessary concerning this issue.*
2) Violation of Article 6§1 (lack of independent representation of the applicant bank during the liquidation proceedings): Following a modification of the Bank Insolvency Act introduced in July 2006, shareholders owning more that 5% of the shares of a bank are entitled to participate in proceedings concerning its liquidation. However, the provision (Article 16§1 of the Bank Insolvency Act) according to which only the special

administrators appointed by the National Bank, the prosecutor and the representatives of the National Bank are allowed to appeal against the competent court's decision to initiate liquidation proceedings, remains unchanged.
• *Information is awaited on the measures envisaged by the authorities in this respect.*

3) Publication and dissemination: The judgment of the European Court was published on the website of the Ministry of Justice http://www.mjeli.government.bg.
• *Confirmation is awaited of its dissemination to the National Bank and the competent courts.*

The Deputies decided to resume consideration of this item at the latest at their 1043rd meeting (2-4 December 2008) (DH), for examination of individual and general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**ANGEL ANGELOV v. Bulgaria**	**Appl N° :**	**51343/99**
Judgment of :	15/02/2007		
Final on :	15/05/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

51343/99 Angelov Angel, judgment of 15/02/2007, final on 15/05/2007
The case concerns the lack of access to a court due to the unmotivated dismissal of the applicant's petition for review (cassation) by the Supreme Court of Cassation (violation of Article 6§1).The European Court noted that the order dismissing the applicant's petition as time-barred could not be seen as a justified enforcement of a legitimate procedural limitation on the applicant's right of access to a court as it did not indicate the dates on which the relevant time-limit had started to run and expired and the date on which the appeal had been submitted.
Individual measures: The applicant was sentenced to a year's imprisonment, suspended. In addition his driving licence was suspended for a year.
Under the Code of Criminal Procedure (Articles 421§2 and 422§1, p. 4) when a judgment of the European Court has found a violation of the Convention which is decisive for the criminal proceedings, the Prosecutor General is obliged to request the reopening of the proceedings in question within one month from the date upon which he took cognisance of the judgment of the European Court. In addition the European Court awarded the applicant just satisfaction for non-pecuniary damage.
• *Information is expected on the current situation of the applicant and whether the Prosecutor General has requested the reopening of the proceedings.*
General measures: The European Court noted that the order of the Supreme Court of Cassation dismissing the applicants petition for review (cassation) as time-barred was made on a standard form which did not mention any dates (§18).
• *The authorities are invited to provide information on measures taken or envisaged in order to comply with the requirements of the European Convention.*
• *Information is awaited concerning the publication of the European Court's judgment and its dissemination to relevant courts and authorities, to raise domestic courts' awareness of the Convention's requirements as they result from this case.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**AL-NASHIF and Others v. Bulgaria**	**Appl N° :**	**50963/99**
Judgment of :	20/06/2002		
Final on :	20/09/2002		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	863-4.2(02/12/2003)		

NOTES OF THE AGENDA

50963/99 Al-Nashif and others, judgment of 20/06/02, final on 20/09/02
65028/01 Bashir and others, judgment of 14/06/2007, final on 14/09/2007
1365/07 C.G. and others, judgment of 24/04/2008, final on 24/07/2008
54323/00 Hasan, judgment of 14/06/2007, final on 14/09/2007
61259/00 Musa and others, judgment of 11/01/2007, final on 09/07/2007

These cases concern violations of the applicants' right to respect for their family life as Mr Al-Nashif, Mr Bashir and Mr C.G. were deported and Mr Hasan and Mr Musa were ordered to leave the territory between 1999 and 2005 pursuant to a legal regime that did not provide sufficient safeguards against arbitrariness (violations of Articles 8 and 13).

The European Court considered that even in cases where national security is at stake, as in all these cases, the concept of lawfulness requires that measures affecting fundamental human rights must be subject to some form of adversarial proceedings before an independent body competent to review the reasons for the decision and relevant evidence, if need be with appropriate procedural limitations on the use of classified information (see §123 of the Al-Nashif judgment). The Court noted that in four of the cases, none of the applicants had had access to independent supervision of the measures imposed on them, since at the material time such measures taken on grounds of national security were excluded from judicial review. Furthermore, in some of the cases the applicants were not informed of the factual basis of the measures against them and some of the orders at issue did not disclose any reasons to the applicants, to their lawyers or to an independent body competent to examine the matter.

In the C.G. and others case, although the first applicant had the formal possibility of seeking judicial review of the decision to expel him (the facts are subsequent to 2003 when judicial review against such measures was introduced), the competent courts confined themselves to a purely formal examination of his case. In particular, they did not subject the executive's assertion that the applicant presented a national security risk to meaningful scrutiny and relied solely on uncorroborated information in a classified report of a covert surveillance operation. The European Court noted in this connection that Bulgarian law on such surveillance did not provide the minimum guarantees required under Article 8. The European Court also found that the allegations against the first applicant, although serious, could not reasonably be considered to be capable of threatening Bulgaria's national security. Finally, the Court criticised the fact that the national courts also failed to consider the question of the proportionality of the interference with the applicants' family life compared with the aim pursued.

The Al-Nashif and Bashir and others cases also concern the fact that the applicants had, under the applicable law, been given no opportunity to challenge the lawfulness of their detention while awaiting deportation or expulsion (violations of Article 5§4). The European Court noted in particular that the detention orders stated no particular reasons and that the applicants were not given the possibility to discuss with their lawyer any possible legal challenge to the measures against them. The case of Bashir and others also concerns the failure to inform the first applicant promptly of the reasons for his detention (violation of Article 5§2).

Finally, the case of C.G. and others also concerns the fact that the first applicant's expulsion failed to satisfy the various requirements of Article 1 of Protocol No.7. The Court noted in particular that the expulsion was not "in accordance with the law" since the applicant did not enjoy the minimum degree of protection against arbitrariness. Furthermore, the applicant was not given the opportunity to have his case reviewed before being deported from Bulgaria. Expulsion of an alien lawfully resident in the territory of a state before his/her case is heard or reviewed is permitted under Article 1§2 of Protocol No. 7 only if that "expulsion is necessary in the interests of public order or is grounded on reasons of national security". The European Court had already found that the first applicant's expulsion had not been based on any genuine national security interests, and the government had not put forward any convincing arguments that it had been truly necessary to deport him in the interests of public order before he was able to challenge the measure.

Individual measures:

1) Case of Al-Nashif: The measures taken against Mr Al-Nashif originated in three different orders: revoking his residence permit, ordering his detention and deportation, and banning his re-entry on Bulgarian territory for a

period of 10 years. At the material time the applicant appealed without success two of these orders. Following the judgment of the European Court, the Supreme Administrative Court reopened these proceedings and, in 2004 and 2006, the orders revoking the residence permit and ordering the detention and deportation were quashed by final judgments of the competent courts. The ban on entering the territory was lifted in October 2007.
• *Information provided by the applicant's lawyer (letters of May and September 2008*): Having learned that the ban on entering the territory had been lifted, Mr Al-Nashif applied to the Bulgarian Consulate in Damascus for a Bulgarian visa. His request was rejected on 09/09/2008. The applicant's lawyer subsequently sought information from the Director of Migration as to steps to take to allow Mr Al-Nashif to return to Bulgaria, in the light of the fact that he still has a valid permanent residence permit and that the ban on entering the territory had been lifted.
• *The comments of the authorities on the question of Mr Al-Nashif's situation would be useful.*
2) Case of Bashir and others: Mr Bashir was expelled from Bulgaria in 2000.
As of 20/03/2008 the applicants have lodged no application with the Supreme Administrative Court to have the expulsion order and other relevant measures revoked.
• *Assessment: in these circumstances, no further individual measure appears to be necessary.*
3) Case of C.G. and others: the first applicant was expelled from Bulgaria in 2005.
• *Information is expected on the situation of the first applicant with a view to withdrawing the measures taken against him.*
4) Case of Hassan: As a result of the measures undertaken by the authorities, Mr Hasan left Bulgaria in October 1999.
• *Information provided by the Bulgarian authorities (letter of 16/10/2008):* The ban on entering the territory has been lifted.
• *Information is expected on the withdrawal of the other measures taken against M. Hasan (i.e. the revocation of his residence permit).*
5) Case of Musa: Mr Musa was obliged to leave Bulgaria in 2000 as a result of the measures imposed on him and was banned from re-entry for a period of 10 years.
• *Information provided by the applicant's lawyer (letter of May 2008):* Following the judgment of the European Court, Mr Musa made three appeals: against the order prohibiting him from entering the territory of Bulgaria (which expires in May 2010), against the withdrawal of his residence permit, and against the obligation to leave the territory. The order banning entry was kept in force by the Supreme Administrative Court. The proceedings against the withdrawal of Mr Musa's residence permit are currently pending. As regards the appeal against the obligation to leave the territory, a hearing was scheduled *ex officio* for 16/10/2008 by the Supreme Administrative Court.
• *Additional information is awaited on the outcome of the pending proceedings. A copy of the decision rejecting the request of the applicant to lift the ban on entry in the territory would be useful.*
General measures: Information was provided by the Bulgarian authorities on 16/10/2008 and is currently being examined.
1) Violations of Articles 8 and 13: The attention of the Bulgarian authorities was drawn to a number of problems in the legislation and regulations which were the basis for the violations found by the European Court in the Al-Nashif case. Indeed, at the relevant time concerning this case Bulgarian law did not provide for judicial review of the lawfulness of aliens' detention in case of their expulsion on the grounds of national security, nor of the decision on expulsion itself, when such reasons are evoked (cf. Article 47 of the Aliens Act, in force at the material time).
- *Development of the Supreme Administrative Court's case-law:*
It has been noted that in its well-established practice since the Al-Nashif judgment, the Supreme Administrative Court indicates to the competent courts that they must apply the Convention directly, as interpreted by the European Court and, consequently, must examine complaints against expulsion on the grounds of national security (see, for example, the decisions Nos. 706 of 29/01/2004, 4883 of 28/05/2004, 8910 of 01/11/2004, 3146 of 11/04/2005 and 4675 of 25/05/2005).
- *Legislative reform:*
During 2005 and 2006 several draft amendments of the Aliens Act were prepared by the Ministry of Justice and the Ministry of the Interior without achieving the necessary legislative reform.
On 23/03/2007 a draft law amending the Aliens Act was adopted. This amendment introduced judicial review by the Supreme Administrative Court of the expulsion, the revocation of residence permits and of bans on entry into the territory ordered on national security grounds. However, it was noted that the amended law excludes the suspensive effect of an appeal against such measures, when they are based on national security grounds.
In addition, it should be noted that a new Law on the entry into, presence on and departure from Bulgarian territory by citizens of the European Union and their families entered into force on 01/01/2007. According to Article 28 of this law, expulsion orders, revocation of residence permits and exclusion orders adopted on the basis of considerations of national security may be challenged according to the procedure provided in the Code of Administrative Procedure, which implies judicial control. Furthermore, according to Article 30 of this law, the person concerned by such a measure may also apply for its revocation after the expiry of three years after it has been

adopted. At the same time this law also excludes the suspensive effect of the appeal against such measure, when they are based on national security grounds.
• The authorities were invited to consider the issue of the efficacy of the remedies provided in these laws, given that they cannot stay execution of expulsion measures based on considerations of national security. In response, the authorities indicated that Article 1§2 of Protocol No. 7 to the Convention provides the possibility to expel a person before the exercise of her or his rights under §1 (namely the right to put forward reasons against her or his expulsion, to obtain an examination of the case and to be represented before the competent authority) when the expulsion is based on grounds of national security.
• Bilateral contacts are under way on this issue (particularly in light of the violation of Article 1 of Protocol No. 7 found by the European Court in the C.G. and others case: see point 2 below).
• Information is awaited on the issue of the effectiveness of judicial review in such cases in the light of the finding of a violation of Articles 8 and 13 by the European Court in the C.G. and others case owing to the purely formal examination by the domestic courts (including the Supreme Administrative Court) of the applicant's complaint regarding the decision to expel him. It should be noted that the question of the compatibility of the legal framework and the practice related to secret surveillance with the requirements of the Convention is being examined in the framework of the case of the Association for European Integration and Human Rights and Ekimdzhiev (1065th meeting, September 2009).
2) Violation of Article 1 of Protocol No.7 (C.G. and others case):
• Bilateral contacts are under way in this issue, in particular, with respect to Article 1§1 (b) of Protocol No. 7, regarding the possibility given to persons in the position of the first applicant in the C.G. and others case to challenge an expulsion order before its execution.
3) Violation of Article 5§4: Clarifications have been requested concerning whether Bulgarian law at present provides for judicial review of the lawfulness of detention in specialised centres in cases of expulsion on the grounds of national security (see Article 44§6 in conjunction with Article 46§1 of the Aliens Act). The Bulgarian authorities indicated that the lawfulness of the detention imposed under the Aliens Act may be reviewed by the competent administrative organs and courts in accordance with the provisions of the Code of Administrative Procedure. In addition, the authorities consider that following the judgment in the Al-Nashif case the domestic courts are already obliged to provide the guarantees provided for in Article 5§4.
• Additional information is awaited on the practice relating to the judicial supervision of detention pending deportation.
4) Violation of Article 5§2 (Bashir case):
• Information has been requested on the measures envisaged or already adopted.
5) Publication: The judgments of the European Court in the cases of Al-Nashif, Musa and Hasan were published on the internet site of the Ministry of Justice http://www.mjeli.government.bg.
• Bilateral contacts are underway on individual and general measures.

The Deputies decided to resume consideration of these items at their 1086th meeting (June 2010) (DH), in the light of the bilateral contacts under way and the information awaited on individual and general measures.

Latest development

Case name :	**SVETOSLAV DIMITROV v. Bulgaria**	**Appl N° :**	**55861/00**
Judgment of :	07/02/2008		
Final on :	07/05/2008		
Violation :		Payment status :	Paid outside the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-3.Aint(02/03/2010)		
First exam :	1035-2.1(17/09/2008)		

NOTES OF THE AGENDA

55861/00 Svetloslav Dimitrov, judgment of 07/02/2008, final on 07/05/2008
The case concerns the irregularity of the detention of the applicant between May 1999 and February 2000 on account of the lack of clarity in domestic law about the conciliation between different periods of detention which appear to run in parallel and the resolution of possible disagreements amongst state organs on that subject (violation of Article 5§1).

Between 1995 and 1999 Mr Dimitrov was convicted on three occasions of theft. At the end of the third set of proceedings he was sentenced to a term of imprisonment of 3 years and 2 months, from which the court deducted the period of pre-trial detention in these proceedings (from June 1996 to December 1998). The applicant served the so defined sentence in December 1998. However, he was detained again between May 1999 and February 2000 for the execution of the same conviction, because the prosecution considered that the pre-trial detention that was to be deducted from the punishment comprised a shorter period (from June 1996 until August 1997). According to the prosecution and also the penitentiary authorities, the pre-trial detention was suspended in August 1997, given that as of that date and till December 1998 the applicant was detained for the execution of the first two sentences.
The European Court observed in this connection that the pre-trial detention of the applicant was formally revoked only in December 1998 and that the domestic legislation does not provide for its automatic suspension the moment a detainee starts serving a prison sentence. It expressed doubt concerning the power of the prosecution to order the execution of what it considers to be the remaining part of a sentence, despite a clear court decision on that subject.
The case also concerns the lack of a remedy allowing the applicant to challenge the lawfulness of the detention in question before a tribunal (violation of Article 5§4). The European Court observed that in domestic law a general *habeas corpus* procedure did not exist and that none of the specific procedures concerning the detention was applicable to this situation.
In this case the applicant was not permitted an executable right to compensation for his detention effected contrary to the provisions of Article 5 of the Convention (violation of Article 5§5). In fact, at the end of the proceedings, which he initiated on the basis of the Law on the responsibility of the State and the municipalities for damage, the competent courts concluded that his detention was in conformity with domestic law.
Individual measures: The applicant was released in February 2000 and the European Court awarded him just satisfaction in respect of non-pecuniary damages.
• *Assessment: No other individual measure appears necessary.*
General measures:
1) Unlawful detention in the absence of clear provisions concerning the conciliation between different periods of detention which appear to run in parallel (violation of Article 5§1):
• *The authorities are invited to provide information about the current provisions governing this question, and, if necessary, about the measures envisaged or already adopted in order to establish clear regulations on this subject, including solving potential disagreements among the State organs in this area.*
2) Lack of judicial control of the lawfulness of the detention (violation of Article 5§4):
• *Information is awaited on the possibility to introduce in Bulgarian law a judicial control of the deprivation of liberty in similar cases. It should be noted that a similar question has already been raised in the Stoichkov case on the subject of control of the lawfulness of detention for the execution of a sentence passed in absentia (9808/02, 1078th meeting, March 2010).*
3) Lack of an enforceable right to compensation for detention in contravention of Article 5): The measures to adopt are linked to those concerning the violation of Article 5§1. In fact, while accepting the application of the Law on the responsibility of the state and the municipalities for damage, the courts responsible for the case rejected the request for compensation of the applicant on the basis of diverging arguments, the court of first instance having even concluded that his detention has been unlawful. It appears that the approach of the courts in this procedure is largely attributable to the lack of clarity on the conciliation between periods of detention running simultaneously.
• *In any event, the authorities are invited to publish and to disseminate this judgment to the competent authorities, in particular to prosecutors.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**UMO ILINDEN AND OTHERS v. Bulgaria**	**Appl N° :**	**59491/00**
Judgment of :	19/01/2006		
Final on :	19/04/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		

Last exam :	1072-4.2(01/12/2009)
First exam :	970-2(04/07/2006)

NOTES OF THE AGENDA

- Case concerning a refusal for registration of an association aiming to achieve "the recognition of the Macedonian minority in Bulgaria"

59491/00 United Macedonian Organisation Ilinden and others, judgment of 19/01/2006, final on 19/04/2006
This case relates to the competent courts' refusal to register the association Ilinden in 1998-99, based on insufficient grounds to justify such a radical measure (violation of Article 11).
The European Court concluded that the refusal to register the association was prescribed by law and pursued a legitimate aim but were not "necessary in a democratic society". The Court noted in particular that the alleged formal deficiencies in the registration documents or the supposed substantive divergences between Ilinden's articles and the laws of the country did not constitute, in the circumstances of the case, sufficient reason to deny registration. As regards the alleged dangers stemming from Ilinden's goals and declarations, the Court considered that the refusal to register the association was not necessary to protect the territorial integrity of the country, public order or the rights and freedoms of the majority of the population in the region in question. The Court reiterated in this respect that the fact that a group of persons calls for autonomy or even requests secession of part of the country's territory – thus demanding fundamental constitutional and territorial changes – cannot automatically justify interferences in their rights under Article 11. Concerning the applicant organisation's virulent style and its acerbic criticism of the authorities' actions, the Court recalled that the freedom of expression protects not only "information" or "ideas" that are favourably received or regarded as inoffensive or as matter of indifference, but also those that offend, shock or disturb the state or any sector of the population (§76 of the judgment).
Individual measures: The European Court noted that in 2002-2004 the competent courts once again refused to register the applicant association. These facts are the object of another application, currently pending before the Court (see DD(2008)564). The applicants did not refer to a new request for registration following the judgment of the European Court. However, the authorities indicated that it appeared likely, having regard to the direct effect that the authorities should give to the Convention and to the judgments of the European Court, that a possible new request will be examined in compliance with the requirements of the Convention (see also the general measures).
General measures:

1) Awareness-raising measures: The European Court's judgment was sent to the Court of the City of Sofia and to the Supreme Court of Cassation with a letter drawing their attention to their obligations under the Convention. The judgment was sent to the Regional Court of Blagoevgrad and to the Sofia Court of Appeal (competent for the registration of associations in the region concerned), together with a letter indicating that this communication is made within the framework of the adoption of the general measures for the execution of the European Court's judgment. In addition, with a view to raising the awareness of the competent authorities, a CD manual, elaborated by the National Institute of Justice, was sent to 153 courts, the same number of prosecutor's offices and to 29 investigation offices. The manual contains examples of case-law of the European Court in the field of the freedom of association and freedom of assembly, as well as articles, studies and other material relating to these areas. It may be downloaded from Internet, at www.blhr.org/bibl.htm
Furthermore, several training activities have been organised (see also the case of the UMO Ilinden-PIRIN and others, judgment of 20/10/2005, Section 6.2). A seminar for judges and prosecutors on freedom of association and assembly with the participation of the Council of Europe was organised by the National Institute of Justice in October 2007. Another seminar on this subject, for judges, prosecutors, representatives of the Ombudsman's Office, lawyers and NGOs was organised in December 2007 by the Ministry of Justice and the Department for execution of judgments. Yet another training activity for mayors and police chiefs took place in May 2008. Another seminar for judges and prosecutors was organised by the National Institute of Justice in June 2008. In October 2008 a group of judges from the Supreme Court of Cassation, of prosecutors and of representatives of the Government Agent's Office paid a study visit to the Council of Europe during which they participated in a working seminar.
2) Communications from civil society: On 10/03/09 the Bulgarian Helsinki Committee submitted information relating to the refusals of the Blagoevgrad regional court, in December 2008 and in January 2009, to register two associations – "Macedonian cultural and educational association" and "Union for the repressed Macedonians in Bulgaria". The Bulgarian authorities stated that this information could not be taken into consideration for the examination of these cases, in particular due to the fact that only awareness-raising measures were required for the execution of the UMO Ilinden and others judgment (DD(2009)135 of 25/03/09). On 02/06/09 the Bulgarian Helsinki Committee submitted another communication referring to the confirmation on appeal of the refusal to register the associations mentioned above. According to this communication, the decisions of the appeal courts have been themselves appealed before the Supreme Court of Cassation. A copy of the decision of the appeal court in one of these proceedings has been submitted (see DD(2009)405E of 10/08/2009).

• *Assessment: The information provided by the Bulgarian Helsinki Committee deserves to the examined as far as it relates to the question of the efficacy of the awareness-raising measures adopted so far in order to prevent violations similar to that found by the European Court. It should be noted in this respect that certain grounds put forward to refuse the registration of one of the associations in question have already been rejected by the European Court, not least in the judgment UMO Ilinden – PIRIN and others.*
• *The authorities' comments on this question are awaited.*

***3) Publication**:* The judgment of the European Court was published on the website of the Ministry of Justice www.mjeli.government.bg, to draw the public' attention, as well as that of other authorities which may be brought to act in this area, to the requirements of the Convention in this field. The judgment was also published in the new quarterly journal *European Law and Integration*, which is published by the Ministry of Justice in 1000 copies and distributed to magistrates and academics (No. 2/2006), together with an article analysing the European Court's conclusions in these cases, as well as the Court's case-law in this field.

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of further information to be provided on general measures.

Latest development

Case name :	**PEEV v. Bulgaria**	**Appl N° :**	**64209/01**
Judgment of :	26/07/2007		
Final on :	26/10/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	1020-2.1(04/03/2008)		

NOTES OF THE AGENDA

64209/01 Peev, judgment of 26/07/2007, final on 26/10/2007
The case concerns the publication in May 2000 of a letter written by the applicant, a criminological expert employed by the Supreme Court prosecutor, in which he expressed criticism of the Prosecutor General. The same day the prosecutor's department searched the applicant's office without legal authority and seized a letter of resignation he had drafted. Two days later, the Prosecutor General ordered that his contract should be terminated on the basis of this resignation letter.
The European Court considered that these measures, taken without legal basis, violated the applicant's right to respect for his private life (violation of Article 8).
It also concluded that the measures amounted to reprisals for the applicant's public accusations (violation of Article 10).
It finally found that no remedy had been available to the applicant whereby he might effectively complain about the breach of his freedom of expression or obtain redress for the unlawful search of his office (violation of Article 13 in conjunction with Articles 10 and 8).
Individual measures: The domestic courts declared in March 2002 that the termination of the applicant's contract had been unlawful, ordered his reinstatement to his former post and awarded him compensation. The European Court awarded just satisfaction in respect of non-pecuniary damages sustained.
• *Information is awaited as to whether the items unlawfully seized from the applicant's office had been restored to him.*
General measures:
• *Information is awaited on any measures envisaged to provide effective remedies for cases of unlawful seizure or breach of the freedom of expression. Information is also awaited on publication and dissemination of the European Court's judgment to the prosecution authorities.*

The Deputies decided to resume consideration of this item:
1. at their 1043rd meeting (2-4 December 2008) (DH), in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 1st DH meeting in 2009, in the light of information to be provided on individual and general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**BEVACQUA and S. v. Bulgaria**	**Appl N° :**	**71127/01**
Judgment of :	12/06/2008		
Final on :	12/09/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1051-2.1(17/03/2009)		

NOTES OF THE AGENDA

71127/01 Bevacqua and S., judgment of 12/06/2008, final on 12/09/2008
The case concerns the authorities' failure tin their obligation o take appropriate action to ensure respect for the private and family life of the applicants, a mother and her minor son, in the difficult situation caused by the applicant's divorce and her former husband's behaviour (violation of Article 8).
The European Court noted in particular the fact that the competent court had failed to adopt interim custody measures between June 2000 and February 2001, in a situation of tense relations between the parents which had adversely affected the child (3 year old at the time). The Court also found that the measures taken by the authorities in reaction to the violent behaviour of the child's father during the divorce proceedings were not sufficient. In the Court's view, the authorities' failure to impose sanctions, or otherwise oblige the father to refrain from unlawful acts amounted to a refusal to provide the immediate assistance the applicants needed. The Court concluded that the authorities' view that no such assistance was due as the dispute concerned a "private matter" was incompatible with their positive obligations to secure the enjoyment of the applicants' rights under Article 8.
Individual measures: The parents are divorced, custody has been granted to the first applicant (the mother) and at the time of the judgment both applicants (mother and son) were living abroad. The European Court awarded just satisfaction in respect of the non-pecuniary damage sustained.
• *Assessment: no further individual measure seems necessary.*
General Measures:
1) Failure to adopt interim custody measures without delay:
• *The authorities are invited to provide information on measures taken or envisaged to prevent new, similar violations. Information will be appreciated on the existing remedies at the disposal of interested parties to challenge delays in examining requests for interim custody measures in divorce proceedings*
2) Lack of sufficient measures in respect of the father's behaviour: The European Court stressed in the judgment that administrative and policing measures – specified in Committee of Ministers Rec(2002)5 on the protection of women against violence or introduced following the relevant facts by the 2005 Bulgarian Domestic Violence Act - were called for in this case.
• *The authorities are invited to provide examples demonstrating that current administrative and policing practices ensure that sanctions are imposed on individuals engaging in unlawful acts similar to those described in this case as regards the father and/or that the persons in question are prevented from committing such acts.*
3) Publication and dissemination
• *Information is awaited in any event on the publication of the European Court's judgment and its dissemination to competent courts, to draw their attention to their obligation to examine requests for interim custody measures in family dispute proceedings with due diligence, affording them the priority as might be necessary.*
Wide dissemination is also awaited to prosecutors and police with a circular emphasising the conclusion of the European Court that the failure to impose sanctions, or otherwise oblige a person to refrain from unlawful acts in circumstances similar to those of the present case is incompatible with the authorities' positive obligation to secure the enjoyment of rights under Article 8.

The Deputies decided to resume consideration of this case at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**KALKANOV v. Bulgaria**	**Appl N° :**	**19612/02**
Judgment of :	09/10/2008		
Final on :	09/01/2009		
Violation :		Payment status :	No just satisfaction
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

19612/02 Kalkanov, judgment of 09/10/2008, final on 09/01/2009
The case concerns unfairness of civil proceedings brought by the applicant in order to have his dismissal revoked. When deciding on the applicant's appeal on points of law, the Supreme Court of Cassation refused to examine a decisive argument raise by him on the pretext that it was a new argument which had not been examined by the lower courts and required the gathering of new evidence.
The European Court considered that this conclusion of the Supreme Court of Cassation was clearly erroneous as it was not consonant with the material in the file nor with the findings of the lower courts. The argument had actually been submitted in the applicant's initial statement of claim and had therefore been raised before the lower courts (violation of Article 6§1).
Individual measures: The proceedings before the Supreme Court of Cassation challenged by the judgment led to the refusal of the applicant's request to have his dismissal revoked. The applicant did not submit any just satisfaction claim to the European Court.
• *Information is awaited on any individual measures taken or envisaged.*
General measures: The violation in this case seems to constitute an isolated incident, due to a mistake by the Supreme Court of Cassation. Publication of the European Court's judgment and its dissemination to the judges of that court appear to be sufficient for the execution of the judgment.
• *Information is awaited in this respect.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on the individual and general measures.

Latest development

Case name :	**GLAS NADEZHDA EOOD AND ANATOLIY ELENKOV v. Bulgaria**	**Appl N° :**	**14134/02**
Judgment of :	11/10/2007		
Final on :	11/01/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1028-2.1(03/06/2008)		

NOTES OF THE AGENDA

14134/02 Glas Nadezhda EOOD and Elenkov, judgment of 11/10/2007, final on 11/01/2008
The case concerns an unlawful interference with the freedom of expression of the applicant company due to the refusal without reasoning by the competent body, the National Radio and Television Committee (NRTC), to award it a radio broadcasting licence (violation of Article 10).
The European Court pointed out in particular that the NRTC had not held any form of public hearing and its deliberations had been kept secret, despite a court order obliging it to provide the applicants with a copy of its minutes. Nor had the NRTC given reasons explaining why it considered that the applicant company had failed to

meet its requirements. This lack of reasons had not been made good in the ensuing judicial review proceedings, because the Supreme Administrative Court had held that the NTRC's discretion was not reviewable. This, coupled with the vagueness of some of the NRTC's criteria, had denied the applicants legal protection against arbitrary interference with their freedom of expression.
The case also concerns the absence of a judicial review of the NRTC's decision. The Court observed that the approach taken by the Supreme Administrative Court in the applicants' case, which had involved refusing to interfere with the NRTC's discretionary powers, had fallen short of the requirements of Article 13, which obliges domestic authorities to examine the substance of the complaints made under the Convention (violation of Article 13).
Individual measures:
• *Information is still awaited as to whether the applicants may submit a new application for a radio broadcasting licence (currently before the Electronic Media Council).*
General measures: The European Court found in its judgment that the guidelines adopted by the Committee of Ministers in the field of broadcasting regulations called for open and transparent application of the regulations governing the licensing procedure and specifically recommended that all decisions taken by regulatory authorities are duly reasoned and open to review by the competent judicial bodies (Recommendation Rec(2000)23). In this connection, it should be noted that the national law provided at the material time and still provides that the decisions of the competent body to grant, modify or withdraw a radio broadcasting license may be reviewed by the Supreme Administrative Court (Article 38 of the Law on Radio and Television). The approach followed by the Supreme Administrative Court in this case appears to be based solely on its practice.
• *Information is awaited on measures envisaged to prevent new, similar violations. In particular it would be useful to have a copy of the regulations currently in force concerning the criteria and procedure for the award of radio broadcasting licences. In any event, the publication of the European Court's judgment and its dissemination to the Electronic Media Council formerly the NRTC), to the State Telecommunications Commission and to the Supreme Administrative Court, appear necessary measures of execution.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

Case name :	**PETKOV v. Bulgaria**	**Appl N° :**	**77568/01**
Judgment of :	11/06/2009		
Final on :	11/09/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.A(01/06/2010)		
Last exam :	1078-3.A(02/03/2010)		
First exam :	1072-2.1(01/12/2009)		

NOTES OF THE AGENDA

77568/01+ Petkov and others, judgment of 11/06/2009, final on 11/09/2009
This case concerns the failure or refusal of the electoral authorities to comply with the Supreme Administrative Court's final and binding judgments by virtue of which they were required to reinstate the three applicants on the lists of candidates for the 17 June 2001 parliamentary elections (violation of Article 3 of Protocol No. 1).
This case also concerns the lack of effective remedies available to the applicants in this respect (violation of Article 13).

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of an action plan / action report to be provided by the authorities.

Latest development

Case name :	**GAVRIL GEORGIEV v. Bulgaria**	**Appl N° :**	**31211/03**
Judgment of :	02/04/2009		
Final on :	02/07/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.B(01/06/2010)		
Last exam :	1078-3.A(02/03/2010)		
First exam :	1072-2.1(01/12/2009)		

NOTES OF THE AGENDA

31211/03 Gavril Georgiev, judgment of 02/04/2009, final on 02/07/2009
This case concerns the unlawful detention of the applicant for four days in March 2003 by order of the commanding officer of the regiment in which he was performing his military service (violation of Article 5§1). The government indicated before the European Court that the detention had been ordered for the purpose of ensuring that the applicant, who was under suspicion of having committed a crime, could be brought before the courts within the framework of the criminal proceedings initiated against him. In this respect, the European Court found that under domestic law, the regiment's commanding officer was not among the bodies competent to order a remand in custody.
This case also concerns the fact that the applicant had no remedy available to him whereby he could contest the lawfulness of the detention order (violation of Article 5§4).

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of an action plan / action report to be provided by the authorities.

Latest development

Case name :	**HOLY SYNOD OF THE BULGARIAN ORTHODOX CHURCH (METROPOLITAN INOKENTIY) AND OTHERS v. Bulgaria**	**Appl N° :**	**412/03**
Judgment of :	22/01/2009		
Final on :	05/06/2009		
Violation :		Payment status :	Paid outside the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1065-2.1(15/09/2009)		

NOTES OF THE AGENDA

412/03+ Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and others, judgment of 22/01/2009, final on 05/06/2009
This case concerns unjustified interference in the organisational autonomy of the Bulgarian Orthodox Church by the authorities by way of certain provisions of the Religious Denominations Act 2002 and their implementation, forcing this religious community to unite under one of two leaderships at a time when there was deep and genuine division in the Bulgarian Orthodox Church (violation of Article 9, interpreted in the light of Article 11).
The European Court held that the question of the application of Article 41 (just satisfaction) was not ready for decision as to pecuniary and non-pecuniary damage.
• *To date, the authorities have provided no information.*

The Deputies noted that no information had been provided on this case and again invited the authorities to submit an action plan and/or action report for the execution of this judgment and agreed to resume consideration of this case at their 1086th meeting (June 2010) (DH).

Latest development

Case name :	**BONEV v. Bulgaria**	**Appl N° :**	**60018/00**
Judgment of :	08/06/2006		
Final on :	08/09/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	982-2(05/12/2006)		

NOTES OF THE AGENDA

60018/00 Bonev, judgment of 08/06/2006, final on 08/09/2006
The case concerns the unfairness of the applicant's trial in that he was unable to cross-examine the witnesses whose statements had served as the main basis for his conviction in 1999 (violation of Article 6§§1 and 3 d)). The court considered that these witnesses could not be found, and could not be summonsed to appear as one of them had died and the other was not found at the indicated address (and was apparently a vagrant). It therefore, with the applicant's consent, had read into the record the testimony they had given at the stage of the preliminary investigation. The applicant appealed without success.
The European Court found that the applicant could not be regarded as having waived his rights under Article 6 of the Convention, as he was not represented by a lawyer when he agreed to the reading of the statements and, moreover, he had not been cautioned as to the consequences of this act. The Court noted, furthermore, that no effort had been made to establish the whereabouts of the only eyewitness still alive, even though the applicant was accused of murder and risked a severe sentence.
Individual measures: the applicant was sentenced in 1999 to ten years' imprisonment. According to the Code of Criminal Procedure (Articles 421§2 and 422§1, p. 4) when a judgment of the European Court has found a violation of the Convention which is decisive for the criminal proceedings, the Prosecutor General is obliged to request the reopening of the proceedings in question within one month from the date upon which he took cognisance of the judgment of the European Court.
• *Information is awaited on the applicant's present situation and on a possible request for reopening of his trial.*
General measures: The witnesses statements at issue in this case were included in the file on the basis of Article 279§1, pp. 4 and 5 of the Code of Criminal Proceedings of 1974. According to the first of these provisions, the statement of a witness given at the preliminary investigation could be read out at the trial and included in the file if the witness had died or he could not be found in order to be called. According to the second provision, this could also be done, if the witness, despite being duly subpoenaed, did not appear and the parties agreed to this. According to a new provision, introduced in 2003 (Art. 279§3), on the conditions of §1 (see above) statements made at the preliminary investigation may be included in the file if the parties agree. In such cases, the court is obliged either to appoint a lawyer for the accused, if he is not already represented but wishes to have a lawyer, or to explain to the accused what would be the consequences of his consent. This legislative framework was maintained in the new Code of Criminal Procedure of 2006 (Art. 281§§1 and 3).
• *Assessment: as it seems that it is still possible to include in criminal case-files witness statements given at the preliminary investigation without the consent of the accused, it is necessary to send the judgment of the European Court out to all criminal courts, to draw their attention in particular to the need for thorough efforts to locate witnesses before considering that they could not be found*.
It should be noted that two decisions of the Supreme Court, of 1981 and 1991, support this approach, but they were not followed in the present case (§31 of the European Court's judgment).
The judgment of the European Court was published on the Internet site of the Ministry of Justice www.mjeli.government.bg.

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on the individual measures, namely the possible reopening of the trial, as well as on the general measures, namely the dissemination of the European Court's judgment to the competent courts.

Latest development

Case name :	**DEBELIANOVI v. Bulgaria**	**Appl N° :**	**61951/00**

Judgment of :	29/03/2007		
Final on :	29/06/2007		
Violation :		Payment status :	Paid outside time limit, short delay
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

61951/00 Debelianovi, judgment of 29/03/2007, final on 29/06/2007
The case concerns the fact that the applicants could not obtain enforcement of a final court decision of 1994 ordering the restitution of their house, which had been expropriated in 1953, converted into a museum and classified as a national historic monument. In June 1994 the Bulgarian National Assembly voted a moratorium on the laws concerning the restitution of properties with historical monument classification, which prevented the applicants from obtaining restitution of their property (violation of Article 1 of Protocol No. 1)
The European Court observed that the National Assembly's decision, constituting a temporary restriction on the use of property, was provided by law and pursued a legitimate aim, namely to ensure the preservation of protected national heritage sites. However, the situation imposed on the applicants had lasted for about 12½ years and, except for a small sum awarded in respect of the two months preceding the moratorium, the applicants had obtained no compensation for their inability to enjoy their property (§56 of the judgment). In addition, they still have no information as to when the impugned measures will end (§58 of the judgment).
Individual measures: The European Court considered that the question of the application of Article 41 was not yet ready for decision as regards pecuniary and non-pecuniary damage.
General measures: The National Assembly decision in question stipulated that the moratorium would remain applicable until the enactment of a new law on cultural monuments. In this context, the European Court noted that this decision fixed no time-limit in this respect and that no draft law seemed to be envisaged yet.
• *The authorities are invited to present an action plan for the execution of this judgment.*
The judgment of the European Court was published on the Internet site of the Ministry of Justice www.mjeli.government.bg.
• *Dissemination of the European Court's judgment among relevant courts and authorities is expected, to raise their awareness of the Convention's requirements as they result from this case.*

The Deputies decided to resume consideration of this item at the latest at their 1059th meeting (2-4 June 2009) (DH), in the light of an action plan to be provided on general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

The applicants submitted information on the individual measures by letter of 23/11/09.

Case name :	**KAMBUROV v. Bulgaria (II)**	**Appl N° :**	**31001/02**
Judgment of :	23/04/2009		
Final on :	23/07/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.B(01/06/2010)		
Last exam :	1078-3.A(02/03/2010)		
First exam :	1072-2.1(01/12/2009)		

NOTES OF THE AGENDA

31001/02 Kamburov, judgment of 23/04/2009, final on 23/07/2009
This case concerns the fact that the applicant had no opportunity to appeal to a higher court against a judgment of 2002 by a district court convicting him and sentencing him to five days' detention for a minor disturbance to public order. Given the severity of the penalty provided for the offence concerned, i.e. up to fifteen days' detention, the European Court considered that the applicant should have had the possibility to have the judgment of the district court examined by a higher court (violation of Article 2 of Protocol No. 7).

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of an action plan / action report to be provided by the authorities.

Latest development

Case name :	**KUSHOGLU v. Bulgaria**	**Appl N° :**	**48191/99**
Judgment of :	10/05/2007		
Final on :	10/08/2007		
Violation :		Payment status :	
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

48191/99 Kushoglu, judgment of 10/05/2007, final on 10/08/2007 and of 03/07/2008, possibly final on 03/10/2008
The case concerns the fact that through arbitrary decisions the domestic courts failed to assist the applicants in recovering the property they were forced to sell to the local municipality in 1989, when the communist regime forced tens of thousands of ethnic Turks, among them the applicants, to emigrate (violation of Article 1 of Prot. no. 1).
The house in question was sold by the municipality to third parties in 1990. In 1995 the Supreme Court declared with final effect the nullity of the transaction of 1989 but referred the issue concerning the validity of the contract between the municipality and the third parties to the lower courts for further examination. By final decision of 1996 the domestic courts declared that the third parties had acquired the house on the basis of their contract with the municipality, which is in manifest contradiction with the Property Act and the relevant practice of Bulgarian courts (when a property sale is declared null and void, subsequent buyers cannot acquire title to the property). The European Court noted that those findings were vague to the point of being arbitrary (§53).
The European Court further found that the authorities' failure to afford the applicants judicial procedures of effective and fair adjudication in accordance with the applicable law continued in 1998 since the second action was dismissed on the ground that the matter was *res judicata*. Thus, the reasons provided by the courts for their refusal to examine this action were in contradiction with the applicants' second claim, in which they did not challenge the validity of the contract in question but claimed restitution on other grounds (§58).
Consequently the European Court observed that the legal acts which denied the applicants' *rei vindicatio* claims and precluded any further action on their part to recover possession of the house did not meet the Convention's requirement of lawfulness and did not have a clear basis in domestic law.
Individual measures: The European Court delivered its judgment on just satisfaction on 03/07/2008. This judgment is not final yet..

General measures: The European Court noted that the domestic courts' decisions were given in contradiction with existing law and court practice.
• *The authorities are invited to provide information on current practice of domestic courts in similar cases and, if appropriate, measures taken or envisaged to comply with the requirements of the European Convention.*
• *Publication of the European Court's judgment and its dissemination to relevant courts and authorities are expected, in order to raise their awareness of the Convention's requirements as they result from this case.*

The Deputies decided to resume consideration of this item at the latest at their 1059th meeting (2-4 June 2009) (DH), in the light of further information to be provided on general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**SADAYKOV v. Bulgaria**	**Appl N° :**	**75157/01**
Judgment of :	22/05/2008		
Final on :	22/08/2008		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010); 1086-3.B(01/06/2010)		
Last exam :	1078-3.B(02/03/2010)		
First exam :	1043-2.1(02/12/2008)		

NOTES OF THE AGENDA

75157/01 Sadaykov, judgment of 22/05/2008, final on 22/08/2008
The case concerns the unlawful detention of the applicant for a period of 8 days in November 1999 pending his expulsion, because – contrary to the requirements of the domestic law – his detention was not based on a written order explicitly stating that he was to be detained pending expulsion (violation of Article 5§1(f)).
The European Court noted that Bulgarian law at the time made a distinction between an order for an alien's deportation and an order for his or her detention pending such deportation. The Court concluded that, as only an order for deporting the applicant had been issued, it could hardly be considered to have authorised additionally his detention for a period which was not subject to an upper limit.
The case also concerns the absence of a meaningful opportunity for the applicant to have the lawfulness of his detention pending deportation decided speedily by a court (violation of Article 5§4). The European Court noted that even assuming that the applicant could have had the lawfulness of his detention reviewed by a court by challenging in court his deportation order, such an application for judicial review could have only been lodged if the administrative avenues for appeal had already been exhausted or if the time-limit for their exhaustion had already expired. Bearing in mind that the applicant was deported 8 days after his arrest, the Court considered that the applicant had no realistic possibility of using this remedy to obtain a prompt review of his detention pending deportation. It was also not established that the applicant had at his disposal any other avenues for redress, given that Bulgarian law does not provide for a general *habeas corpus* procedure applying to all kinds of deprivation of liberty.
Individual measures: None as the applicant was deported in November 1999.
General measures:
1) Unlawful detention pending expulsion (Article 5§1):
• Information is awaited on measures envisaged to prevent future, similar violations.
2) Impossibility to have the lawfulness of detention pending deportation decided speedily by a court (Article 5§4): This case presents similarities to the Al-Nashif case (Section 4.2).
• *Information is awaited in the present case on regulations and practice relating to the judicial supervision of detention pending deportation.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH) in the light of information to be provided on general measures.

Latest development

Case name :	**VELIKOVI v. Bulgaria**	**Appl N° :**	**43278/98**
Judgment of :	15/03/2007		
Final on :	09/07/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

- Cases concerning the violation of the applicants' right to the peaceful enjoyment of their possessions due to the annulment of their title to property acquired under the communist regime

43278/98+ Velikovi and others, judgment of 15/03/2007, final on 9/07/2007, judgment of 24/04/2008 (just satisfaction), final on 24/07/2008

45116/98 Kalinova, judgment of 08/11/2007, final on 08/02/2008

The cases concern the violation of the applicants' right to the peaceful enjoyment of their possessions due to the annulment of their title to property acquired under the communist regime (violations of Article 1 of Protocol No. 1). The applicants had acquired property which had previously been nationalised. After the entry into force of the Restitution Act in February 1992, the pre-nationalisation owners or their heirs successfully sued for recovery of the property.

The European Court considered that the interference with the applicants' property rights was provided by law and pursued a legitimate aim, namely redress for the victims or arbitrary nationalisation under communism (§§162, 176) but nonetheless considered that, having regard to the specific conditions of the following cases, the authorities had not struck an appropriate balance between the public interest and the applicants' rights:

- *In the case of Bogdanovi and Tzilevi* the applicants' property titles were annulled pursuant to Article 7 of the Restitution Act, which provides that a title is invalid when the buyer has acquired the property in breach of the law, by virtue of their position in the Communist party or through abuse of power. The European Court noted that the applicants had acted in good faith and that the titles had been annulled due to procedural errors committed by the authorities at the time of acquisition. In addition the applicants did not receive sufficient compensation.

- *In the case of Todorova*, the property at issue had been acquired by the applicant's family in 1953 in reparation for an expropriation. The title was annulled pursuant to Article 1 of the Restitution Act on the ground that the expropriation had been irregular and thus the reparation was not valid. The European Court observed that the title had not derived from a commercial transaction but from an act of the competent authorities: thus the applicant should not have suffered the consequences of errors by the state which led to her being unable either to recover the expropriated property or obtain compensation for it.

- *In the case of Eneva and Dobrev* the applicants, acting in good faith, bought a formerly nationalised apartment now owned by a third party. The authorities found that this third party's title to the property was irregular and accordingly ruled the subsequent transaction between the third party and the applicants invalid with a view to restoring the property to the pre-nationalisation owners. The European Court considered that, in the interest of legal certainty, clear rules should have been established concerning the restitution of property acquired in good faith. It moreover noted that the compensation to which the applicants were entitled was no greater than that provided for persons having acquired property unlawfully.

In addition, in the Kalinova case, the applicant's title to a house she bought from the state in 1990 was annulled in 1996 as having been acquired in violation of Article 110 of the Law on State Properties. The house had been expropriated by the state initially in 1984, however, following the annulment of the applicant's title to a house, the competent court declared the expropriation irregular, and ordered restitution of the house to the previous owners. The European Court found that the applicant had acquired the house in good faith on the basis of the rules applicable at the time, and had been deprived of it by extensive application of the legislation governing restitution without having received any compensation for this deprivation.

Individual measures: The European Court reserved the question of the application of Article 41 in the Kalinova case. The Court awarded just satisfaction is respect of pecuniary and non-pecuniary damages to those applicants in the case of Velikovi and others whose cases led to findings of violations of the Convention.

General measures:

• *The authorities are invited to provide information on the current practice of domestic courts in similar cases and, if appropriate, measures taken or envisaged to comply with the requirements of the Convention. In this context, they are invited to keep in mind the European Court's observation concerning the proportionality according to which two factors should be taken into consideration: due consideration of the factual and legal particularities of each case when determining whether it falls within the scope of the Restitution Act, and the question of adequate compensation.*

• *Awaited is also dissemination of the Velikovi and others judgment of the European Court to relevant authorities to raise their awareness of the Convention's requirements as they result from this case.*
This judgment was published on the website of the Ministry of Justice www.mjeli.government.bg.

The Deputies decided to resume consideration of these items:
1 at their 1043rd meeting (2-4 December 2008) (DH), in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 1st DH meeting in 2009, in the light of information to be provided on individual and general measures.

Latest development

Later on new cases have been added to this group.

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**ZHECHEV v. Bulgaria**	**Appl N° :**	**57045/00**
Judgment of :	21/06/2007		
Final on :	21/09/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1013-2(03/12/2007)		

NOTES OF THE AGENDA

57045/00 Zhechev, judgment of 21/06/2007, final on 21/09/2007
The case concerns the unjustified refusal by the domestic courts to register an association in 1999 on the ground that its aims were "political" and incompatible with the Constitution (violation of Article 11).
As to the alleged "political" character of the association, the European Court found that since associations were not allowed to participate in national, local or European elections there was no "pressing social need" to require every association deemed to pursue "political" goals to register as a political party. Moreover, the exact meaning of the term "political" appeared quite vague under Bulgarian law. Thus, in the present case the domestic courts had considered that a campaign for the restoration of the Constitution of 1879 and the monarchy fell within that category. In another case, the courts stated that the holding of meetings and other forms of public campaigning by an association aimed at achieving alleged minority rights also amounted to political goals (see the judgment in the case of the *UMO Ilinden and others*, judgment of 19/01/2006). The Constitutional Court has, for its part, adopted a different definition of "political", which was centred on "participation in the process of forming the bodies through which … the people exercise[d] its power" (judgment of 21/04/1992). In the light of the foregoing, the European Court found that a classification based on this criterion is liable to produce inconsistent results and give rise to considerable uncertainty among those wishing to apply for registration.
As to the alleged incompatibility of the association's aims with the Constitution of 1991, the European Court observed that restoring the monarchy or campaigning for change in legal and constitutional structures were not in themselves incompatible with the principles of democracy, as there was also nothing to suggest that the association would use violent or undemocratic means to achieve its aims.
Individual measures: The applicant, one of the founders of the association in question, may reapply for registration of the association. However, it appears that the individual measures are closely linked to the general measures (see below).
• *Information would be useful on the applicant's present situation.*
General measures:
1) "Political" aims as a ground to refuse registration as association: The ban on associations' pursuing political goals or carrying out political activities solely characteristic of political parties, at the origin of the domestic court's refusal to register the applicant's association, is provided in Article 12§2 of the Constitution of 1991.
• *The Bulgarian authorities are invited to provide information on measures envisaged or already taken to overcome the shortcomings identified by the European Court in its judgment.*
2) Incompatibility of the aims of the association with the Constitution: Solutions to this problem are also being discussed in particular in the framework of the UMO Ilinden and others case (59491/00, Section 4.2).

• *Information is also awaited on the publication of the judgment in this case and on its wide dissemination to the competent authorities.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in light of the Bulgarian authorities' action plan to be provided by the authorities for the execution of this judgment.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1072nd meeting (December 2009) (DH).

Theme / Domain : Length of detention on remand

Case name :	**BOJILOV v. Bulgaria**	**Appl N° :**	**45114/98**
Judgment of :	22/12/2004		
Final on :	22/03/2005		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Length of detention on remand**		
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	928-2(06/06/2005)		

NOTES OF THE AGENDA

45114/98 Bojilov, judgment of 22/12/2004, final on 22/03/2005
42026/98 Asenov, judgment of 15/07/2005, final on 15/10/2005
47799/99 Bojinov, judgment of 28/10/2004, final on 28/01/2005
56796/00 Danov, judgment of 26/10/2006, final on 26/01/2007
60859/00 Hristova, judgment of 07/12/2006, final on 07/03/2007
48870/99 Iliev, judgment of 22/12/2004, final on 22/03/2005
40063/98 Mitev, judgment of 22/12/2004, final on 22/03/2005
47279/99 Yosifov, judgment of 07/12/2006, final on 07/03/2007

These cases, except the Bojinov case, concern the excessive length of the applicants' pre-trial detention between 1994 and 2000, in view of the insufficient reasons to justify it and in view of the fact that "special diligence" was not displayed in the conduct of the proceedings in the Mitev case (violations of Article 5§3). The Asenov and Hristova cases also concern the lack of judicial review of the lawfulness of the detention, due to refusals by the competent court to examine the applicants' requests concerning bail, in spite of the fact that they remained in detention (violations of Article 5§4).

The Asenov, Bojilov, Danov, Mitev and the Yosifov cases also concern violations of the applicants' right to be brought before a judge promptly after their arrest (violations of Article 5§3).

The Asenov, Bojilov, Bojinov, Hristova and Mitev cases also relate to the unlawfulness of the applicants' continued detention pending trial following the domestic courts' decisions ordering their release (violations of Article 5§1). In the Hristova case this violation was due in particular to the fact that the applicant remained in detention despite the expiry of the maximal time-limit for detention pending trial provided for in the law.

The Danov case also concerns the failure to justify the continuation of the applicant's house arrest (violation of Article 5§3) and the unfairness of the proceedings in response to the applicant's appeal against his detention (violation of Article 5§4).

The Bojilov, Bojinov, Hristova, Mitev and Yosifov cases also relate to the lack of an enforceable right in Bulgarian law to compensation for detention contrary to Article 5 of the Convention (violations of Article 5§5).

The Asenov, Hristova, Iliev, Mitev and Yosifov cases also concern the excessive length of the criminal proceedings instituted against the applicants (violations of Article 6§1).

The Hristova and Mitev cases also relate to the competent court's failure to examine promptly some of the applicants' requests for release (violations of Article 5§4). Finally, the cases of Mitev and Yosifov relate also to the lack of effective remedies to enforce, at national level, the right to a hearing "within a reasonable time" (violations of Article 13).

Individual measures: The proceedings instituted against the applicants in the cases of Asenov, Hristova and Iliev ended. The applicants in the cases of Asenov, Bojilov, Danov, Hristova, Iliev, Mitev and Yosifov were released. The European Court granted the applicants just satisfaction in respect of the non-pecuniary damage they suffered.
• *Information is awaited on the state of domestic proceedings in the Mitev and Yosifov cases and, if appropriate, on their acceleration.*
General measures*:*
1) Excessive length of the detention pending trial in the Asenov, Bojilov, Danov and Iliev cases (Article 5§3) and the unlawfulness of the applicants' continued detention pending trial in the Asenov, Bojilov, Bojinov and Mitev cases (Article 5§1):
• *Information provided:* The authorities have sent the translated text of the judgments in the Bojilov and Asenov cases out to the Sofia District Court and to the corresponding prosecutor's office. The judgments in the Bojilov, Asenov and Danov cases have been posted on the internet site of the Ministry of Justice (www.mjeli.government.bg).
Between 2001 and 2006 six training seminars on Articles 5 and 6 of the Convention have been implemented for Bulgarian judges, prosecutors, representatives from the Ministry of Justice and police officials.
• *Information expected*: *In view of the development of the direct effect given by Bulgarian courts to the Convention and to the Court's case-law, a circular to the authorities competent for pre-trial detention would be a relevant measure. This circular should draw their attention in particular to the need to take into consideration the resources of the person concerned when deciding on the amount of the bail (§§60-65 of the Bojilov judgment and Article 61§2 of the new Code of Criminal Procedure), to their obligation to provide sufficient justification of detention, when such detention results from non-payment of the requested guarantee (§§69-71 of the Asenov judgment) and to the requirements of the Convention concerning the reasoning of the decisions on detention pending trial (§§45 and 46 of the Iliev judgment). The attention of the competent authorities should also be drawn to the particular vigilance required in respect of execution of decisions for release (see in particular §§69-75 of the Bojilov judgment, §§35-39 of the Bojinov judgment and §§116-119 of the Mitev judgment).*
2) Lack of judicial review of the lawfulness of the detention in the Asenov case (Article 5§4): It should be noted that according to the new Code of Criminal Procedure (which entered into force in April 2006), in case of non-payment of bail, the court may order and the prosecutor may request either house arrest or detention of the accused person (article 61§5). Now, such measures must be justified by the competent court (articles 59 and 63 of the new CCP). Furthermore, the accused may now contest the lawfulness of detention resulting from non-payment of bail at each stage of the proceedings (articles 65§11 and 270 of the new CCP), whilst the provisions in force at the relevant time did not provide such a possibility at the stage of the preliminary investigation.
• *Information is awaited on the dissemination of the European Court's judgment to criminal courts, to draw their attention to their obligation to ensure judicial review of the lawfulness of detention, when such detention results from non-payment of the requested guarantee.*
3) Excessive length of detention pending trial in the Mitev case (caused by the fact that "special diligence" was not displayed in the conduct of the proceedings) (Article 5§3)*:* this case presents similarities to the Kuibishev case (Section 6.2).
4) Failure to justify the continuation of the applicant's house arrest (Article 5§3) and the unfairness of the proceedings in response to the applicant's appeal against his detention (violation of Article 5§4) in the Danov case: With respect to the violation of Article 5§3, the case presents similarities to that of Nikolova No. 2 (Section 4.2, Kitov group). Concerning the violation of Article 5§4, the authorities were invited to consider publishing and disseminating this judgment, to draw competent courts' attention to their obligation to inform the defence of any source of information used by the authorities to justify a deprivation of liberty (see in particular §§ 92-93 of the judgment).
The European Court's judgment in the Danov case has been posted on the internet site of the Ministry of Justice (www.mjeli.government.bg).
• *Information is awaited on the dissemination of this judgment as suggested above.*
5) Right to be brought before a judge (Article 5§3): the Asenov, Bojilov, Danov and Mitev cases present similarities to those of Assenov (judgment of 28/10/1998) and Nikolova (judgment of 25/03/1999) closed by Resolutions ResDH(2000)109 and ResDH(2000)110, following a legislative reform of criminal procedure which took effect from 01/01/2000.
6) Lack of prompt examination of the request for release (Article 5§4)*:* the Mitev case presents similarities to the Nikolov case (judgment of 30/01/03) which had been transferred to Section 6.2, following the entry into force of new provisions of the Code of Criminal Procedure providing for more strict time-limits for the examination of requests for release.
7 Lack of an enforceable right to compensation for detention contrary to Article 5 (Article 5§5): the Bojilov, Bojinov and Mitev cases present similarities to the Yankov case (1051st meeting (17-19 March 2009)).

8) Excessive length of the criminal proceedings (Article 6§1) and the lack of an effective remedy at the applicant's disposal in this respect (Article 13): the Asenov, Iliev and Mitev cases present similarities to the Kitov case (Section 4.2).

The Deputies decided to resume consideration of these items at their 1051st meeting (17-19 March 2009) (DH), in the light of information to be provided on individual measures, namely the situation of the criminal proceedings pending in the Mitev and Yosifov cases, and on general measures, namely the dissemination of the European Court's judgments by means of circular letters to the competent authorities.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**GEORGIEVA v. Bulgaria**	**Appl N° :**	**16085/02**
Judgment of :	03/07/2008		
Final on :	03/10/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Length of detention on remand**		
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	1051-2.1(17/03/2009)		

NOTES OF THE AGENDA

16085/02 Georgieva, judgment of 3/07/2008, final on 3/10/2008
The case concerns the excessive length of the applicant's pre-trial detention between August 2001 and March 2002, due to the lack of “special diligence” in the conduct of the criminal investigation and to the absence of grounds justifying the amount of the bail imposed (violation of Article 5§3).
The case also concerns the lack of an adequate review of the lawfulness of the applicant’s detention due to the refusal of the domestic courts to examine all the relevant arguments she raised in favour of her release (violation of Article 5§4). The domestic courts refused to examine the applicant’s argument that the small quantity of heroine seized from her was intended for her personnal consumption, on the ground that this issue concerned the merits of the case and with the aim of ensuring the impartiality of the criminal courts, which in the Bulgarian judicial system decide both on the lawfulness of the detention and on the merits of the case. The European Court considered that the applicant’s argument was relevant to the examination of the lawfulness of her detention, since the domestic law did not provide a criminal sanction in the case indicated by the applicant, and that the courts could not refuse to examine it on the grounds they invoked.
Individual measures: The applicant was released in March 2002.
• *Assessment: No further individual measure appears to be necessary.*
General measures:
1) Excessive length of pre-trial detention due to the lack of special diligence in the conduct of the criminal proceedings (Article 5§3): This issue was raised in particular in the case of Roumen Todorov (judgment of 20/10/2005), examination of which was closed by Resolution CM/Res/DH(2007)158 on the ground that the direct effect which is now beginning to be given to the case-law of the European Court in domestic law will make it possible to avoid future violations linked with the excessive duration of detention on remand due to inadequate diligence in the conduct of criminal proceedings.
Information is awaited on the dissemination of the European Court’s judgment in this case dealing with this issue to criminal courts with the aim of drawing their attention to their obligations under the Convention in this respect. Information would be appreciated on any other measure taken or envisaged to ensure that criminal proceedings are conducted with special diligence when a suspect or an accused person is detained pending trial.
2) Excessive length of pre-trial detention due to the lack of grounds to justify the amount of the bail (Article 5§3) : This case present similarities to the case of Bojilov (Section 4.2).
3) Lack of adequate review of the lawfulness of the detention due to the refusal of domestic courts to examine all relevant arguments in favour of the release (Article 5§4) :
• *Information is awaited on any measure taken or envisaged authorities to prevent new, similar violations.*

The Deputies decided to resume consideration of this item at the next examination of the Bojilov group of cases.

Latest development

Theme / Domain : Lack of effective investigation into allegations of ill-treatment

Case name :	**ANGELOVA and ILIEV v. Bulgaria**	**Appl N° :**	**55523/00**
Judgment of :	26/07/2007		
Final on :	26/10/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Lack of effective investigation into allegations of ill-treatment**		
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1020-2.1(04/03/2008)		

NOTES OF THE AGENDA

- 2 cases mainly concerning the lack of effective investigation into death or alleged ill-treatment inflicted by private individuals

55523/00 Angelova and Iliev, judgment of 26/07/2007, final on 26/10/2007
72663/01 Dimitrov Nikolay, judgment of 27/09/2007, final on 27/12/2007

The Angelova and Iliev case concerns the authorities' failure in their obligation to conduct an effective investigation into the death of a relative of the applicants following a racially motivated attack by a group of teenagers in April 1996 (violation of Article 2). Although the authorities had identified the assailants almost immediately after the attack, had determined with some degree of certainty the identity of the person who had stabbed the victim, and had charged some of the assailants, no one was brought to trial for the attack over a period of more than 11 years. As a result of the accumulated delays, the statute of limitations expired in respect of the majority of the assailants. The European Court found that the authorities failed in their obligation effectively to investigate the death of the applicants' relative promptly, expeditiously and with the required vigour, considering the racial motives of the attack and the need to maintain the confidence of minorities in the ability of the authorities to protect them from the threat of racist violence.

The Angelova and Iliev case also concerns the authorities' failure to make the required distinction between offences that were racially motivated and those that were not, in that they failed to ensure due diligence in the conduct of the criminal proceedings and to prosecute the assailants for racially motivated offences, despite the widespread prejudice and violence against Roma (violation of Article 14 combined with Article 2).

The Dimitrov Nikolay case concerns the authorities' failure in their obligation to conduct an effective investigation into the applicant's credible allegations of ill-treatment inflicted by private third parties in August 1997 (violation of Article 3). The applicant had identified the assailants to the authorities and had provided medical evidence that he had been physically assaulted. Some investigative steps had been conducted by the authorities in the immediate aftermath of his complaint. Despite that, the authorities had not acted with sufficient diligence and had finally decided to discontinue the prosecutions in June 2000 on the ground that there was no evidence that the applicant had been the victim of an offence. In taking these decisions, they relied mostly on the fact that the applicant had withdrawn his complaint, disregarding the evidence gathered during the investigation and the applicant's later statements according to which the withdrawal of his complaint was the result of the pressure brought on members of his family by one of his alleged aggressors. In addition, the European Court found that the authorities did not take certain investigative steps which it deemed necessary and the investigation had been affected by undue delays. The Court held that the inadequacies of the investigation had been too numerous and too serious for it to be regarded as effective.

Individual measures:

1) Angelova and Iliev case: The European Court awarded the applicants just satisfaction in respect of the non-pecuniary damages suffered. Investigations were still pending against two of the assailants when the European Court delivered its judgment. The charges against the others assailants had to be dismissed under the statute of limitations. The European Court stated in its judgment that considering the length of the proceedings so far, it found it questionable whether either of the two assailants still charged would ever be brought to trial or be successfully convicted (§103 of the judgment).

The applicant's lawyer submitted in April 2008 that, after the European Court's judgment became final, the preliminary investigation was concluded in a report, the content of which was unknown to the applicants. The case file was transmitted to the competent prosecutor, who never replied to the applicants' requests to read the file, and was known to have been on sick leave at least between 2/10/2007 and beginning of April 2008. On 14/04/2008 the applicants asked the relevant appellate Prosecutor's Office to allow them to read the file and to appoint another prosecutor competent to complete the investigation and bring the case to court.

• *Information provided by the Bulgarian authorities:* On 14/05/2008, in the presence of her lawyer, the applicant (the victim's mother) was informed of the evidence collected during the preliminary stage of the criminal proceedings. All documents concerning the investigation have been submitted to the applicant. On 30/05/2008 the Shumen regional prosecution service lodged an indictment with the competent court against a first suspect for the premeditated murder of the applicants' relative and against a second person for hooliganism. On 2/06/2008 the case was referred to a judge rapporteur chosen by lot. The first hearing in the case was scheduled for 9/07/2008, but was postponed because one of the accused was ill. It took place on 15/07/2008. The judge rapporteur informed the applicant in writing of the date of the court hearing and of her right to constitute herself as a civil party in the criminal proceedings. The applicant did so during the first hearing and claimed approximately 50 000 euros in damages. During the first hearing the court heard five witnesses and the conclusions of the medical experts. The next hearing was scheduled for 9/09/2008, but the lawyer of the two accused sent a medical certificate establishing that he could not attend due to an illness. The court nevertheless heard the two witnesses, who had appeared for the hearing, in the presence of an *ex officio* lawyer. The next hearing was scheduled for 15/10/2008. The applicant's lawyer took part in the proceedings.

• *Information is awaited on the state of progress of these proceedings.*

2) Dimitrov Nikolay case: The European Court awarded the applicant just satisfaction in respect of the non-pecuniary damages suffered.

• *Information is urgently expected as to whether the applicant may request the conduct of a new investigation into his allegations of ill-treatment.*

General measures:

1) Angelova and Iliev case: As to whether the Bulgarian legal system affords adequate protection against racially-motivated offences, the European Court observed that the authorities had charged the assailants with aggravated offences, which despite not making any direct reference to racist motives nevertheless carried heavier sentences than those envisaged under the domestic racial-hatred legislation. The domestic legislation and lack of increased penalties for racist murder or serious bodily injury had not, therefore, hampered the authorities from conducting an effective investigation.

• *Information is awaited* on measures envisaged or already taken to prevent similar violations (e.g. training activities for the investigative authorities; specific guidelines for the investigation of racially motivated offences; legislative changes, if appropriate; effective remedies at the disposal of civil parties to accelerate excessively lengthy criminal proceedings, etc). In any event, the publication and dissemination of the European Court's judgment to all investigation authorities, if appropriate with a circular letter stressing their obligation effectively to investigate racially motivated offences appear to be appropriate measures for the execution of this judgment.

2) Dimitrov Nikolay case: The European Court noted that the ill-treatment of which the applicant complained is identified as a crime under Bulgarian criminal law and that the applicant could request compensation for the damage caused. The Court therefore found that the authorities could not be reproached for not having put an appropriate legal framework in place (§72 of the judgment).

• *Information is awaited on measures envisaged or already taken to prevent similar violations (e.g. training activities for the investigative authorities, including the prosecution service). In any event, the publication and dissemination of the European Court's judgment to all investigation authorities, if appropriate with a circular letter explaining the main conclusions of the European Court in this case, appear to be appropriate measures for the execution of this judgment.*

The Deputies,

1. took note of the information provided recently by the Bulgarian authorities on the development in the criminal proceedings against the alleged assailants of the applicants' relative in the case of Angelova and Iliev; noted that this information remains to be studied in detail;
2. noted the information provided at the meeting on individual measures in the case of Nikolay Dimitrov, and invited the authorities to submit it in writing and to keep the Committee informed of any development in this matter;
3. took note of the information provided by the authorities, including at the meeting, on general measures and, in particular, on the publication of the European Court's judgments in these cases and on the training activities organised by the National Institute for Justice;
4. recalled in this respect that an action plan and/or an action report is expected from the authorities for the execution of the European Court's judgments in these cases;

5. decided to resume consideration of these cases at the latest at their 1086th meeting (June 2010) (DH), in the light of the assessment of the information provided, as well as of further information to be provided by the authorities.

Latest development

Theme / Domain : Ill-treatment which took place under the responsibility of the forces of order

Case name :	**VELIKOVA v. Bulgaria**	**Appl N° :**	**41488/98**
Judgment of :	18/05/2000		
Final on :	04/10/2000		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Ill-treatment which took place under the responsibility of the forces of order**		
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	854-4.2(07/10/2003)		

NOTES OF THE AGENDA

- 15 cases principally concerning deaths or ill-treatment which took place under the responsibility of the forces of order

Interim Resolution CM/Res/DH(2007)107

41488/98 Velikova, judgment of 18/05/00, final on 04/10/2000
38361/97 Anguelova, judgment of 13/06/02, final on 13/09/2002
69138/01 Boyko Ivanov, judgment of 22/07/2008, final on 22/10/2008, rectified on 08/09/2008
31365/02 Dimitrov Georgi, judgment of 15/01/2009, final on 15/04/2009
61275/00 Georgiev Vladimir, judgment of 16/10/2008, final on 16/01/2008
53121/99 Iliev Stefan, judgment of 10/05/2007, final on 10/08/2007
55061/00 Kazakova, judgment of 22/06/2006, final on 22/09/2006
50222/99 Krastanov, judgment of 30/09/2004, final on 30/12/2004
7888/03 Nikolova and Velichkova, judgment of 20/12/2007, final on 20/03/2008
46317/99 Ognyanova and Choban, judgment of 23/02/2006, final on 23/05/2006
43233/98 Osman, judgment of 16/02/2006, final on 16/05/2006
57883/00 Petrov Vasil, judgment of 31/07/2008, final on 31/10/2008
47905/99 Rashid, judgment of 18/01/2006, final on 18/04/2006
42027/98 Toteva, judgment of 19/05/2004, final on 19/08/2004
48130/99 Vasilev Ivan, judgment of 12/04/2007, final on 12/07/2007

The Ognyanova and Choban, Velikova and Anguelova cases concern breaches of the right to life and/or of the prohibition of ill-treatment, since the authorities failed to account fully for the deaths of relatives of the applicants between 1993 and 1996, while they were detained in police custody, and also in some cases for the injuries they received during detention (violations of Articles 2 and/or 3).
The Nikolova and Velichkova case concerns a breach of the right to life of the applicants' relative, who died in police custody after excessive force was used to arrest him (violation of Article 2).
The rest of the cases, except the Kazakova and the Stefan Iliev cases, concern the ill-treatment inflicted on the applicants by police officers between 1995 and 2001, in the course of different police operations and during police custody (violations of Article 3).
All these cases also concern the lack of effective investigation by the Bulgarian authorities into these deaths or into the applicants' arguable claim to have suffered ill-treatment at the hands of the police (violations of Articles 2 or 3, and in some cases Article 13).
The Anguelova and Ognyanova and Choban cases also concern the unlawfulness of the detention of the applicants' relatives, as it was not in conformity with domestic law (violations of Article 5§1).
The Anguelova case concerns in addition the failure by the police to provide timely medical care during the detention of the applicant's son (violation of Article 2).
The Krastanov case also relates to the excessive length of civil proceedings for damages brought by the applicant in 1995. The Petrov Vasil case also concerns the excessive length of criminal proceedings brought against the

applicant (violations of Article 6§1).
The Osman case also concerns the illegal destruction of certain property of the applicants during the police operation to evict them from their house (violation of Article 1 of Protocol No. 1).
Finally the Rashid case also relates to the violation of the applicant's right to be brought before a judge promptly after his arrest (violation of Article 5§3) and to the unlawfulness of the applicants' continued detention pending trial following the domestic court's decision ordering his release (violation of Article 5§1).
Individual measures: In the Interim Resolution adopted in these cases in October 2007, the Committee has called upon the Bulgarian government to rapidly adopt all required individual measures (see CM/ResDH(2007)107). Information was sought in particular on the follow-up given to the judgments of the European Court by the General Prosecutor (competent to ask for the reopening of the unsatisfactory criminal investigations in these cases). According to the information provided by the Bulgarian authorities, an examination of the possibility of new investigation was carried out or was underway in the majority of these cases.
• *Information was submitted on the 16/10/2008 concerning the cases Velikova, Toteva, Anguelova and Ognyanova and Choban and is currently being assessed.*
1) Velikova case: a prosecutor from the Supreme Prosecutor's Office of Cassation orally informed the authorities that an enquiry had been opened in 2007 into the circumstances surrounding the death of Mr Tsonchev.
• *Information is awaited on the outcome of this enquiry.*
2) Anguelova case: The criminal investigation into the death of the applicants' relative was discontinued in 2004 (following the judgment of the European Court in this case). The Supreme Prosecutor's Office of Cassation expressed the opinion that the investigation could not be reopened, as the decision to discontinue it had been taken by a prosecutor and not by a court. At the same time, the decision to discontinue the proceedings was examined *ex officio* by the competent appellate prosecutor, who concluded in 2008 that the initial decision had been lawful and justified.
• *Assessment: under way. It would be useful to have 1) information as to whether new investigative acts have been carried out between 1997, when the initial investigation was suspended, and 2004, when a decision was taken for its discontinuation; and 2) a copy of the 2004 prosecutor's decision discontinuing the investigation.*
3) Kazakova case: The Supreme Prosecutor's Office of Cassation ordered an examination into the circumstances of the case and pointed to specific actions to be taken in that respect, in particular the questioning of the police officers involved in the facts and of the applicant (copy of the European Court's decision was enclosed with this order). As a result of this examination, in 2007, the competent military prosecutor refused to open criminal investigation into the relevant facts. His decision was upheld by the Appellate Military Prosecutor in 2008. The latter pointed out in particular that the limitations period had expired about 9 years ago, and consequently it was not possible to initiate proceedings anew.
• *Assessment: in these circumstances, no further individual measure appears necessary.*
4) Ognyanova and Choban case: The Supreme Prosecutor's Office of Cassation considered that no reopening of the criminal investigation into the death of the applicants' relative was needed (letter of 16/01/08). This finding was made on the basis of a decision of the Appellate Military Prosecutor of 2008 upholding the initial prosecutorial decision not to prosecute. The Appellate Military Prosecutor considered in particular that the analysis of the evidence gathered in the case demonstrated that the initial prosecutorial decision not to prosecute was lawful and justified. Further he found that the investigating authorities had taken all measures to establish the truth, the prosecutor in particular having discontinued proceedings only after an objective, all-inclusive and thorough examination of all circumstances of the case.
• *Assessment: It should be noted that this consideration and analysis refer to the same investigation acts declared by the European Court to have been insufficient, giving rise to a violation of the procedural aspect of Article 2.*
• *Additional information is awaited as to how the authorities are engaging with pursuing an effective investigation in line with the requirements stated by the European Court.*
5) Osman case: A copy was provided of the 1997 refusal to open criminal proceedings on the grounds that the act at issue did not constitute a criminal offence. The authorities indicated that they have no information as to whether the applicants appealed against this decision.
• *Information is awaited about an examination by the competent authorities of the possibility for new investigation into the relevant facts. In addition, it should be noted that according to the information contained in the judgment of the European Court, the applicants appealed against the refusal of 1997 to open criminal investigation (see §41 of the judgment). .*
6) Toteva case: the Supreme Prosecutor's Office of Cassation considered that there was no criminal investigation to be reopened in this case since no formal refusal to open a criminal investigation into the relevant facts had been issued at the relevant time.
• *Information is awaited about the possibility of opening criminal investigation in respect of the acts of the police officers who allegedly ill-treated the applicant.*
7) Nikolova and Velichkova case An investigation was carried out in this case; however, various factors led the European Court to conclude that the criminal proceedings against the two police officers responsible for the

death of the applicants' relative fell short of the requirements of Article 2: the police officers were convicted more than seven years after the wrongful act; they received suspended minimum sentences; no disciplinary measures were taken against them; and they continued to serve in the police force after the criminal proceedings were brought against them, and one was even promoted.
One of the police officers involved resigned from the police force in 1999 (§63; §§19-20).
• *Information is awaited as to whether the police officers found guilty of causing the death of the applicants' relative are currently employed as law enforcement agents.*
8) Petrov Vasil case: *The criminal proceedings against the applicant have been ended and the applicant has been released.*
• *Information is awaited on the possibility of reopening the investigation into the applicant's allegations of ill-treatment.*
• *Information is also awaited on the situation concerning in particular the newer cases (Iliev Stefan, Rashid, Vasilev Ivan, Krastanov, Boyko Ivanov, Georgiev Vladimir and Dimitrov Georgi).*
General measures:
1) Adopted measures: The measures adopted by the Bulgarian authorities were summarised in the Interim Resolution adopted in these cases in October 2007 (see CM/ResDH(2007)107). The most important of them are presented below:
*a) Violations of the right to life and of the prohibition of ill-treatment, including as a result of lack of medical care***:** The main information provided by the authorities concerns awareness-raising measures and training of the police on the requirements of the Convention: compulsory training on the subject has been introduced and in 2000 a specialised Human Rights Committee was set up at the National Police Directorate. In addition, in 2002, a new form was introduced, to be signed by all detained persons, containing information on their basic rights. Furthermore, in October 2003 a Code of Police Ethics, drawn up in cooperation with the Council of Europe, was introduced by order of the Minister of the Interior.
The special issue of the insufficiency of the legal framework for the use of firearms by police officers is being examined within the framework of the cases of Nachova and others (Section 4.2).
b) Violations related to the lack of effective investigation: A judicial review of prosecutors' decisions not to prosecute was introduced in 2001 as well as the power for courts to remit files to the prosecutor for specific investigations. The effectiveness of this judicial review is steadily enhanced as the direct effect of the Convention and the European Court's case law is improving.
c) Violations related to unlawful detention: It has been noted that already at the time of the events, a written order had to be issued before police detention and this detention had to be recorded in a special register. In a circular letter of 13/03/2002 the Director of the National Police Directorate reminded all the chiefs of Regional Police Directorates of their obligation to take all necessary measures to ensure strict compliance with these rules. In addition, Article 12 of the 2006 Instruction on detention by police specifies that the period of detention runs from the moment a person has been apprehended; the time must be recorded in the detention order, irrespective of when the actual order for detention is issued.
d) Violation of the right of property: In the light of the particular circumstances of this violation, the publication and the dissemination of the Osman case appear appropriate measures for execution.
e) Other violations: The measures required by the violation related to the excessive length of the civil proceedings for damages against the state are examined in the context of the Djangozov case (45950/99, Section 4.2). The measures required by the violation related to the excessive length of the criminal proceedings are examined in the context of the Kitov case (37104/97, Section 4.2).
The measures required by the violation of the right to be brought promptly before a judge after arrest were adopted in the case of Assenov, closed by Resolution ResDH(2000)109, following a legislative reform of criminal procedure which took effect from 01/01/2000.
The issue concerning continuing detention pending trial following the domestic court's decision ordering release is examined in the framework of the Bojilov group (Section 4.2).
f) Publication and dissemination: the most important judgments of the European Court were translated, published on the internet site of the Ministry of Justice and sent out to the relevant authorities, in some cases together with an accompanying letter from the Ministry of Justice.
2) Outstanding issues*:* Whilst noting with interest the information provided by the government in respect of general measures, the Committee has, however, noted in the above mentioned Interim Resolution that certain general measures remain to be taken, in particular measures aimed at:
- improving the initial and ongoing training of all members of police forces, in particular as regards the widespread inclusion of the feature "human rights" in the training;
- improving procedural safeguards during detention on remand, in particular through the effective implementation of the new regulations concerning the obligation to inform detained persons of their rights and the formalities to be followed concerning the recording of arrests;

- guaranteeing the independence of investigations regarding allegations of ill-treatment inflicted by the police, and in particular ensuring the impartiality of the investigation organs in charge with this kind of cases.
In the light hereof the Committee called upon the Government of Bulgaria to rapidly adopt all outstanding measures and to regularly inform the Committee on the practical impact of the adopted measures, in particular by submitting statistical data on the investigations carried out in respect of allegations of ill-treatment by the police. The Committee decided to pursue the supervision of execution until all general measures necessary for the prevention of new, similar violations of the Convention are adopted and their effectiveness does not raise any doubt.
• *Information is still awaited on the above mentioned outstanding issues. Confirmation is awaited of the dissemination of the judgments of the European Court in the Ognyanova and Choban and Osman cases to the competent investigation organs in order to draw their attention to the deficiencies of the enquiries conducted in these cases.*

The Deputies decided to resume consideration of these items at the latest at their 1086th meeting (June 2010) (DH), to examine all the measures necessary for the implementation of these judgments.

Latest development

Theme / Domain : Detention conditions

Case name :	**KEHAYOV v. Bulgaria**	**Appl N° :**	**41035/98**
Judgment of :	18/01/2005		
Final on :	18/04/2005		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Detention conditions**		
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	933-2(05/07/2005)		

NOTES OF THE AGENDA

- Cases concerning the poor conditions of the applicants' detention and / or the lack of an effective investigation in this respect

41035/98 Kehayov, judgment of 18/01/2005, final on 18/04/2005
55389/00 Dobrev, judgment of 10/08/2006, final on 10/11/2006
54659/00 Gavazov, judgment of 06/03/2008, final on 06/06/2008
61507/00 Georgiev Andrei, judgment of 26/07/2007, final on 26/10/2007
44082/98 I.I., judgment of 09/06/2005, final on 09/09/2005
41211/98 Iovchev, judgment of 02/02/2006, final on 02/05/2006
55712/00 Kostadinov, judgment of 07/02/2008, final on 07/05/2008
57830/00 Malechkov, judgment of 28/06/2007, final on 28/09/2007
49438/99 Staykov, judgment of 12/10/2006, final on 12/01/2007
50765/99 Todorov Todor, judgment of 05/04/2007, final on 05/07/2007
56856/00 Yordanov, judgment of 10/08/2006, final on 10/11/2006

These cases concern the poor conditions of the applicants' detention between 1996 and 2000, amounting to degrading treatment, in different detention facilities of the Investigation Service (Plovdiv, Shoumen, Pazardjik and Varna) and prisons (Pazardzhik and Varna) (violations of Article 3). The Iovchev, Georgiev Andrei and Gavazov cases also concern the lack of an effective remedy in this respect (violations of Article 13 in conjunction with Article 3).
The cases also concern different violations of the Convention related to the pre-trial detention (violations of Article 5§§1, 3, 4 and 5).
The Dobrev and Yordanov cases relate to breaches of the right to respect for the applicants' home life in that their homes were searched in 1999, in violation of domestic law (violations of Article 8).
Finally, the Iovchev and Gavazov cases also concern the excessive length of the criminal proceedings instituted against the applicants in 1996 and 1998 respectively (violations of Article 6§1).
The Gavazov case also concerns the lack of an effective remedy to challenge the excessive length of criminal proceedings (violation of Article 13 in conjunction with Article 6).

Individual measures: Mr Kehayov is no longer detained under the conditions criticised in this judgment. Subsequently to his release in 1999, the applicant in the Todorov Todor case has been convicted to a term of imprisonment. However, it should be noted that the European Court examined the applicant's conditions of detention only with respect to the period until 1999. The other applicants have been released.
The criminal proceedings in the Iovchev case were closed in 2003.
The European Court granted just satisfaction to all applicants in respect of the non-pecuniary damage they suffered on account of the violations.
• *Information is awaited on the state of the criminal proceedings in the Gavazov case and, if appropriate, on their acceleration.*
• *Clarification would be appreciated about the items seized when the apartments of the applicants were searched in the Dobrev and Yordanov cases.*
General measures:
***1) Inadequate detention conditions (violations of Article 3)*:**
• *Information provided by the Bulgarian authorities (up until June 2007)*: Action plans concerning the execution of the cases of Kehayov and I.I. were provided in February 2006. They provide for the publication and the dissemination of the European Court's judgments in these cases and indicate that the Committee of Ministers will be informed of any modification or good practice adopted in the investigation services in order to guarantee the detainees' rights.
The Kehayov, I.I., Dobrev and Yordanov judgments were published on the Internet site of the Ministry of Justice www.mjeli.government.bg. Furthermore, the authorities consider that the seminars on the Convention and the European Court's case-law organised by the National Institute of Justice are also relevant measures for the execution of these judgments (more that 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in 2001-2006, of which 2 seminars on Article 3). Seminars were also carried out in 2007, focusing on the provisions of the Convention violated by Bulgaria in recent judgments of the European Court.
The Bulgarian authorities have also provided information about certain measures to improve detention conditions in the Pazardjik prison in 1999-2002. As regards improving detention conditions in investigation services, the General Directorate "Execution of Sentences" within the Ministry of Justice has drawn up and is successfully implementing a long-term investment programme for carrying out works, reconstruction and building of new investigation centres for detention. The programme aims at improving the material conditions in Investigation Centres by bringing them in line with international standards. Such measures were taken in particular in respect of the conditions of detention in the Plovdiv Investigation Detention Centre. While these improvements bring the conditions in the Plovdiv centre closer to the Council of Europe's requirements, more is needed to make them fully compliant. To this end, a proposal was sent in March 2007 to the Ministry of Justice concerning the reconstruction of the prison building in Plovdiv with a view to making conditions of detention there compatible with the Council of Europe's human rights norms.
• *Information is awaited on the follow-up given to these measures aimed at improving detention conditions in the investigation services. Information would be useful on the situation concerning the detention conditions in the prisons. In the framework of the adoption of additional measures relating to these cases, attention should be drawn to the recommendations made by the Committee for the Prevention of Torture in respect of these issues, in particular in the most recent report CPT/Inf(2008)11.*
2) Lack of effective remedy with respect to detention conditions (violation of Article 13 in conjunction with 3): given that this violation was mainly due to the authorities' unduly formalistic approach to applying the State Responsibility for Damage Act (according to this approach non-pecuniary damage could only be proved through formal evidence, such as witness testimony) and to the excessive length of the proceedings in application of this Act in the applicant's case, the publication and the dissemination of the European Court's judgment in the Iovchev case to the competent courts appear to be sufficient for execution.
• *Information was requested concerning measures related to the violation of Article 13, in particular examples showing a change in case law concerning this legislation.*
• *Information provided*: The Bulgarian authorities provided, in June 2007, copies of 5 domestic court decisions taken between 2004 and 2006 which ordered compensation for inadequate conditions of detention by applying the State Responsibility for Damage Act.
• *Assessment: It would appear from the provided information that the courts practice is compatible with the requirements of the Convention.*
3) Unlawfulness of the applicants' detention due to the fact that it was not based on a written order as required by domestic law (violation of Article 5§1): the Dobrev and I.I. cases present similarities to the case of Anguelova (Section 4.2). The authorities have indicated that in a circular letter of 13/03/2002 the Director of the National Police reminded all chiefs of Regional Police Directorates of their obligation to take all necessary measures to ensure strict compliance with the provisions regulating detention by the police.
4) Right to be brought before a judge, excessive length of detention pending trial (violations of Article 5§3) and lack of effective judicial review of the lawfulness of the applicant's detention (violation of

Article 5§4 in the Staykov, I.I., Kostadinov and Gavazov cases): these cases present similarities to those Assenov (judgment of 28/10/1998) and Nikolova (judgment of 25/03/1999) closed by Resolutions ResDH(2000)109 and ResDH(2000)110, following a legislative reform of criminal procedure which took effect from 1/01/2000.

5) Denial of access of the applicant's lawyer to the case file (violation of Article 5§4 in the Kehayov case): the case presents similarities to the Shishkov case (judgment of 09/01/2003), which has been closed following the dissemination of the judgment to the competent authorities with a circular letter drawing their attention to the fact that the practice of refusing access to case files is contrary to the requirements of the Convention (Resolution CM/ResDH(2007)158).

6) Lack of prompt examination of the requests for release (violation of Article 5§4): the Dobrev case presents similarities to that of Kolev (Kitov group, Section 4.2).

7) Prevention of the applicant's lawyer from representing him at one of the hearings (violation of Article 5§4 in the Kehayov case): the publication and the dissemination of the judgment appear to be sufficient measures to prevent similar violations. The European Court noted that the alleged defect in the authorisation for representation did not justify the decision depriving the applicant of his defence, not only under Article 5 of the Convention, but also with regard to the relevant domestic law.

• *Information provided:* The Kehayov and the I.I. judgments were published on the Internet site of the Ministry of Justice www.mjeli.government.bg and were sent out in May 2007 to the competent authorities with circulars drawing attention to what actions of the authorities had caused the violations found by the European Court.

8) Lack of an enforceable right to compensation for detention in contravention of Article 5 (violation of Article 5§5): the Dobrev case presents similarities to the Yankov case (Application No. 39084/97, 1051st meeting March 2009).

9) Excessive length of criminal proceedings (violations of Article 6§1): the Iovchev and Gavazov cases present similarities to the Kitov case (Section 4.2).

10) Searches of homes in contravention of domestic law (violations of Article 8 in the Dobrev and Yordanov cases): in view of the development of the direct effect given by Bulgarian courts to the Convention and to the case-law of the European Court, the dissemination of one of these judgments to the competent authorities appear to be sufficient measures for execution.

• *Information is still awaited in this respect.*

11) Lack of an effective remedy to challenge the excessive length of the criminal proceedings (violation of Article 13 in conjunction with Article 6): The Gavazov case presents similarities to the Kitov group of cases (Section 4.2).

The Deputies decided to resume consideration of these items:
1 at their 1051st meeting (17-19 March 2009) (DH), in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 1059th meeting (2-4 June 2009) (DH), in the light of information to be provided on individual and general measures, in particular the improvement of detention conditions in investigation services and prisons .

Latest development

Later on new cases have been added to this group.

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Theme / Domain : Private life

Case name :	**ILIYA STEFANOV v. Bulgaria**	**Appl N° :**	**65755/01**
Judgment of :	22/05/2008		
Final on :	22/08/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Private life**		
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	1043-2.1(02/12/2008)		

NOTES OF THE AGENDA

65755/01 Stefanov Iliya, judgment of 22/05/2008, final on 22/08/2008

The case concerns unjustified interference with the right to respect for the private life, the home and the correspondence of the applicant, a practicing advocate, due to the search and seizure carried out in November 2000 in his office (violation of Article 8).
The European Court observed that while the search and seizure had been carried out in the context of a criminal investigation, they had been disproportionate to the legitimate aim pursued due to a number of procedural shortcomings. It criticised in particular the fact that the search warrant did not specify what objects or documents were being looked for and contained no indication regarding the handling of information covered by advocates' professional confidentiality which might be discovered during the search. The way in which the warrant had been draft also made it possible to seise the applicant's computer and peripherals for two months, with no guarantee that the data thereon would not be checked or copied. Moreover, the persons present at the search were not legally qualified and would have been unable to identify the confidential documents in order to prevent excessive intrusion in this respect.
The case also concerns the absence of a remedy whereby the applicant might contest the lawfulness of the search and seizure carried out in his office with a view to obtaining compensation if appropriate (violation of Article 13 in conjunction with Article 8).
Individual measures:
• *Information is awaited as to whether the items seized from the applicant's office have been restored to him as ordered by the Sofia District Prosecutor in February 2001.*
General measures:
1) Disproportionate nature of the search and seizure operation
• *Information is awaited on the publication of the European Court's judgment and its dissemination to the competent authorities (courts empowered to issue search warrants and police authorities competent to execute them), if necessary together with an explanatory letter drawing attention to the problems raised by the judgment. Information is also expected on any further measures envisaged are already taken.*
2) Remedy whereby the lawfulness of such measures may be contested and compensation obtained: This question has been raised in the context of the Peev case (1st DH meeting in 2009)

The Deputies decided to resume consideration of this item at their 1st DH meeting in 2009, in the light of information to be provided on the payment of the just satisfaction, if necessary, and to join it, at the same meeting, with the Peev case to supervise individual and general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1086th meeting (June 2010) (DH).

Case name :	**HASAN and CHAUSH v. Bulgaria**	**Appl N° :**	**30985/96**
Judgment of :	26/10/2000		
Final on :	26/10/2000		
Violation :		Payment status :	Paid outside time limit, short
delay			
Theme / Domain :			
Next exam :	1092-4.1(14/09/2010)		
Last exam :	1078-4.1(02/03/2010)		
First exam :	863-5.1(02/12/2003)		

NOTES OF THE AGENDA

30985/96 Hassan and Tchaouch, judgment of 26/10/00- Grand Chamber
39023/97 Supreme Holy Council of the Muslim Community, judgment of 16/12/2004, final on 16/03/2005
The applicants in these two cases are the representatives of the two rival factions which, since the democratic changes of 1989, dispute the direction of the Muslim community in Bulgaria.
The cases concern the authorities' unjustified interference between 1995 and 1997 in the internal organisation of a divided Muslim community, due to the replacement of its recognised leadership and to manner in which the executive participated in the organisation of a conference aimed to unify this community (violations of Article 9).
The first case also concerns the repeated refusal of the Bulgarian Council of Ministers to comply with the Supreme Court's judgments quashing the refusal to register the new leadership of the community (violation of Article 13).
The European Court noted in the first case that the provisions of the Religious Denominations Act of 1949 did not meet the required standards of clarity and predictability and allowed unfettered discretion to the executive in registering religious denominations.

In the second case the Court observed that the authorities did not remain a neutral mediator between opposing groups, but rather insisted on unification despite the decision of the leaders of the applicant organisation to withdraw. In consequence, the authorities' actions (notably those of the Directorate of Religious Denominations, a government agency) had the effect of compelling the divided community to accept a single leadership against the will of one of the two rival leaderships. The leaders elected by the 1997 conference obtained the status of the sole legitimate leadership of the Muslim community and, as a result, the applicant organisation was deprived of the possibility of continuing to manage the affairs and assets of the part of the Muslim community it represented.

Individual measures:

• *Applicants' situation*: the unification conference held in October 1997 adopted the new statutes of the Muslim denomination and elected a new leadership. Mr Hassan attended the conference and approved the new leadership. These changes have been registered by the government. It may also be noted that, as the legitimacy of this conference was challenged by certain leaders, the division within the Muslim community in Bulgaria continued beyond 1997. Several other national conferences took place, with the task of electing new leaders, the most recent on 19/04/2008. This last conference elected the same mufti as in 1997. On 22/04/2008 the competent court registered the mufti, the new statute, and the new composition of the Supreme Holy Council, as elected at the latest national conference.

• *Bilateral contacts are under way as to whether further individual measures are needed.*

General measures:

1) Problems related to the arbitrary replacement of the Muslim community's leadership: The authorities consider that the new Religious Denominations Act, which entered into force in 2003, represents a sufficient guarantee in order to prevent new similar violations in the future. It should be noted in particular that from then on, a judicial body - the Sofia City Court – and no longer the executive, is competent to register religious communities wishing to obtain legal personality.

What is more, the Bulgarian authorities consider that the direct effect of the case-law of the European Court, which is recognised by domestic courts in increasingly varied fields, will prevent new, similar violations to that found in the present case, not least by ensuring that the Religious Denominations Act and the provisions which regulate the registration of religious denominations, are interpreted in conformity with the requirements of the Convention. With a view to facilitating this development, the Centre for training of judges sent the judgment in the case of Hassan and Tchaouch to the competent courts. Finally, the authorities consider that the seminars on the Convention and the European Court's case law organised by the National Institute of Justice are also relevant measures for the execution of these cases (more that 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in the period 2001-2006, of which 3 seminars on Article 9).

2) Authorities' Interference in the organisation of the unification conference in 1997: The Bulgarian authorities have been invited to consider publishing the judgment in the Supreme Holy Council of the Muslim Community and sending it to the Directorate of Religious Denominations, as well as to the courts and the local authorities competent to register national and local leadership of religious denominations.

• *Information provided:* the European Court's judgment was sent to the Directorate of Religious Denominations which undertook to send it out to relevant authorities. The delegation indicated that this has been done.

3) Violation of Article 13*:* following the entry into force of the Religious Denominations Act the Bulgarian Council of Ministers is no longer competent to approve the registration or the modification of the statute of religious institutions. As indicated above, these are issues to be decided by the domestic courts. Furthermore, the remedies available to challenge the decisions of the Sofia City Court seem to be in conformity with the Convention's requirements. The Bulgarian authorities indicated, moreover, that the refusal of the Bulgarian Council of Ministers to comply with the judgments of the Supreme Court in this case is an exceptional occurrence and that court decisions, in particular those concerning the registration of religious denominations, will be respected by the executive in future.

4) Publication: The judgments were published on the website of the Ministry of Justice www.mjeli.government.bg.

The Deputies decided to resume consideration of these items at the latest at their 1092nd meeting (September 2010) (DH), in the light of the bilateral contacts as to whether there is a need to pursue further individual measures.

Latest development

Case name :	**RIENER v. Bulgaria**	**Appl N° :**	**46343/99**
Judgment of :	23/05/2006		

Final on :	23/08/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	976-2(17/10/2006)		

NOTES OF THE AGENDA

46343/99 Riener, judgment of 23/05/2006, final on 23/08/2006
The case concerns the violation of the freedom of movement of the applicant (born in Bulgaria but having acquired dual Bulgarian and Austrian nationality by marriage) due to the ban imposed on her leaving Bulgaria between 1995 and 2004 for non-payment of tax debt amounting to the equivalent of at least 150,000 euros (violation of Article 2 of Protocol No 4).
The European Court found that the authorities had failed to give due consideration to the principle of proportionality in their decisions, the travel ban imposed on the applicant being of an automatic nature and of indeterminate duration. The authorities failed to take account of a number of relevant issues, such as the fiscal authorities' failure to take steps to recover the debt, the debtor's potential ability to pay and the respect of her private and family life, since under the legislation in force at the material time, a travel ban could be lifted only when the debt was either paid or sufficiently secured (apparently for the full amount) or after the extinction of the debt by prescription. For the same reasons, the domestic courts only examined the formal lawfulness of the travel ban and thus only a limited degree of review was afforded to the applicant in respect of this measure (violation of Article 13).
Individual measures: The travel ban imposed on the applicant was lifted in 2004 following the expiry of the prescription period of her debt. The European Court awarded her just satisfaction in respect of the non-pecuniary damage she sustained. The applicant's request for compensation of an alleged pecuniary damage was rejected as it was not supported by convincing evidence.
• *Assessment: in these circumstances, no further individual measure appears to be necessary.*
General measures: The provisions of the Laws on Foreigners and on Passports, challenged in this judgment, were replaced in 1998 and 1999 respectively, by those of the Aliens Law and the Law on Bulgarian Identity Documents. However, these modifications do not appear to have remedied the deficiencies found in the European Court's judgment (see the summary of the new provisions currently in force in §§61-66 of the judgment). Furthermore, the new provisions do not appear to contain any more safeguards against arbitrariness than those in force at the material time concerning the manner in which the authorities handled some issues in this case (in particular, their communication through internal notes – not communicated to the applicant – as regards the annual confirmation of non-payment of the debt and the prescription question, see §129 of the judgment).
In addition, it should be noted that the European Court referred in its judgment to different solutions concerning these issues adopted by several other member states and indicated that, regardless of the approach chosen, the principle of proportionality must apply, in law and in practice (§128 of the judgment).
• *Evaluation: legislative measures appear to be necessary in this case.*
• *Information provided by the Bulgarian authorities (letter of 12/11/2007)*: The European Court's judgment was sent by the Minister of Justice to the Supreme Administrative Court, the Sofia City Court, the Ministry of Interior and the Ministry of Finance, together with a letter emphasising the conclusions of the European Court. The Action Plan presented by the authorities envisages the drafting of legislative proposals in line with the requirements of the European Court.
• *Information awaited: A copy of any such draft legislative proposals would be appreciated.*
The judgment of the European Court has been published on the internet site of the Ministry of Justice http:www.mjeli.government.bg.

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of further information to be provided on general measures, in particular as regards the envisaged legislative changes.

Latest development

Case name :	**ZLINSAT, spol. s r.o. v. Bulgaria**	**Appl N° :**	**57785/00**
Judgment of :	15/06/2006		
Final on :	15/09/2006		
Violation :		Payment status :	Paid in the time limit

Theme / Domain :

Next exam : 1092-4.2(14/09/2010)
Last exam : 1072-4.2(01/12/2009)
First exam : 982-2(05/12/2006)

NOTES OF THE AGENDA

57785/00 Zlínsat, spol. S r.o., judgment of 15/06/2006, final on 15/09/2006 and of 10/01/2008, final on 10/04/2008
The case concerns the absence of a judicial remedy in relation to decisions taken by the prosecution authority regarding the applicant company's ownership and use of a hotel: in July and October 1997 the prosecutor had ordered the suspension of the contract concluded with the applicant company privatising the property and ordered its eviction, on the ground that the contract had been concluded under conditions manifestly unfavourable to the state.
The European court found that as the public prosecutor could not pass for an independent or impartial judicial body, there could be no justification for not providing a judicial remedy in respect of his decisions in civil matters (violation of Article 6§1).
The case also concerns interference in the exercise of the applicant company's right to the peaceful enjoyment of its possessions. The Court considered that this interference was unlawful inasmuch as the decision of the prosecution authorities – which were not subject to judicial supervision – were grounded on legal provisions drafted in particularly vague terms (violation of Article 1 of Protocol No. 1).
Individual measures: In October 1999, the Prosecutor's Office notified the police that, following the dismissal of the action for annulment of the privatisation contract, the decisions concerning the suspension of the privatisation and the eviction of the applicant company were no longer enforceable. The hotel in question was restored to the applicant company.
The European Court awarded just satisfaction in respect of the pecuniary damage sustained by the applicant.
• *Assessment: no further individual measure seems necessary.*
General measures:
• *Situation at the material time*: The decisions challenged in this judgment were adopted on the basis of Article 185§1 of the Code of Criminal Procedure and Article 119§1, p. 6 of the Judicial Power Act. According to the first provision, the investigation authorities are bound to take the necessary measures to prevent a criminal offence, for which there is a reason to believe that it will be committed. These measures may include impounding the means which might be used for committing the offence (it should be noted that the Prosecutor's Office had declared its intention to open an enquiry against certain officials suspected of having committed an offence in the framework of the privatisation proceedings; it appears that no such enquiry has been initiated). According to the second provision concerned, prosecutors may take all measures provided for law, if they have information that a publicly prosecutable criminal offence or other illegal act may be committed.
These rules, drafted in particularly vague terms, giving the Prosecutor's Office unfettered discretion to act in any manner it saw fit, and combined with the lack of adequate procedural safeguards, led the European Court to conclude that the minimum degree of legal protection to which individuals and legal entities are entitled was lacking.
• *Development*: Article 185§1 of the Code of Criminal Procedure was repealed and the new Code of Criminal Procedure, which entered into force in 2006 does not contain similar provisions (see also §37 of the judgment).
• *Information is required on the measures envisaged to clarify the exact scope of Article 119§1, p. 6 of the Judicial Power Act and to introduce independent supervision of the prosecution authorities' decisions taken on the basis of this provision, and in a more general manner adopted by prosecutors in similar situations.*
In any event, the Bulgarian authorities were invited to publish the judgment of the European Court and to disseminate it to the competent authorities, and in particular to prosecutors.
The judgment was published on the Internet site of the Ministry of Justice http://www.mjeli.government.bg.
On 08/12/2006, the Secretariat wrote to the Bulgarian authorities inviting them to present a plan of action for the execution of this judgment.

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**BORISOVA v. Bulgaria**	**Appl N° :**	**56891/00**
Judgment of :	21/12/2006		
Final on :	21/03/2007		
Violation :		Payment status :	Paid outside the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-3.Aint(02/03/2010)		
First exam :	997-2(05/06/2007)		

NOTES OF THE AGENDA

56891/00 Borisova, judgment of 21/12/2006, final on 21/03/2007
The case concerns the violation of the applicant's right to a fair trial and right of the defence in the context of simplified proceedings concerning a minor administrative offence (violations of Article 6§§1 and 3 (a), (b) and (d) taken together). On 8/09/1999 the applicant was arrested during a demonstration and, after several hours, brought to the Pazardzhik District Court, which sentenced her to an administrative sanction of 5 days' detention at Pazardzhik police station. She was informed of the accusations brought against her only shortly before the hearing. The European Court found that the applicant had not been promptly informed in detail of the nature and cause of the accusation against her and did not have adequate time and facilities for the preparation of her defence, only having been informed of the nature of the allegations against her shortly before the hearing. Moreover, the applicant could not obtain the attendance and examination of witnesses on her behalf and only witnesses for the prosecution were heard.
Individual measures: The applicant served her sentence of 5 days' detention in September 1999. This sentence, not being considered as a criminal conviction, does not appear on her criminal record. The European Court awarded her just satisfaction in respect of non-pecuniary damage.
• *Assessment: no further individual measure seems necessary*.
General measures: The 1963 Decree on Combating Minor Hooliganism provides an expedited procedure for bringing to court minor offences punishable by an administrative sanction of up to fifteen days' detention at a police station or a fine of between 10 and 200 Bulgarian levs (between 5 and 100 euros). The European Court recognised that the intention of the Decree was to deal quickly and efficiently with petty offences. It also stated that the existence and use of summary proceedings in criminal matters is not in itself contrary to Article 6 as long as they provide the necessary safeguards and guarantees (§40).
• *Information is expected on measures taken or envisaged to avoid future violations, and in particular to ensure the procedural safeguards and guarantees of Article 6 in similar situations. Such measures may include, for example, appropriate instructions to the authorities involved in such proceedings. Publication and dissemination of the European Court's judgment to relevant courts and authorities is expected in order to raise domestic courts' awareness of the Convention's requirements as they result from this case.*
The Secretariat wrote to the Bulgarian authorities to present an action plan for the implementation of this judgment.

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**PETYO POPOV v. Bulgaria**	**Appl N° :**	**75022/01**
Judgment of :	22/01/2009		
Final on :	22/04/2009		
Violation :		Payment status :	No just satisfaction
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1065-2.1(15/09/2009)		

NOTES OF THE AGENDA

75022/01 Petyo Popov, judgment of 22/01/2009, final on 22/04/2009

The case concerns the unfairness of criminal proceedings brought against the applicant, in that he was not informed of the date of the hearing before the Supreme Court of Cassation in 2000 (violation of Article 6§1).
• *To date, the authorities have provided no information.*

The Deputies noted that no information had been provided on this case and again invited the authorities to submit an action plan and/or action report for the execution of this judgment and decided to resume consideration of this case at the latest at their 1092nd meeting (September 2010) (DH).

Latest development

Case name :	**GAVRIL YOSIFOV v. Bulgaria**	**Appl N° :**	**74012/01**
Judgment of :	06/11/2008		
Final on :	06/02/2009		
Violation :		Payment status :	Paid outside the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-3.Aint(02/03/2010)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

74012/01 Gavril Yosifov, judgment of 06/11/2008, final on 06/02/2009
The case concerns the fact that the applicant had no opportunity to take proceedings to challenge the lawfulness of his detention (violation of Art. 5§4).
In December 1998 the Sofia District Court found the applicant guilty as charged and sentenced him to three years' imprisonment. After the Sofia District Court dismissed his appeal on procedural grounds, the applicant was detained on 30/11/1999 in Sofia Prison to serve his sentence. Later, the Sofia City Court found that the district court had erred in dismissing the applicant's appeal and referred the case back to that court for fresh consideration of his appeal. Although the applicant's conviction and sentence were since then no longer considered final, the Sofia City Court refused to consider whether the applicant should remain in custody, saying that it was for the Sofia District Court to decide on this matter. However, the latter failed to examine several subsequent requests for release made by the applicant. The applicant was finally released on 26/10/2000, following an order by the Sofia Prosecutor's Office stating that the applicant's conviction and sentence were no longer final and that he could not be kept in custody pursuant to them.
The European Court noted that although the applicant had been successful in challenging the dismissal of his appeal and that consequently, neither his conviction nor sentence had been final or enforceable, he had been unable to obtain a speedy judicial ruling as to the lawfulness of his detention, both the courts concerned having declined competence.
Individual measures: The detention at issue was ended on 26/10/2000. In March 2001 the applicant was convicted of some of the crimes of which he had been charged and sentenced to one and a half years' imprisonment. The period of the detention in question was deducted from the applicant's prison sentence. The European Court awarded the applicant just satisfaction in respect of non-pecuniary damage sustained.
• *Assessment*: *no individual measure seems to be necessary.*
General measures: The European Court held that the situation at issue seemed to have been the result of unclear regulation of the courts' competence in this domain and the fact that Bulgarian law entrusts all issues affecting the legality of the execution of prison sentences solely to the competent prosecutors and not to a judge.
It was also due to the lack in Bulgarian law of a general *habeas corpus* procedure whereby any individual deprived of his or her liberty, regardless of the grounds for it, is entitled to request a court to review the lawfulness of his or her detention and order his or her release if the detention is not lawful. The European Court noted furthermore that as matters stand, Bulgarian law envisages distinct procedures for challenging specific types of deprivation of liberty, such as pre-trial detention, confinement to a mental institution or detention pending deportation. The result of this approach is that individuals whose deprivation of liberty does not fall within a well-defined category are likely to face serious or even insuperable difficulties in challenging it (see §61 of the judgment).
Finally, when dismissing the government's objection of non-exhaustion of domestic remedies, the European Court observed that the lack of clear case-law of Bulgarian courts showed the present uncertainty in practical terms of the remedy provided by the State Responsibility for Damage Caused to Citizens Act, insofar as complaints under Article 5§4 of the Convention were concerned (see §51 of the judgment).

• *Information is awaited on measures taken or envisaged to prevent new, similar violations.*

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**NENOV v. Bulgaria**	**Appl N° :**	**33738/02**
Judgment of :	16/07/2009		
Final on :	16/10/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010); 1086-3.A(01/06/2010)		
Last exam :	1078-2.1(02/03/2010)		
First exam :	1078-2.1(02/03/2010)		

NOTES OF THE AGENDA

33738/02 Nenov, judgment of 16/07/2009, final on 16/10/2009
This case concerns the violation of the applicant's right to a fair trial in that he received no legal aid in proceedings brought by his ex-wife in 2002 to change his visiting rights with respect to their children, born in 1989 and 1992 (violation of Article 6§1).
The European Court considered that the particular importance of what was at stake for the applicant, i.e. the possibility of maintaining a real link with his children, combined with his mental illness, called for the granting of legal aid. Without legal aid, the applicant encountered great difficulties: he was prevented from taking sufficient part in the decision-making process to ensure the necessary protection of his interests and the fairness of the proceedings as a whole was compromised. The European Court noted that his ex-wife was represented by counsel in the proceedings.

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of an action plan / action report to be provided by the authorities.

Latest development

Case name :	**ISYAR v. Bulgaria**	**Appl N° :**	**391/03**
Judgment of :	20/11/2008		
Final on :	20/02/2009		
Violation : delay		Payment status :	Paid outside time limit, short
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

391/03 Işyar, judgment of 20/11/2008, final on 20/02/2009
The case concerns the poor conditions in which the applicant was detained in Sofia Prison between 2001 and 2008 (violation of Article 3).
The European Court noted that the applicant's allegations concerning his conditions of detention (overcrowding, lack of organised activities for prisoners, deplorable standards of hygiene, lack of free access to the sanitary facilities at any time of day and poor-quality food) were corroborated by other evidence in its possession, and in particular by the report on Sofia Prison drawn up by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit in 2006. In view of the cumulative effect of the poor

conditions of detention, and bearing in mind the length of the applicant's detention and his particular situation (due to the fact that he is an alien and does not speak Bulgarian), the European Court held that the suffering to which the applicant had been subjected amounted to degrading treatment within the meaning of Article 3.
The case also concerns the violation of his right to have the free assistance of an interpreter (violation of Article 6§3e).The European Court observed that the way in which the courts had interpreted domestic law had resulted in the applicant's being obliged to pay the interpretation costs incurred in the criminal proceedings against him.
Individual measures: The applicant was released on 05/05/2009.The European Court awarded him just satisfaction in respect of the pecuniary damage flowing from the violation of Article 6§3e and of the non-pecuniary damage sustained.
• *Assessment: In the light of the above, no further individual measure appears necessary.*
General measures:
1) Violation of Article 3: The case present similarities to the Kehayov group (41035/98, 1086th meeting, June 2010).
2) Violation of Article 6§3e: The European Court pointed to a certain discrepancy of the case-law of the Supreme Court of Cassation as to whether the convicted person should be required to pay the interpretation costs (see §§20 and 47 of the judgment). It held that the violation in this case arose from the courts' interpretation of domestic law (see §48 of the judgment).
In view of the development of the direct effect given by Bulgarian courts to the Convention and to the case-law of the European Court, publication of the European Court's judgment and its dissemination to the competent courts seem to be sufficient measures for its execution.
• *Information is awaited in this respect; information on any other possible measures would be useful.*

The Deputies decided to resume consideration of this item at the latest their 1092nd meeting (September 2010) (DH) in the light of information to be provided on general measures.

Latest development

Case name :	**BULVES AD v. Bulgaria**	**Appl N° :**	**3991/03**
Judgment of :	22/01/2009		
Final on :	22/04/2009		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1065-2.1(15/09/2009)		

NOTES OF THE AGENDA

3991/03 "Bulves" AD, judgment of 22/01/2009, final on 22/04/2009
The case concerns the violation of the applicant company's right to the peaceful enjoyment of its possessions due to the refusal by the Bulgarian authorities in 2001 to allow it to deduct input VAT it had paid to its supplier who had been late in complying with its own VAT reporting obligations (violation of Article 1 of Protocol No. 1).

The Deputies noted that no information had been provided on this case other than on the payment of the just satisfaction and again invited the authorities to submit an action plan and/or action report for the execution of this judgment and decided to resume consideration of this case at the latest at their 1092nd meeting (September 2010) (DH).

Latest development

Case name :	**ZAHARIEVI v. Bulgaria**	**Appl N° :**	**22627/03**
Judgment of :	02/07/2009		
Final on :	10/12/2009		
Violation :		Payment status :	No information

Theme / Domain :

Next exam : 1092-4.2(14/09/2010); 1086-3.A(01/06/2010)
Last exam : 1078-2.1(02/03/2010)
First exam : 1078-2.1(02/03/2010)

NOTES OF THE AGENDA

22627/03 Zaharievi, judgment of 02/07/2009, final on 10/12/2009
This case concerns a violation of the applicants' right to the peaceful enjoyment of their possessions due to the manner of execution of a judgment of the Supreme Administrative Court awarding them compensation in the form of a certain number of shares in a company. In 2003, the national authorities transferred the same number of shares in a second company, which had taken over the first company, to the applicants, without examining whether the value of the same number shares differed from one company to the other. The request by the applicants for readjustment of the number of shares was refused by the relevant ministry on the ground that the judgment of the Supreme Administrative Court was final. On 23/11/2004 and 31/05/2005, the Supreme Administrative Court declared an appeal brought by the applicants against that refusal inadmissible.
The European Court considered that the automatic allocation of the shares in the second company, combined with the lack of an effective remedy permitting the applicants to have the merits of their requests for readjustment of the number of shares examined, had upset the fair balance which had to be struck between the general interest and the protection of the applicants' property rights (violation of Article 1 of Protocol No. 1).
The European Court held that the question of the application of Article 41 (just satisfaction) was not ready for decision as to pecuniary and non-pecuniary damage.

The Deputies decided to resume consideration of this item at the latest at their 1092nd DH meeting (September 2010) (DH), in the light of an action plan / action report to be provided by the authorities.

Latest development

Case name : VELTED-98 AD v. Bulgaria **Appl N° : 15239/02**
Judgment of : 11/12/2008
Final on : 11/03/2009
Violation : Payment status : Paid outside the time limit
Theme / Domain :

Next exam : 1092-4.2(14/09/2010); 1086-3.Aint(01/06/2010)
Last exam : 1078-3.Aint(02/03/2010)
First exam : 1059-2.1(02/06/2009)

NOTES OF THE AGENDA

15239/02 Velted-98 AD, judgment of 11/12/2008, final on 11/03/2009
The case concerns the unfairness of administrative proceedings brought by the applicant company seeking revocation of a ministerial decree relating to the privatisation of a public company for which it had unsuccessfully submitted a bid (violation of Article 6§1).
The European Court observed that in its judgment of 19/10/2001 the Supreme Administrative Court had failed to examine an issue qualified as substantial by its first chamber when it ruled on the case and on which the parties had exhaustively commented.
Individual measures: The European Court held there was no causal link between the violation found and the alleged pecuniary damage, and awarded the applicant company just satisfaction in respect of non-pecuniary damage sustained.
• *Information is awaited on any possible individual measures in favour of the applicant company.*
General measures: The violation found derives from the Supreme Administrative Court's failure to give an adequate response to the applicant company's arguments. Publication of the European Court's judgement and its dissemination to that court therefore appear to be sufficient measures to prevent similar violations.
• *Information is awaited in this respect.*

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

Case name :	**DODOV v. Bulgaria**	**Appl N° :**	**59548/00**
Judgment of :	17/01/2008		
Final on :	17/04/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1035-2.1(17/09/2008)		

NOTES OF THE AGENDA

59548/00 Dodov, judgment of 17/01/2008, final on 17/04/2008
The case concerns the disappearance in December 1995 of the applicant's mother - suffering from progressively advancing Alzheimer's disease - from a state-managed nursing home for the elderly, and the inability of the Bulgarian judicial system to establish the circumstances surrounding her disappearance or bring to account the persons or institutions responsible (violation of Article 2).
In this connection the European Court noted in the first place that the criminal investigation was plagued by periods of inactivity and contradictory decisions, and was only concluded by discontinuing proceedings against the medical staff in 2004 due to the expiry of the period of limitation. The Court noted in the second place that there had been neither disciplinary measures against the medical staff nor administrative measures by the competent administrative authorities to identify the possible causes for the breach in question. The Court stressed lastly that the civil action for damages was still pending, ten years after being brought by the applicant. The European Court considered that the deficiencies in the regulations applicable to the activities of the nursing home and its staff had undoubtedly contributed to the inability of the system to provide adequate and timely responses in conformity with the procedural obligations under the Convention.
The Court concluded that, despite the availability in Bulgarian law of three avenues of redress - criminal, civil and disciplinary - faced with an arguable case of negligent acts endangering human life, the authorities had not in practice provided an effective possibility to make use of the means for redress available in law.
The case also concerns the excessive length of civil proceedings initiated by the applicant against the Ministry of Labour and Social Care, the Ministry of the Interior and the Sofia Municipality (violation of Article 6§1).
Individual measures: The European Court awarded the applicant just satisfaction in respect of non-pecuniary damages. The criminal proceedings were closed in 2003, the action in the public interest being time-barred. The civil action for compensation was still pending when the European Court delivered its judgment.
• *The authorities are invited to provide information on the current state of the civil proceedings and on their acceleration, if necessary. Information is awaited about possible disciplinary sanctions imposed on the responsible persons.*
General measures:
1) Violation of Article 2 (absence of judicial remedy to establish the facts and to hold accountable the persons concerned):
• *The authorities are invited to provide information on the measures they have taken, or envisage to take, to ensure that the available remedies related to claims for negligent endangering the life of third parties are capable in practice of establishing the facts and holding accountable the persons responsible.*
• *The authorities are invited to identify in particular any potential omissions in the management, training, control or definition of duties of the different categories of staff in the nursing homes (see §97 of the judgment), which might lead to endangering the life of third parties due to negligent acts or omissions.*
2) Violation of Article 6§1, (length of civil proceedings): this aspect is examined under the Djangozov group (45950/99, Section 4.2).
• *In any event publication and dissemination of the Court's judgment to relevant authorities, in particular the Prosecution General's Office for further dissemination to relevant prosecution offices throughout the country, to the Ministry of Labour and Social Care, the Ministry of the Interior, the Sofia Municipality, the Sofia District Court, the Sofia City Court, the Sofia Appellate Court, and to the Supreme Court of Cassation are expected.*

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

Case name :	**MIHALKOV v. Bulgaria**	**Appl N° :**	**67719/01**
Judgment of :	10/04/2008		
Final on :	10/07/2008		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010); 1086-3.B(01/06/2010)		
Last exam :	1078-3.B(02/03/2010)		
First exam :	1043-2.1(02/12/2008)		

NOTES OF THE AGENDA

67719/01 Mihalkov, judgment of 10/04/2008, final on 10/07/2008
The case concerns a lack of objective impartiality on the part of the Sofia City Court in that it decided on the applicant's claim for compensation for an unlawful conviction which it had itself pronounced earlier (violation of Article 6§1).
The European Court noted in particular that the professional links between the judges of the Sofia City Court and one of the parties to the compensation proceedings were sufficient to give rise to legitimate concerns for the applicant about their impartiality. The Court also observed that the compensation which was to paid to the applicant if successful would have been debited from the budget of the same Sofia City Court, which added to the applicant's concerns. The European Court concluded that the Sofia City Court which examined the applicant's case at first instance, did not satisfy the conditions of independence and objective impartiality and that this deficiency had not been remedied by the higher courts.
The case also concerns a violation of the applicant's right of access to court, in the same proceedings for compensation for unlawful conviction, because the court fees the applicant had to pay were more than the compensation of 168 euros he was awarded for having served the unlawful sentence (violation of Article 6§1).
Finally the case concerns the excessive length of the proceedings initiated by applicant's claim for compensation (violation of Article 6§1).
Individual measures: The proceedings have been closed. The European Court awarded just satisfaction in respect of non-pecuniary damage suffered by the applicant.
• *Bilateral contacts are under way to assess the need for further individual measures.*
General measures:
1) Lack of objective impartiality of the Sofia City Court (Article 6§1):
• *Information is awaited on measures taken or envisaged to prevent new, similar violations. In any event, the translation and wide dissemination of the European Court's judgment to Bulgarian courts appear necessary.*
2) Violation of the applicant's access to court due to excessive court fees (Article 6§1): The case presents similarities to the Stankov case (68490/01, Section 4.2). It should be noted that the rules of the State and Municipality Liability Act regarding the assessment and payment of court fees due under the act were amended in May 2008 to the effect of introducing a flat state fee in respect of any litigation under this Act. The flat fee is determined by standardised tariffs applicable to state fees collected by courts under the Civil Procedural Code as follows: a) for citizens, sole traders and not-for-profit legal entities - BGN 10 (approximately EUR 5) and b) for other legal entities - BGN 25 (approximately EUR 13). Further, no litigation or enforcement costs are to be paid in advance. The claimants shall pay all costs incurred in the proceedings only if the claim has been rejected in its entirety by the court, or if the claimants withdraw or waive their claim entirely. If the court upholds the claim, in its entirety or partially, the defendant shall be ordered to pay the costs relating to such proceedings, as well as the claimant's state fee.
3) Length of civil proceedings (Article 6§1): The case represents similarities to the Djangozov case (45950/99, Section 4.2).

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**YANKOV v. Bulgaria**	**Appl N° :**	**39084/97**
Judgment of :	11/12/2003		
Final on :	11/03/2004		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	885-2(01/06/2004)		

NOTES OF THE AGENDA

39084/97 Yankov, judgment of 11/12/03, final on 11/03/04
47823/99 Georgiev, judgment of 15/12/2005, final on 03/07/2006
58971/00 Popov Radoslav, judgment of 02/11/2006, final on 02/02/2007
57847/00 Navushtanov, judgment of 24 May 2007, final on 24/08/2007

The cases relate to the lack of an enforceable right in Bulgarian law to compensation for detention in contravention of the provisions of Article 5 of the Convention (violation of Article 5§5). They also concern violations related to the applicants' pre-trial detention (violations of Article 5§§3 and 4).

Furthermore, in the Yankov case the applicant, who was detained pending trial, was punished without justification in March 1998 by seven days' confinement in a disciplinary cell for having made moderately offensive statements against the judicial and penitentiary systems in a personal manuscript (violation of Article 10). The European Court found that in this context shaving the applicant's hair before his confinement in an isolation cell without specific justification constituted a treatment of sufficient severity to be considered degrading (violation of Article 3). The Court also found that the applicant had no effective remedy against either the degrading treatment to which he was subjected or the interference with his freedom of expression (violation of Article 13).

The Yankov case concerns finally the excessive length of the criminal proceedings instituted against the applicant (violation of Article 6§1).

Individual measures: The applicants have been released (Yankov, Georgiev and Navushtanov) or sentenced to a term of imprisonment (Radoslav Popov). The criminal proceedings against Mr Yankov were stayed in October 2004 due to his ill-health.

• *Information urgently awaited: concerning the current stage of these proceedings and their acceleration.*

General measures:

1) Violation of Article 3: In a letter of 08/02/2005 the head of the Directorate for execution of sentences indicated that a practice consisting of shaving detainees' heads before confining them in disciplinary cells does not exist in penal establishments in Bulgaria.

2) Violations of Articles 5§3 (excessive length of the detention on remand, violation of the right to be brought before a judge, lack of sufficient grounds for prolonged detention) and 5§4 (lack of effective judicial review of the lawfulness of the pre-trial detention): The cases present similarities to the Assenov case (judgment of 28/10/1998) closed by Resolution ResDH(2000)109, following a legislative reform of criminal procedure which took effect from 01/01/2000.

3) Violations of Article 5§5: The authorities indicated that they envisage introducing into domestic law an enforceable right to compensation for detention not in conformity with the requirements of Article 5 of the Convention and that a national expert opinion is expected on this issue. Furthermore, the authorities consider that the seminars on the Convention and the European Court's case-law organised by the National Institute of Justice are also relevant measures for the execution of these cases (more that 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in the period 2001-2006, of which 4 seminars on Article 5).

• *Information is awaited on the follow-up of this issue.*

4) Violation of Article 6§1: The Yankov case presents similarities to the Kitov case (37104/97, Section 4.2).

5) Violation of Article 10: Since the legislation governing disciplinary sanctions on detainees for offensive and defamatory statements was not challenged in this case, the publication and the dissemination of the Yankov judgment to prison authorities and to the competent courts appear to be sufficient measures for execution. The European Court's judgment has been published on the web site of the Ministry of Justice www.mjeli.government.bg.

• *Information awaited: on the dissemination of the judgment.*

6) Violation of Article 13: A judicial appeal allowing a detainee to complain against imposition of solitary confinement was introduced into Bulgarian law in 2002, i.e., subsequent to the relevant facts (new Article 78b of the Execution of Sentences Act). Moreover, as from 01/01/2005 the court may decide to stay the execution of a disciplinary sanction during examination of an appeal against it (new paragraph 4 of Article 78b of the Execution of Sentences Act).

The Deputies decided to resume consideration of these items at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

Case name :	**IORDAN IORDANOV AND OTHERS v. Bulgaria**	**Appl N° :**	**23530/02**
Judgment of :	02/07/2009		
Final on :	02/10/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1086-3.A(01/06/2010); 1092-4.2(14/09/2010)		
Last exam :	1078-2.1(02/03/2010)		
First exam :	1078-2.1(02/03/2010)		

NOTES OF THE AGENDA

23530/02 Iordan Iordanov and others, judgment of 02/07/2009, final on 02/10/2009
This case concerns a breach of the principle of legal certainty in judicial proceedings brought by the applicants to challenge their dismissal from employment on account of “deep and persistent divergences” in the Supreme Administrative Court's practice in this area (violation of Article 6§1).
The European Court noted in particular that between 2001 and 2005 the practice of the Supreme Administrative Court had been inconsistent with respect to the applicability of certain procedural guarantees in a particular case concerning the dismissal of officials of the Ministry of the Interior. In the applicants' case, the Supreme Administrative Court decided that the guarantees in question did not apply and rejected their appeal against the lawfulness of their dismissal, while in another case concerning the same facts, it took the opposite position and declared the order of dismissal void for failure to respect those guarantees.
The European Court also noted that there was a mechanism in domestic law permitting that situation to be remedied, i.e. the possibility of applying for interpretation before the plenum of the Supreme Administrative Court, but no such application was ever brought.
The case also concerns the excessive length of criminal proceedings against one of the applicants (violation of Article 6§1).

The Deputies decided to resume consideration of this item at the latest at their 1092nd DH meeting (September 2010) (DH), in the light of an action plan / action report to be provided by the authorities.

Latest development

Case name :	**KARAMITROV and others v. Bulgaria**	**Appl N° :**	**53321/99**
Judgment of :	10/01/2008		
Final on :	10/04/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1035-2.1(17/09/2008)		

NOTES OF THE AGENDA

53321/99 Karamitrov and others, judgment of 10/01/2008, final on 10/04/2008
The case concerns the violation of the applicants' right to the peaceful enjoyment of their possessions on account of the prolonged impounding of the car belonging to the second and third applicants which had been seized in 1992 in the framework of criminal proceedings initiated against the first applicant for the theft of the car (violation of Article 1 Protocol No 1). The European Court referred in particular to the findings of the prosecution organs which

declared, in 1999 and 2000, both the seizure and this impounding contrary to domestic law, given that no protocol had been drawn at the moment when this happened.
The case also concerns the lack of effective remedy to challenge the prolonged holding by the authorities of the seized car and to obtain compensation for the damage caused by this holding (violation of Article 13). The European Court observed that the prosecution organs ordered that the vehicle be returned to the applicants but only after they had discontinued the proceedings against the first applicant in 1999 and not as a response to the numerous requests by the applicants.
Finally, the case concerns the excessive length of criminal proceedings initiated against the first applicant and the lack of effective remedy in this context (violation of Article 6§1 and of Article 13).
Individual measures: The seized vehicle was returned to the applicants in 2000. They have not made a request for just satisfaction before the European Court concerning the material damage caused to their property. The criminal proceedings against the first applicant were terminated in 1999.
• *Assessment: In these circumstances no other individual measure appears necessary.*
General measures:
1) Violation of Article 1 of Protocol No. 1 and of Article 13: The violation of the right of respect for the property of the applicants appears to be an isolated case of non-respect of domestic law concerning the seizure of material evidence in the framework of criminal proceedings.
As regards the lack of effective remedy to challenge the impounding by the authorities of the seized objects in the framework of criminal proceedings, it suffices to note that the Criminal Procedure Code was modified in 2000. Following this amendment it was specified that the prosecutor can decide to return the seized objects to the right holders before the end of the criminal proceedings and that his refusal can be appealed before the first instance court competent on the subject-matter of the criminal case. The provisions related to this question have been reproduced in the new Criminal Procedural Code of 2006 (Article 111). The question which remains to be clarified concerns the existence in domestic law of a remedy permitting compensation to be obtained for possible damage caused to objects that have been seized.
• *Information is awaited as regards this last question. A similar question has been raised in the framework of the Yordanov Krasimir case (50899/99, 1078th meeting, March 2010).*
2) Violation of Article 6§1 and of Article 13: The question of the length of criminal proceedings is being examined in the framework of the Kitov group (37104/97, Section 4.2).

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures, namely the existence of compensation remedies for damages caused to objects seized in the framework of criminal proceedings..

Latest development

Case name :	**UMO ILINDEN and IVANOV v. Bulgaria**	**Appl N° :**	**44079/98**
Judgment of :	20/10/2005		
Final on :	15/02/2006		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	966-2(06/06/2006)		

NOTES OF THE AGENDA

- **Cases concerning infringements of the freedom of assembly of organisations which aim to achieve "the recognition of the Macedonian minority in Bulgaria" and of their members**
44079/98 United Macedonian Organisation Ilinden and Ivanov, judgment of 20/10/2005, final on 15/02/2006
46336/99 Ivanov and others, judgment of 24/11/2005, final on 24/02/2006
These cases relate to the unjustified prohibition of a number of commemorative meetings between 1998 and 2003 in south-west Bulgaria and in Sofia (violations of Article 11).
The European Court noted with concern that one of the prohibitions was imposed in 2003 on grounds, which had been previously declared contrary to the Convention in the case of Stankov and the United Macedonian Organisation Ilinden against Bulgaria (judgment of 02/10/2001). The European Court also observed that on one occasion the authorities appeared somewhat reluctant to take all appropriate measures to prevent violent acts

directed against the participants in Ilinden's rally. The last case also relates to the lack of an effective remedy at the applicants' disposal to complain against the prohibitions of their meetings (violation of Article 13). The European Court noted that the possibility to seek judicial review of such bans before the competent courts in accordance with Article 12§6 of the Meetings and Marches Act could in principle operate effectively. However, it was rendered ineffective in the applicants' case on account of the way it was applied by the competent courts.
The European Court recalled its case-law according to which grounds such as threat of disruption of the public order or danger for the territorial integrity and the security of the country could not justify restrictions to the freedom of assembly when there is no real foreseeable risk of violent action and the initiators of the meeting in question had not hinted at any intention to use violence or other undemocratic means to achieve their aims (see also the judgment in Stankov and UMO Ilinden v. Bulgaria, cited above). The Court also noted that the risk that some of the participants in the rallies might broadcast separatist slogans could not itself justify their banning.
Individual measures:
1) Meetings in 2006-2007: The Bulgarian authorities informed the Committee that in 2006 only 2 out of 10 requests for organisation of meetings were rejected. One of the refusals concerned a meeting room reserved for another event; the information provided gives no more details concerning the other. The police ensured the security of the participants and the public order at the authorised meetings. However, it should be noted in this respect that another application is at present pending before the European Court relating to prohibitions of meetings organised by the applicants, scheduled initially respectively between 2004-2008 and in September 2006 (see in particular DD(2008)553).
Moreover, the applicants complained before the Committee in April 2007 of the ban by the Governor of a commemorative meeting they organised for 22/04/2007 (see DD(2007)224). The Committee noted this ban with concern as it was based on grounds already incriminated by the European Court, but noted in this respect with satisfaction that the meeting in question had nevertheless taken place, in particular following the intervention of the Agent of the Government (see the decision adopted by the Committee at the 997th meeting, June 2007). According to the applicants, in fact the meeting in question did not take place as they claim to have encountered various problems related to the transportation of the participants, the behaviour of the police and the fact that no music, speeches, laying of wreaths or raising of flags had been allowed in practice. They lodged a new application with the European Court with regard to these facts (see DD(2008)553).
2) Meetings in 2008: The Bulgarian authorities indicated that the United Macedonian Organisation Ilinden – Pirin had declared itself satisfied, in certain publications on its website, with the organisation of two recent commemorative meetings (which took place on 20/04/2008 and on 04/05/2008). The authorities specified that the presence of a great number of police officers, which was criticised by the applicants, was necessary to ensure the protection of the participants in these meetings against possible violent counter-demonstrations. The authorities observed that the absence of such a protection was criticised by the European Court in the judgment of the United Macedonian Organisation Ilinden and Ivanov (see §115 of the judgment).
• *Assessment: The awareness-raising measures below, as well as the measures concerning the effectiveness of the domestic remedies in the field of freedom of peaceful meetings are also relevant for the individual measures.* • *Additional information is awaited on the applicants' meetings since June 2008.*
General measures:
1) Organisation of peaceful meetings: The authorities recalled that following the judgment of Stankov and the United Macedonian Organisation Ilinden of 2001 (Final Resolution ResDH(2004)78), a copy of the judgment translated into Bulgarian and accompanied by a circular letter was sent to the mayors of the towns of Petrich and Sandanski, directly concerned by this case. As the violations found in the present cases also concern other towns, the judgments of the European Court were also sent to the mayors of Sofia and Blagoevgrad, to draw their attention to the requirements of the Convention and to ensure that domestic law is interpreted in conformity with it.
The judgments were also sent to the district courts of the cities cited above, as well as to the competent prosecutors and to the directors of the National Security Service, of the Police Directorate of Sofia and of the Directorate of the Interior of Blagoevgrad. The dissemination of the judgments in these cases was made by a letter drawing the authorities' attention to the main conclusion of the European Court in these cases, as well as to the fact that this communication was made within the framework of the adoption of the general measures for the execution of the European Court's judgments.
These judgments were also be included in 2007 in the programme of seminars on the Convention and the case-law of the European Court organised by the by the National Institute of Justice (more that 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in the period 2001-2006, of which 3 seminars on Article 11). A seminar for judges and prosecutors on freedom of association and assembly with the participation of the Council of Europe was organised by the National Institute of Justice in October 2007. Another seminar on this subject, for judges, prosecutors, representatives of the Ombudsman's Office, lawyers and NGOs was organised in December 2007 by the Ministry of Justice and the Department for execution of the judgments. Yet another training activity for mayors and police chiefs took place in May 2008. Another seminar for judges and

prosecutors on freedom of association and assembly with the participation of the Council of Europe was organised by the National Institute of Justice in June 2008. In October 2008 a group of judges from the Supreme Court of Cassation, of prosecutors and of representatives of the Government Agent's Office paid a study visit to the Council of Europe during which they participated in a working seminar.

2) Effective remedies: A reflection was carried out within the Ministry of Justice on the need to amend the Meetings and Marches Act.

a) 2007 Bill: In June 2007 the authorities informed the Committee that a draft law amending the Meetings and Marches Act had been submitted to Parliament. According to this text, organisers of meetings and demonstrations to take place outdoors must inform the mayor's office of the district concerned 48 hours in advance. The mayor may ban a meeting for the reasons set out in the law, no later that 24 hours after the notification by the organisers. The mayor's decision may be appealed before the competent district court, which must give its decision, which is final, within in 3 days.

It emerges from the information provided that the grounds on which a meeting may be banned, according to the law currently into force, appear to make it possible to apply the law in conformity with the Convention, taking into account the awareness and training activities planned. These grounds are not changed in the draft law. On the other hand, the Bulgarian authorities have been invited to consider the possibility of better arranging different time-limits provided by the draft law in order to allow that complaints against meeting bans may be examined before the date intended for the meeting.

b) 2008 Bill: The Bulgarian authorities indicated on 16/10/08 that a Bill on Meetings and Marches had been submitted to the Bulgarian Parliament. The text of the Bill was provided. It this Bill, the grounds on which a meeting may be banned, according to the law currently into force, remain unchanged (see above). In addition, according to Article 12(4), the competent district court must give its decision on appeal against the mayor's decision to ban a meeting within in 24 hours. The court's decision is final.

• *Assessment: the provisions of the latest draft law of which the Committee has been informed have taken into account the considerations formulated as regards the possibility of better arranging different time-limits provided by the draft law in order to allow complaints against meeting bans to be examined before the date intended for the meeting. However, it seems that this draft law was not submitted to the new Parliament, constituted in 2009. If this is the case, the authorities are invited to submit information rapidly on any current draft laws submitted to Parliament, and if appropriate, on their content and on the time-frame for their adoption.*

The Deputies decided to resume consideration of these cases at the latest at their 1092nd meeting (September 2010) (DH) for examination of individual and general measures.

Latest development

Case name :	**ZELENI BALKANI v. Bulgaria**	**Appl N° :**	**63778/00**
Judgment of :	12/04/2007		
Final on :	12/07/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

63778/00 Zeleni Balkani, judgment of 12/04/2007, final on 12/07/2007

This case concerns the violation of the applicant organisation's right of peaceful assembly, related to environmental issues, due to an unlawful municipal decision to ban a rally it had planned for 19/04/2000 (violation of Article 11). The case also concerns lack of an effective remedy against this prohibition (violation of Article 13). In this context, the European Court noted that the applicant organisation's use of the existing appeal procedure under the Meetings and Marches Act had been ineffective, as the domestic court decision declaring the municipality's prohibition null and void was not delivered within the prescribed time-limit of five days but almost a year after the planned event. In addition, the European Court observed that the applicant organisation had had no right to seek redress for the unlawful actions of the municipality.

Individual measures: The European Court awarded the applicant organisation just satisfaction in respect of the non-pecuniary damage sustained.

• *Assessment: no further measure appears necessary.*

General measures:

1) Violation of Article 11: It seems that this was an isolated violation.

• *Publication of the European Court's judgment and its dissemination among relevant courts and authorities are expected, to raise their awareness of the Convention's requirements as they result from this case.*

2) Violation of Article 13: The question of an effective remedy is examined in the context of the United Macedonian Organisation Ilinden and Ivanov case (59491/00, Section 4.2).

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1072nd meeting (December 2009) (DH).

Case name :	**GULUB ATANASOV v. Bulgaria**	**Appl N° :**	**73281/01**
Judgment of :	06/11/2008		
Final on :	06/02/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1092-4.2(14/09/2010); 1086-3.B(01/06/2010)		
Last exam :	1078-3.B(02/03/2010)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

73281/01 Gulub Atanasov, judgment of 06/11/2008, final on 06/02/2009

The case concerns the unlawfulness of the committal of the applicant, suffering from schizophrenia and placed under house arrest pending proceedings against him, to a psychiatric hospital for the purpose of an examination. Having been remanded in custody since July 1999, the applicant was placed under house arrest by decision of the Plovdiv Court of Appeal taken on 06/07/2000. On 03/08/2000 the investigator responsible for the case ordered an expert examination; the applicant was admitted to a psychiatric hospital for that purpose from 08/08 to 04/09/2000. In July 2001 the order placing the applicant under house arrest was lifted.

The European Court found that the question of the lawfulness of the applicant's transfer to a psychiatric hospital concerned the legality of the deprivation of liberty within the meaning of Article 5§1, even though the applicant's house arrest had been lawful. It further considered that the applicant's transfer from his home to a psychiatric hospital had been illegal under domestic law, since it had not been based on a valid decision by a court as required by Article 155 of the Bulgarian Code of Criminal Procedure (violation of Article 5§1).

The case also concerns the fact that the applicant could not have his committal reviewed by a court and the lack of enforceable right to compensation.

The European Court noted that, even if the applicant had challenged his house arrest during his confinement in the psychiatric hospital, the courts examining such an appeal would have had no power to review the lawfulness of the investigator's order of 03/08/2000 and, consequently, the lawfulness of the applicant's detention in the psychiatric hospital (violation of Article 5§4).

In these circumstances, the European Court considered that Bulgarian law did not secure to the applicant an effective enjoyment of the right to compensation (violation of Article 5§5).

Individual measures: The applicant died in 2006. The European Court awarded his sons just satisfaction in respect of the non-pecuniary damage.

• *Assessment: in these circumstances no individual measure appears necessary.*

General measures:

1) Unlawfulness of the applicant's committal to a psychiatric hospital (violation of Article 5§1): The European Court found unconvincing the government's argument that persons under house arrest or in custody could be placed in a psychiatric hospital for examination solely by decision of an investigator or a prosecutor. According to the European Court, such interpretation did not follow from the text and structure of the Code of Criminal Procedure (see § 76 of the judgment). In these circumstances, publication of the European Court's judgment and its dissemination appear to be sufficient for its execution.

• *Information is awaited in this respect as well as on any other measure envisaged or already adopted.*

2) Impossibility to challenge the applicant's confinement (violation of Article 5§4): The violation in this case seems to constitute an isolated incident, as the applicant's placement in the hospital should have been ordered by a judicial decision which could then be appealed to a court.
• *Assessment: in these circumstances no general measure appears necessary.*
3) Lack of an enforceable right to compensation for detention in contravention of the provisions of Article 5 (violation of Article 5§5): The case present similarities to the Yankov group of cases (39084/97) (Section 4.2).

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

Theme / Domain : Expropriation

Case name :	**MANOLOV and RACHEVA-MANOLOVA v. Bulgaria**	**Appl N° :**	**54252/00**
Judgment of :	11/12/2008		
Final on :	11/03/2009		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Expropriation**		
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

54252/00 Manolov and Racheva-Manolova, judgment of 11/12/2008, final on 11/03/2009
The case concerns nationalised property acquired by the applicants and the subsequent proceedings brought against them by the heirs of the pre-nationalisation owners under the Restitution of Stores, Workshops and Storage Houses Act 1991. As a result the applicants were ordered to vacate their property in May 1997, without compensation (violation Article 1 of Protocol No. 1).
While accepting that the 1991 Act pursued a legitimate aim in the public interest, as part of the restitution legislation adopted after the fall of communism, the European Court noted that this Act did not aim at securing redress for expropriations without compensation, as the Restitution Law 1992 did (see the case of Velikovi and others), but at restoring the title of persons who had sold their property to the state in the 1970s and had received payment for it. The injustice which the 1991 Act sought to correct was thus less significant than the arbitrary expropriations for which redress was provided by the Restitution Law 1992. Therefore the European Court found it difficult to accept that the aim of correcting injustices like those that were the subject matter of the 1991 Act could justify depriving the applicants of their property lawfully acquired fifteen years earlier. The European Court finally noted that under the 1991 Act the applicants could only claim compensation for the improvements they had made to the property, not the value of the property itself; moreover, such claim of the applicants could only result in a token award as inflation had drastically reduced its value.
Individual measures: The European Court awarded the applicants just satisfaction covering their pecuniary and non-pecuniary damage.
• *Assessment: in these circumstances, no individual measure appears necessary.*
General measures: The case presents certain similarities to the Velikovi and others group (43278/98, Section 4.2) which concerns application of the 1992 Law on the Restitution of Real Property. However, the present case differs from this group in that it concerns specific conditions of the restitution set forth in the Restitution of Stores, Workshops and Storage Houses Act 1991.
• *Information is awaited on any measures taken or envisaged to prevent similar violations.*

The Deputies decided to resume consideration of this item at the latest at their 1092nd meeting (September 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**KIRILOVA AND OTHERS v. Bulgaria**	**Appl N° :**	**42908/98**
Judgment of :	09/06/2005		
Final on :	09/09/2005		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Expropriation**		
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	948-2(29/11/2005)		

NOTES OF THE AGENDA

42908/98+ Kirilova and others, judgments of 09/06/2005, final on 09/09/2005 and of 14/06/2007, final on 14/09/2007 (Article 41)
The case concerns the failure of the authorities to provide compensation to which the applicants were entitled under domestic law for the expropriation during the 1980s or the early 1990s of properties which had belonged to them or their ancestors (violation of Article 1 of Protocol No. 1). At the time of the expropriations the applicants were awarded compensation in the form of flats which the authorities undertook to build but which had still not been finished or handed over to the applicants when the European Court delivered its judgment (except in the case of Ms Shoileva-Stambolova and Mr Shoilev).
The European Court noted in particular that the uncertainty the applicants faced for many years was coupled with the lack of effective domestic remedies to rectify the situation and the reluctance – even active resistance – of the competent authorities to provide a solution to the applicants' problem.
Individual measures: Ms Shoileva-Stambolova and Mr Shoilev received their flat in 2004. Mr Kirilov and Ms Schneider received the two flats which were due to them on 30/08/2006. The European Court ruled that in respect in the two remaining applicants - Mr Ilchev and Ms Metodieva – the authorities had to deliver to them the ownership and possession of the flats due, or, failing such delivery, to pay to them a monetary compensation (see the judgment on article 41). The authorities submitted in a letter of 31/03/2008 that Mr Ilchev would take possession of his apartment shortly. Ms Metodieva received the monetary compensation awarded by the European Court in case she was not given the flat due to her. The European Court awarded just satisfaction to all applicants in respect of damage resulting from the impossibility to use and enjoy their flats between 7/09/1992 (ratification of the Convention by Bulgaria) and their delivery. It awarded the applicants just satisfaction in respect of non-pecuniary damages.
• *Assessment: Information about the exact date on which Mr Ilchev took possession of the flat due to him will be appreciated.*
General measures:
• *Information provided:* The Ministry of Justice requested the competent institutions, particularly the Ministry of Regional Development and Public Works and the Ministry of Finance, to provide their evaluation on the appropriate general measures. It has been noted that the problem created by this kind of expropriations was settled for the future through legislative amendments of 1996 and 1998 (they provide pecuniary compensation for expropriation, as well as legal means whereby expropriated persons may challenge the expropriation if the compensation awarded is not paid).
Under Article 9§2 of the Law on Public Works, the state budget provides resources for the compensation of owners in similar situations. The Law on the State Budget annually lays down the order of priority for spending the resources. In order to make such payments the Ministry of Finance must receive relevant information from municipalities concerning people whose property has been expropriated in accordance with the Law on Public Works and with Article 102 of the Property Act. The Ministry of Finance has been requested to be proactive in collecting the necessary information from the municipalities. Finally, the authorities consider that the seminars on the Convention and the European Court's case-law organised by the National Institute of Justice are also relevant measures for the execution of this case (more that 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in the period 2001-2006, of which 2 seminars on Article 1 of Protocol No. 1).
The judgment of the European Court was published on the website of the Ministry of Justice www.mjeli.government.bg.
• *Information is awaited, in particular as regards: 1) the evaluation of the situation at national level concerning persons whose property has been expropriated by the state and who are at present in a similar situation to that of the applicants in this case; 2) measures planned to prevent potential violations which might result in such cases; 3) the dissemination of the judgment of the European Court to local authorities and competent courts.*

The Deputies decided to resume consideration of this item at the latest at their 1st DH meeting in 2009, in the light of information to be provided on general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1092nd meeting (September 2010) (DH).

Theme / Domain : Failure or substantial delay by the administration or state companies in abiding by final domestic judgments

Case name :	**ANGELOV v. Bulgaria**	**Appl N° :**	**44076/98**
Judgment of :	22/04/2004		
Final on :	22/07/2004		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Failure or substantial delay by the administration or state companies in abiding by final domestic judgments**		
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	906-2(08/12/2004)		

NOTES OF THE AGENDA

- 4 cases concerning the failure or substantial delay by the administration in abiding by final domestic judgments

44076/98 Angelov, judgment of 22/04/2004, final on 22/07/2004
39609/98 Mancheva, judgment of 30/09/2004, final on 30/12/2004
45466/99+ Rahbar-Pagard, judgment of 06/04/2006, final on 06/07/2006
67353/01 Sirmanov, judgment of 10/05/2007, final on 10/08/2007

CM/Inf/DH(2007)33

These cases concern the impossibility for the applicants to obtain execution, between 1996 and 1998, between 1996 and 2000, between 2001 and 2003 and between 1999 and 2003 respectively, of final judgments ordering state institutions to pay them compensation for losses they had sustained as a result of an illegal conviction, an industrial accident, the late examination of a request for release and an unlawful detention (violations of Article 1 of Protocol No. 1 in all cases and also of Article 6§1 in the Mancheva, Rahbar-Pagard and Sirmanov cases).
In the Angelov case the European Court noted that the delay in the payment, added to the lack of any clear response to the numerous steps taken by the applicant, had had the effect of putting him in a position of uncertainty. Moreover, owing to high inflation and to the depreciation in the national currency during that period, the value of the applicant's debt had decreased without any default interest to offset the loss. Thus the depreciation of the debt had been exacerbated by the delay in enforcing it.
In the Mancheva case the Court found that the problems encountered by the applicant were exacerbated by the absence in Bulgaria of any clearly regulated complaints procedure before an independent body with power to issue binding orders in cases where state institutions fail to execute judgments against them (§60 of the judgment). It should be noted in this respect that, at the material time compulsory execution of debts against state institutions was not possible under domestic law (§38 of the judgment).
The Rahbar-Pagard case also concerns different violations related to the detention of the first applicant (violations of Article 5§3 and 4).
Individual measures: The competent state institutions enforced the decisions given in the applicants' favour in the cases of Angelov, Mancheva and Sirmanov between 1998 and 2003. The applicant detained in the Rahbar-Pagard case died in 2003. The European Court awarded just satisfaction in respect of non-pecuniary damage.
General measures:

1) Non-execution of final judgments (Article 1 of Protocol No. 1 and Article 6§1):

• *Information has been requested concerning:*
1) The relevant regulations and the practice followed by the competent courts when they have to execute judgments ordering them to pay compensation for illegal actions;
2) The introduction into domestic law of an internal national mechanism for the execution of domestic judicial decisions by state institutions, as well as of an effective remedy against the excessive length of enforcement proceedings against state institutions;
3) The publication and the dissemination of the judgments of the European Court to the domestic courts;

4) In the Mancheva case, additional information is sought in particular on measures envisaged or already adopted to introduce in domestic law of an efficient mechanism for execution of judicial decisions against state institutions. The authorities' attention was drawn to the experience of other member states in this area (see in particular the final resolution adopted in the case of Hornsby against Greece, ResDH(2004)81).
It should be noted that Article 519 of the new Code of Civil Procedure, in force as of 1/038/2008, expressly prohibits the forced execution of debts against state institutions. Nor is compulsory execution allowed on funds placed in the bank accounts of municipalities and other organisations as a result of state subsidies (Article 520).
• *Information provided by the Bulgarian authorities*: The authorities indicated in December 2005 that a proposal had been made to the Council of Legislation of the Ministry of Justice to modify the provisions concerning execution of judicial decisions by state institutions. In January 2008, the Legal Committee of the Parliament concluded that the question of creating an internal national mechanism for the execution of domestic judicial decisions by state institutions was within the remit of the Ministry of Finance, and rejected the possibility of introducing a mechanism for the execution of judicial decisions against state institutions, with the argument that such a scheme did not exist in any other European legal system.
The European Court's judgment in the Angelov case has been published on the website of the Ministry of Justice www.mjeli.government.bg and has been sent to the Supreme Court of Cassation. The judgments in the Mancheva and Rahbar-Pagard cases were also published on the same website.
Moreover, the authorities consider that the seminars on the Convention and the European Court's case-law organised by the National Institute of Justice are also relevant measures for the execution of these cases (more that 23 seminars for more than 798 participants - judges, prosecutors and national experts - took place in the period 2001-2006).
On 21 and 22/06/2007 a high level Round Table (organised by the Department for the Execution of Judgments of the European Court of Human Rights) between representatives of the Council of Europe and the authorities of different states was held to discuss solutions to the structural problems of non-enforcement of domestic court decisions (see the conclusions **CM/Inf/DH(2007)33**). In this context the representatives of the Bulgarian authorities exchanged their experiences on the measures taken or under way to prevent similar violations and examined possible further reforms to be adopted.
• *Bilateral contacts are under way on these issues*

2) Violations related to detention pending trial (Article 5§§3 and 4): The Rahbar-Pagard case presents similarities to those of Assenov (judgment of 28/10/1998) and Nikolova (judgment of 25/03/1999) closed by Resolutions ResDH(2000)109 and ResDH(2000)110, following a legislative reform of criminal procedure which took effect from 01/01/2000 and to that of Kolev (50326/99, Kitov group, Section 4.2).

The Deputies decided to resume consideration of these cases at the latest at their 1092nd meeting (September 2010) (DH), in the light of additional information to be provided on general measures.

Latest development

Theme / Domain : Length of criminal proceedings

Case name :	**ATANASOVA v. Bulgaria**	**Appl N° :**	**72001/01**
Judgment of :	02/10/2008		
Final on :	02/01/2009		
Violation :		Payment status :	Paid outside the time limit
Theme / Domain :	**Length of criminal proceedings**		
Next exam :	1092-4.2(14/09/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-3.Aint(02/03/2010)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

72001/01 Atanasova, judgment of 02/10/2008, final on 02/01/2009
The case concerns the fact that the applicant was denied access to a court, as her compensation claim submitted in criminal proceedings could not be examined due to the prescription of the alleged criminal offence (violation of Article 6§1).
In June 1994 the applicant, who had been injured in a road accident, joined as a civil party criminal proceedings brought against the driver presumed responsible, seeking compensation for the physical injury she had suffered. In June 2002, the Bulgarian courts found that her civil claim could not be examined because the criminal proceedings had been discontinued, the prescription period having elapsed in the meantime. The applicant was told that it was still open to her to apply to the civil courts but she did not use this opportunity, considering that the criminal courts should have decided her civil claim.
The European Court noted that the applicant had used the possibility available to her in domestic law of joining criminal proceedings and seeking compensation by those means. She therefore had a legitimate expectation that the courts would eventually determine her claim. It was solely because of the Bulgarian authorities' tardiness in dealing with the case that the prescription period had expired, and that as a result it had become impossible for the applicant to obtain a decision on her compensation claim via the criminal proceedings. The Court took the view that in such circumstances, although it was formally correct to say that the applicant could seek compensation in the civil courts, she could not be required to wait until the prosecution of the offender had become time-barred through the negligence of the judicial authorities before bringing a new civil action, a number of years after the accident.
The case also concerns the excessive length of the criminal proceedings at issue (8 years) (violation of Article 6§1).
Individual measures: The proceedings in question have ended. The European Court awarded just satisfaction in respect of the non-pecuniary damage the applicant suffered on account of the violations. The applicant had the possibility, at least until the end of 2005, to lodge her claim for compensation for the bodily harm suffered before civil courts.
• *Assessment: in these circumstances no individual measure appears necessary.*
General measures:
***1) Excessive length of criminal proceedings*:** the case present similarities to the Kitov group (section 4.1).
***2) Lack of access to a court*:** this violation seems to be linked mostly with the problem of excessive length of criminal proceedings.
• *Information is nevertheless awaited on measures envisaged or already taken by the Bulgarian authorities, mainly with a view to raising criminal courts' awareness of issues arising for civil parties in cases of excessive length of criminal proceedings. Information would also be appreciated on remedies available to civil parties in order to challenge the excessive length of the criminal proceedings to which they are parties (see in this respect Recommendation Rec(2004)6 of the Committee of Ministers to member states on the improvement of domestic remedies).*

The Deputies decided to resume consideration of these items at the next examination of the Kitov group of cases.

Latest development

Case name :	**KITOV v. Bulgaria**	**Appl N° :**	**37104/97**
Judgment of :	03/04/2003		
Final on :	03/07/2003		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Length of criminal proceedings**		
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	863-4.2(02/12/2003)		

NOTES OF THE AGENDA

- Cases of length of criminal proceedings

37104/97	Kitov, judgment of 03/04/03, final on 03/07/03
35825/97	Al Akidi, judgment of 31/07/03, final on 31/10/03 rectified on 16/10/03
61662/00	Angelov Vasil, judgment of 12/04/2007, final on 12/07/2007
61596/00	Atanasov and Ovcharov, judgment of 17/01/2008, final on 17/04/2008
39270/98	Belchev, judgment of 08/04/2004, final on 08/07/2004
50401/99	Dimitrov Vasko Yordanov, judgment of 03/05/2006, final on 03/08/2006
56762/00	Dimov, judgment of 08/03/2007, final on 08/06/2007
68356/01	Doinov, judgment of 27/09/2007, final on 27/12/2007
43231/98	E.M.K., judgment of 18/01/2005, final on 18/04/2005
44062/98	Hamanov, judgment of 08/04/2004, final on 08/07/2004
35436/97	Hristov, judgment of 31/07/03, final on 31/10/2003
67189/01	Ivanov, judgment of 24/05/2007, final on 12/11/2007
49163/99	Kalpachka, judgment of 02/11/2006, final on 02/02/2007
65051/01	Karagyozov, judgment of 25/10/2007, final on 25/01/2008
76965/01	Karmo, judgment of 06/12/2007, final on 06/03/2008
45964/99	Karov, judgment of 16/11/2006, final on 26/03/2007
50326/99	Kolev, judgment of 28/04/2005, final on 28/07/2005
58775/00	Mladenov, judgment of 12/10/2006, final on 12/01/2007
38106/02	Nalbantova, judgment of 27/09/2007, final on 27/12/2007
40896/98	Nikolova No. 2, judgment of 30/09/2004, final on 30/12/2004
44241/98	Nedyalkov, judgment of 03/11/2005, final on 03/02/2006
54178/00+	Osmanov and Yuseinov, judgment of 23/09/2004, final on 23/12/2004
50358/99	Pekov, judgment of 30/03/2006, final on 30/06/2006
48137/99	Popov, judgment of 01/12/2005, final on 01/03/2006
56337/00	Rezov, judgment of 15/02/2007, final on 15/05/2007
37355/97	S.H.K., judgment of 23/10/03, final on 23/01/04
55057/00	Sidjimov, judgment of 27/01/2005, final on 27/04/2005
58733/00	Sodadjiev, judgment of 05/10/2006, final on 05/01/2007
62594/00	Terziev, judgment of 12/04/2007, final on 12/07/2007
56308/00	Toshev, judgment of 10/08/2006, final on 10/11/2006
42987/98	Vachev, judgment of 08/07/2004, final on 08/10/2004
59913/00	Vasilev, judgment of 02/02/2006, final on 02/05/2006
61257/00	Vasilev and others, judgment of 08/11/2007, final on 08/02/2008
70728/01	Yankov No. 2, judgment of 07/02/2008, final on 07/05/2008
45563/99	Zhbanov, judgment of 22/07/2004, final on 22/10/2004

These cases concern the excessive length of the criminal proceedings instituted against the applicants between 1986 and 1999 (violations of Article 6§1). The cases of Dimitrov, Karov, Osmanov and Yuseinov, Popov, Sidjimov, Sodadjiev, Karagyozov, Yankov No. 2, Nalbantova and Atanasov and Ovcharov also relate to the lack of an effective remedy at the applicants' disposal against the excessive length of the proceedings (violations of Article 13).

The cases of Al Akidi, Belchev, Dimov, E.M.K., Hamanov, Hristov, Kolev, Nedyalkov, Nikolova No. 2, Pekov, Popov, Toshev, Vachev and Vasilev also concern violations of the Convention related to the applicants' detention between 1993 and 2003 (violations of Article 5§§1, 3, 4 and 5).

Individual measures: Concerning violations of Article 5, the applicants detained in these cases were released. The European Court awarded just satisfaction in respect of the non-pecuniary damage the applicants suffered on account of the violations, with the exception of the Ivanov case in which the applicant did not submit claim any just satisfaction.

• *Additional information is awaited on the state of the proceedings in the Belchev, Hamanov, Karov, Kitov, Kolev, Nedyalkov, Pekov, Sidjimov, Toshev, Vasilev, Karagyozov and Yankov No. 2 cases and, where appropriate, on their acceleration.*

General measures:

I. Excessive length of criminal proceedings and effective remedies in this respect:

1) Violations of Article 6§1:

• *Information requested*: *concerning the measures envisaged or adopted. The dissemination of the European Court's judgment in the Kitov case, together with a circular, to criminal courts, prosecutors and preliminary investigation authorities drawing their attention to the conclusions and the concrete suggestions of the Court on the problems found (especially §§ 71, 73 and §§ 81-83) have also been requested.*

• *Information provided:* A new Code of Criminal Procedure entered into force on 29/04/2006. Its adoption is part of a global reform of criminal justice in Bulgaria, aimed in particular at accelerating criminal proceedings. For instance, the Code explicitly introduces the obligation for courts and investigation authorities to examine criminal cases within a reasonable time; further, cases in which the accused is in detention are investigated, and decided by the court, with priority as compared to the other cases (Article 22).

Many other new provisions are aimed at accelerating of the proceedings. The most important among them provide for short time limits for the examination of a criminal case and for the postponement of its examination (Articles 252, 271 and 345), as well as for wider use of simplified proceedings (Articles 362-367, 370-374 and 356-361).

Furthermore, seminars and other training activities on the Convention and the case-law of the European Court (including Art. 6 and 13) are regularly organised by the National Institute of Justice (more that 23 seminars for more than 798 participants – judges, prosecutors and national experts – took place in the period 2001-2006).

In June 2007 the Bulgarian authorities provided statistical data concerning the average length of criminal proceedings only before first-instance courts, and not in respect of the criminal proceedings in their entirety. According to this data, in 2006 the district courts, acting as first instance, terminated 79 901 criminal cases in less than 3 months from the moment when they were seized, and 23 285 cases in respect of which it took longer than 3 months to terminate. As regards the criminal cases terminated in 2006 by the regional tribunals, acting as first instance, these were 14 409 in less than 3 months and 2 524 in respect of which it took longer than 3 months. In terms of appeals, 9 510 appeals against the district courts judgments and 1 479 against the regional courts judgments have been lodged. The authorities consider that the relatively low number of appeals suggests that the length of criminal proceedings in the bigger number of cases is relatively short.

At the beginning of 2006, the number of pending cases before district courts was 23 187, while at the end of 2006 this number had diminished to 20 296. The equivalent numbers as regards the regional courts are 2 460 at the beginning of 2006 and 1089 at the end of that year. The authorities believe that these statistics are indicative of a positive, stable tendency in the functioning of the criminal justice system as regards length of proceedings.

• *Additional information will still be appreciated on other measures, apart from the legislative reform, envisaged to reduce the excessive length of criminal proceedings. It should be noted in this respect that the Ministry of Justice's plan of action for the implementation of the reform of criminal justice provides for the computerisation of the judicial system, the creation of a consistent mechanism for collection and analysis of statistical data concerning the work of courts, as well as, other relevant measures in this field. Information is also awaited on the dissemination of the European Court's judgment in the Kitov case.*

2) Lack of effective remedy to challenge excessive length of proceedings (violations of Article 13): Articles 368-369 of the new Code of Criminal Proceedings provide for a defendant to ask for the transfer of his or her case to a competent court once a period of 1 or 2 years has elapsed since the beginning of the preliminary investigation, according to the gravity of the charges. The court to which the case is referred may order the prosecutor to bring the preliminary investigation to an end within two months or put an end to the penal proceedings.

In the Atanasov and Ovcharov judgment, the European Court recognised that the applicants used the possibility afforded to them in the Code of Criminal Procedure (as modified in 2003 to allow an accused person to request to have their case brought before the courts if the preliminary investigation had not been completed within a certain statutory time-limit) and successfully brought about the discontinuation of the criminal proceedings against them in November 2004 (§57 of the judgment).

The Bulgarian authorities indicated that the Ministry of Justice envisages proposing the introduction of a similar remedy concerning criminal proceedings pending at the trial stage.

• *Additional information is still awaited in this respect.*

II. Violations concerning pre-trial detention*:*

1) Unlawfulness of the applicant's detention after expiry of the time-limit for detention (violation of Article 5§1 in the Popov case): No specific measure appears to be necessary (prosecutor's decision to transmit the request for release to the court instead of ordering the applicant's release contrary to the domestic law, finding confirmed by the domestic court which received this request – see §§75-76 of the judgment of the European Court).

2) Excessive length of house arrest (violations of Article 5§3 in the cases of Nikolova No. 2 and Pekov): Although as from 01/01/2000 house arrest may only be ordered by a court, and not as formerly by a prosecutor, the Bulgarian authorities are invited to consider sending the judgment in this case to the competent courts with an explanatory note drawing their attention to the requirements of the Convention concerning the length and the justification of such measures (§§61-62 and 67-68 of the judgment of the European Court).
• *Information is awaited on the dissemination of the case of Nikolova No. 2.*
3) Excessive length of the detention on remand, violation of the right to be brought before a judge (violations of Article 5§3) and lack of effective judicial review of the lawfulness of the pre-trial detention (Article 5§4): The cases of Al Akidi, Belchev, Dimov, E.M.K., Hamanov, Hristov, Kolev, Nedyalkov, Nikolova No. 2, Pekov, Popov, Toshev and Vachev present similarities to the Assenov (judgment of 28/10/1998) and Nikolova (judgment of 25/03/1999) cases closed by Resolutions ResDH(2000)109 and ResDH(2000)110, following a legislative reform of criminal procedure which took effect from 01/01/2000.
4) Violation of Article 5§4 in the Nedyalkov case (due the competent court's refusal to examine an applicant's request for release after expiry of the time-limit provided in domestic law for detention): The Court observed that the domestic court's decision was contrary to established practice in this field (§79 of the Nedyalkov case). For this reason, the dissemination of this judgment to competent courts appears to be sufficient measure for execution.
• *Information is awaited on the dissemination of the Nedyalkov case.*
5) Lack of effective judicial review of the lawfulness of house arrest (violations of Article 5§4 in the cases of Nikolova No. 2, Pekov and Vachev): The Court noted (§55 of the Vachev judgment) that in 2000, after the facts in this case, the Code of Criminal Procedure was modified: Article 151§2 introduced a full initial and subsequent judicial review of this measure (see also Articles 62 and 270 of the new Code of Criminal Procedure).
6) Non-adversarial nature of proceedings before an appellate Court and before the Supreme Court (violations of Article 5§4): The E.M.K., Hristov and Kolev cases present similarities to that of Ilijkov (judgment of 26/07/2001), closed following the enactment in 2003 of a legislative reform of appeals against pre-trial detention (Resolution CM/ResDH(2007)158).
7) Lack of prompt examination of the requests for release (violations of Article 5§4 in the Kolev and Popov cases): It has already been noted that following the amendments of the Code of Criminal Procedure which entered into force on 01/01/2000, courts are required to consider the requests for release within very short time-limits (see also Article 65 of the new Code Code of Criminal Procedure). However, as such time-limits are specified only at the preliminary investigation stage of criminal cases, it would be necessary to inform the competent courts of the requirements of Article 5§4 of the Convention concerning this matter, and more particularly of the obligation also to examine promptly requests for release made at the trial stage.
• *Information is awaited in this respect.*
8) Lack of judicial review of the lawfulness of the detention in the Toshev case (Article 5§4): The case presents similarities to the Asenov (judgment of 15/07/2005).
9) Lack of an enforceable right to compensation for detention in contravention of the provisions of Article 5 (violations of Article 5§5): The cases of Belchev, Hamanov and Vachev present similarities to the Yankov case (Application No. 39084/97, 1051st meeting, March 2009).
III. Publication of the judgments of the European Court*:*
The judgments in Belchev, Hamanov, Kitov, Nedyalkov, Nikolova No. 2, S.H.K., Sidjimov and Zhbanov have been published on the Internet site of the Ministry of Justice www.mjeli.government.bg. The Zhbanov judgment was also published in the first issue of the new quarterly journal *European Law and Integration*, published by the Ministry of Justice in 1000 copies for distribution to magistrates and academic circles.

The Deputies decided to resume consideration of these items:
1 at their 1051st meeting (17-19 March 2009) (DH), in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 1059th meeting (2-4 June 2009) (DH), in the light of information to be provided on individual measures;
3. at the latest at their 1065th meeting (15-17 September 2009) (DH), in the light of information to be provided on general measures.

Latest development

Later on new cases have been added to this group.

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1092nd meeting (September 2010) (DH).

Case name :	**DJANGOZOV v. Bulgaria**	**Appl N° :**	**45950/99**
Judgment of :	08/07/2004		
Final on :	08/10/2004		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Length of civil proceedings**		
Next exam :	1092-4.2(14/09/2010)		
Last exam :	1072-4.2fn(01/12/2009)		
First exam :	914-2(07/02/2005)		

NOTES OF THE AGENDA

- **Cases of length of civil proceedings and of lack of an effective remedy**

45950/99 Djangozov, judgment of 08/07/2004, final on 08/10/2004
56793/00 Babichkin, judgment of 10/08/2006, final on 10/11/2006
47829/99 Dimitrov, judgment of 23/09/2004, final on 23/12/2004
62722/00 Gospodinov, judgment of 10/05/2007, final on 10/08/2007
58497/00 Hadjibakalov, judgment of 08/06/2006, final on 08/09/2006
60939/00 Karcheva and Shtarbova, judgment of 28/09/2006, final on 28/12/2006
44626/98 Kiurkchian, judgment of 24/03/2005, final on 24/06/2005
76763/01 Kostova, judgment of 03/05/2007, final on 03/08/2007
57641/00 Kovacheva and Hadjiilieva, judgment of 29/03/2007, final on 29/06/2007
77147/01 Kuiyumdjiyan, judgment of 24/05/2007, final on 24/08/2007
72855/01 Parashkevanova, judgment of 03/05/2007, final on 03/08/2007
47877/99 Rachevi, judgment of 23/09/2004, final on 23/12/2004
58828/00 Stefanova, judgment of 11/01/2007, final on 11/04/2007
39832/98 Todorov Nikolai Petkov, judgment of 18/01/2005, final on 18/04/2005
55956/00 Vatevi, judgment of 28/09/2006, final on 28/12/2006

These cases concern the excessive length of civil proceedings (violations of Article 6§1). Certain cases also relate to the lack of an effective remedy at the applicants' disposal against the excessive length of the proceedings (violations of Article 13).

The European Court noted that the delays in the civil proceedings in the Djangozov and Todorov cases were due mainly to the length of two sets of criminal proceedings, itself excessive.

Individual measures: The proceedings in all cases, except from the cases of Kiurkchian and Stefanova, have been closed.

• *Further information awaited: on the state of the proceedings in the Kiurkchian and Stefanova cases and on their acceleration, if appropriate.*

General measures:

1) Excessive length of civil proceedings and effective remedies in this respect:

• *Information provided by the Bulgarian authorities*: According to a report by two Bulgarian NGOs (the Centre for Liberal Strategies and the Agency for sociological and marketing research (Alpha research)) the average length of civil proceedings in Bulgaria is at present 350 days. Official statistical data on this issue will be provided as soon as it becomes available. Furthermore, seminars and other training activities on the Convention and the case-law of the European Court (including Art. 6 and 13) are regularly organised by the National Institute of Justice (more that 23 seminars for more than 798 participants – judges, prosecutors and national experts – took place in the period 2001-2006). Moreover, it was noted that the new provision of Article 217a of the Code of Civil Procedure, adopted in July 1999, allows a party to the proceedings to lodge a complaint against the length of the civil proceedings with the court superior to the court dealing with the merits. The president of the court to which the case is referred may give binding instructions to the competent court. The authorities indicated that they would provide examples on the application of this provision. The judgments in Djangozov, Vachevi and Kiurkchian were published on the website of the Ministry of Justice www.mjeli.government.bg.

• *The Bulgarian authorities provided further information on the above issues (letter of 15/06/07). The Secretariat is examining this information.*

2) Excessive length of criminal proceedings and effective remedies in this respect: Measures to be taken are under examination in the framework of the Kitov case (See above).

• *Further information awaited: In addition, clarification is necessary concerning the introduction of domestic remedies whereby a party to a stayed civil proceedings may obtain acceleration of criminal proceedings which are blocking their resumption (see § 63 of the Todorov judgment).*

The Deputies decided to resume consideration of these items:
1 at their 1035th meeting (16-18 September 2008) (DH), in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 1st DH meeting in 2009, in the light of information to be provided on individual and general measures and of an assessment of the information already provided on general measures.

Latest development

Later on new cases have been added to this group.

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1092nd meeting (September 2010) (DH).

Theme / Domain : Detention on remand

Case name :	**KIRILOV v. Bulgaria**	**Appl N° :**	**15158/02**
Judgment of :	22/05/2008		
Final on :	22/08/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Detention on remand**		
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1043-2.1(02/12/2008)		

NOTES OF THE AGENDA

44009/02 Ivanov Evgeni, judgment of 22/05/2008, final on 22/08/2008
15158/02 Kirilov, judgment of 22/05/2008, final on 22/08/2008
The Ivanov Evgeni case concerns the excessive length of the applicant's pre-trial detention between 2001 and 2003, in view of the insufficient reasons to justify it (violation of Article 5§3), and the lack of prompt judicial review of the lawfulness of the applicant's detention (violation of Article 5§4).
The Kirilov case concerns the failure to bring the applicant promptly before a judge capable of deciding on his placement in pre-trial detention (violation of Article 5§3), and a failure to bring the applicant in person before the judge who examined on several occasions the lawfulness of continuing the applicant's pre-trial detention (violation of Article 5§4).
It should be noted that these violations took place after the entry into force on 01/01/2000 of a comprehensive legal reform of criminal procedure.
Individual measures: The applicants are no longer in pre-trial detention. The European Court granted the applicants just satisfaction in respect of the non-pecuniary damage they suffered.
• *Assessment: no further individual measure seems necessary.*
General measures:
• *Information expected*: *In view of the fact that these violations occurred after the entry into force in 2000 of the legislative reform of criminal procedure (see final Resolution Res/DH(2000)109 in the Assenov case), the authorities are invited to provide information about the measures they envisage to take to bring domestic legal practice into line with the European Court's case-law, preventing future, similar violations.*

The Deputies decided to resume consideration of these items at the latest at their 1100th meeting (December 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**IVANOVA v. Bulgaria**	**Appl N° :**	**52435/99**
Judgment of :	12/04/2007		
Final on :	12/07/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

52435/99 Ivanova, judgment of 12/04/2007, final on 12/07/2007
The case concerns a violation of the applicant's right to freedom of religion on account of her dismissal in December 1995 from a state school at which her functions did not include teaching (violation of Article 9).
The European Court considered that whilst her employment was ended, in conformity with the law, by modifying the qualifications attached to the post, the dismissal was nonetheless motivated by religious considerations, being just part of a series of events in the context of action against the activities of a religious organisation, "Word of Life", of which the applicant was an adherent.
Individual measures: Proceedings brought by the applicant to challenge the lawfulness of the dismissal were dismissed by a final decision of the Supreme Court of Cassation in December 1998.
Before the European Court, the applicant stated that she had remained unemployed for more than six months after her dismissal. The European Court awarded her just satisfaction in respect of pecuniary damage resulting from the loss of earnings during this period as well as non-pecuniary damage sustained.
Until the entry into force in March 2008 of the new Code of Civil Procedure (see General measures) the applicant would have been able to request the reopening of the proceedings in question under Article 231§1 (h) of the Code of Civil Procedure.
• *Assessment: given the circumstances of the case, no further individual measure seems necessary.*
General measures: Freedom of religion in Bulgaria is guaranteed by the Constitution of 1991 (see Articles 13 and 37) and the Religious Denominations Act 1949 (see Sections 1 and 4). The Bulgarian Constitution (Article 38), the Education Act of 1991 (Section 4) and the Labour Code (Article 8§3) provide protection against discrimination grounded on, *inter alia*, religious beliefs. On 1/01/2004 the Protection Against Discrimination Act entered into force, which provides a comprehensive framework for protection against discrimination.
According to Article 328§1(6) of the Labour Code, a contract of employment may be terminated by giving notice in writing to an employee that he or she does not have the necessary education or vocational training for performing the work assigned. The European Court noted the practice of domestic courts in reviewing such terminations according to which it is sufficient for a dismissal to be lawful to establish that there were new qualification requirements for performing the assigned work which the employee no longer met; the courts are not required to assess whether it was necessary to introduce such requirements (§62-63 of the judgment).
As of March 2008, the Code of Civil Procedure no longer allows the reopening of civil proceedings if the European Court has found a violation of the Convention or its Protocols.
• *The authorities are invited to provide information on the current practice of domestic courts in similar cases. The authorities' comments will also be appreciated concerning the deletion of the provision in the Code of Civil Procedure which, up until March 2008, authorised the reopening of civil proceedings following a judgment of the European Court.*
The judgment of the European Court was published on the internet site of the Ministry of Justice http:www.mjeli.government.bg.
• *Information is awaited on further dissemination to other relevant authorities, in particular to prosecutors, mayors, educational inspectorates throughout the country.*

The Deputies decided to resume consideration of this item at the latest at their 1100th meeting (December 2010) (DH), in the light of further information to be provided on general measures.

Latest development

Case name :	**KRASIMIR YORDANOV v. Bulgaria**	**Appl N° :**	**50899/99**
Judgment of :	15/02/2007		
Final on :	15/05/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

50899/99 Yordanov Krasimir, judgment of 15/02/2007, final on 15/05/2007
The case concerns the fact that correspondence and other items seized during a criminal investigation could not be returned to the applicant once proceedings against him had been closed, because they had disappeared from the file (violation of Article 8). The European Court noted that the disappearance of seized items from the case file cannot be considered as "provided by law".
The case also concerns the lack of an effective remedy to obtain compensation for this loss (violation of Article 8 and Article 13 taken together). The Court noted in this respect that although the applicant had legal means to request the return of the seized items, he had no possibility of obtaining compensation for their loss.
Finally, the case concerns the excessive length of criminal proceedings and lack of an effective remedy in this respect (violation of Articles 6§1 and 13). The proceedings in question began in February 1991 and ended in November 1998 (more than 6 years and 2 months within the Court's jurisdiction *ratione temporis*).
Individual measures: The proceedings are closed. The European Court awarded the applicant just satisfaction in respect of non-pecuniary damage. The applicant did not request just satisfaction for pecuniary damage.
• *Assessment: no further measures appear necessary.*
General measures:
1) Violation of Art. 8: It seems that this was an isolated violation resulting from the negligence of public prosecutor's office.
2) Violation of Article 13 taken together with Article 8: When criminal proceedings are closed through the dropping of charges the prosecutor decides on the disposal of material evidence. Since 1/01/2000 any refusal by the investigating or prosecuting authorities to return seized items is subject to judicial recourse. The European Court noted however that Bulgarian law provided no compensation in case of loss of items seized during a criminal investigation.
• *The Bulgarian authorities are invited to provide information about measures taken or envisaged in order to comply with the requirements of the European Convention.*
3) Violation of Article 6 and Article 13: This case presents similarity to the Kitov group of cases (37104/97, 1092nd meeting, September 2010).
• *Information is awaited concerning the publication of the European Court's judgment and its dissemination to relevant courts and authorities to raise their awareness of the Convention's requirements as they result from this case.*

The Deputies decided to resume consideration of this item at the latest at their 1100th meeting (December 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**BULINWAR OOD and HRUSANOV v. Bulgaria**	**Appl N° :**	**66455/01**
Judgment of :	12/04/2007		
Final on :	12/07/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1007-2(15/10/2007)		

NOTES OF THE AGENDA

66455/01 Bulinwar OOD and Hrusanov, judgment of 12/04/2007, final on 12/07/2007
This case concerns the infringement of the applicant company's right of access to a court to challenge the refusal by a commission to authorise the use of its new building (violation of Article 6§1). The applicants obtained a decision in their favour in June 1999 before the Sofia City Court but this judgment was subsequently quashed by the Supreme Administrative Court which found that that it was not competent to examine an administrative decision on the merits.
Individual measures: The European Court held that the finding of the violation in itself constituted sufficient just satisfaction with regard to the non-pecuniary damage. Furthermore, Article 239-6 of the Code of Administrative Procedure allows the reopening of administrative proceedings if the European Court has found a violation of the Convention or its Protocols.
• *Assessment: No further measure appears necessary.*
General measures: At the material time the procedure to obtain authorisation to use new buildings was regulated by Ministerial Decree No. 6 of 15/03/1993 which was subsequently abrogated in July 2003 following the entry into force of a new law on territorial planning.
• *Information provided by the Bulgarian authorities (March 2008):* The Ministry of Justice is currently collecting information concerning the practice of the Supreme Administrative Court in such cases.
• *Information is still awaited on the current practice of the Supreme Administrative Court in similar cases and, if appropriate, measures taken or envisaged to comply with the requirements of the European Convention.*
• *Publication of the European Court's judgment and its dissemination among relevant courts and authorities are expected, to raise their awareness of the Convention's requirements as they result from this case.*

The Deputies decided to resume consideration of this item at the latest at their 1100th meeting (December 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**ASSOCIATION FOR EUROPEAN INTEGRATION AND HUMAN RIGHTS & EKIMDZHIEV v. Bulgaria**	**Appl N° :**	**62540/00**
Judgment of :	28/06/2007		
Final on :	30/01/2008		
Violation :		Payment status :	Paid outside the time limit
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010); 1086-3.Aint(01/06/2010)		
Last exam :	1078-3.Aint(02/03/2010)		
First exam :	1028-2.1(03/06/2008)		

NOTES OF THE AGENDA

62540/00 Association for European Integration and Human Rights and Ekimdzhiev, judgments of 28/06/2007, final on 30/01/2008
The case concerns the absence of sufficient guarantees in the framework of a law authorising recourse to secret surveillance measures (violation of Article 8).
The European Court, ruling on an application lodged by the applicants, an association having the protection of human rights as one of its principal aims and a lawyer whose practice includes representing applicants in proceedings before the European Court, considered that the very existence of the Special Surveillance Means Act of 1997, in force at the time as well as currently, exposed them to the possibility of being subjected to secret surveillance measures without any notification at any point in time. As to the quality of the law, the Court concluded that while the relevant legal provisions provided substantial safeguards against arbitrary or indiscriminate surveillance during the initial stage of such surveillance, this was not the case during the later stages, namely when the surveillance is actually carried out or has already ended.
The Court criticised in particular:
- the fact that the law did not provide for any review of the implementation of secret surveillance measures by an external and independent body or official;
- the apparent lack of regulations specifying how the intelligence collected should be screened, preserved and destroyed;
- the fact that the overall control over the system of secret surveillance is entrusted solely to the Minister of the Interior, while the manner in which the Minister effects such control is not set out in the law; and
- the fact that the persons subjected to such surveillance are not notified at any time of this fact.

The case also concerns the lack of effective remedy to challenge the usage of special surveillance measures (violation of Article 13).
Individual measures: These are linked to the general measures.
General measures:
• *Information provided:* The judgment was translated and published on the Internet site of the Ministry of Justice. It was sent to the Constitutional Court, the Prosecution Office of Cassation, the Supreme Court of Cassation, all regional, military and appellate tribunals, as well as to all the other institutions concerned, with a circular letter placing an emphasis on the most important conclusions of the judgment.
Draft amendments were prepared to the Special Surveillance Means Act of 1997 as a direct response to the European Court's judgment in this case. The proposed draft amendments, and a note explaining the motives behind them, were posted on the Ministry of Justice's website at the beginning of October 2008. Currently, they are at the inter-ministerial stage of co-ordination. The main elements of the proposed amendments aim to introduce external control of the special surveillance measures by an independent authority, and through annual parliamentary scrutiny, as well as to inform people who have been subjected to undue use of special surveillance means.
• *The Bulgarian authorities are invited to provide a summary of the most relevant legislative amendments, as well as information on the progress of the legislative reform, including the time-frame for its adoption. A copy of the circular letters which accompanied the judgment when it was sent out will be appreciated.*

The Deputies decided to resume consideration of this item:
1 at their 1051st meeting (17-19 March 2009) (DH), in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 1065th meeting (15-17 September 2009) (DH), in the light of information to be provided on general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1100th meeting (December 2010) (DH).

Case name :	**STOICHKOV v. Bulgaria**	**Appl N° :**	**9808/02**
Judgment of :	24/03/2005		
Final on :	24/06/2005		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	940-2(11/10/2005)		

NOTES OF THE AGENDA

9808/02 Stoichkov, judgment of 24/03/2005, final on 24/06/2005
The case relates to the imprisonment of the applicant in February 2000, shortly after his return to Bulgaria, in execution of his conviction *in absentia* in 1989 of rape and attempted rape. Whilst the initial deprivation of the applicant's liberty might be deemed justified under Article 5§1(a), being for the purpose of enforcing a lawful sentence, it ceased to be so after 19 /07/2001, when the Supreme Court of Cassation refused, in the particular circumstances of the case, to reopen the proceedings (violation of Article 5§1).
The European Court considered that the criminal proceedings against the applicant, coupled with the impossibility of obtaining a new trial in his presence, were manifestly contrary to the principles embodied in Article 6.
The case also relates to the lack of judicial review of the lawfulness of the applicant's detention (violation of Article 5§4) and to the absence in domestic law of an enforceable right to compensation in respect of this detention (violation of Article 5§5).
Individual measures: The applicant was released by decision of 17/04/2006. According to this decision, the sentence is considered to have been executed as from 27/07/2005, the date on which its execution was suspended following the judgment of the European Court. The applicant's unconditional release was also motivated by the impossibility of reopening of his criminal trial due to the destruction of the case file.
• *Assessment: No further individual measure appears necessary.*

General measures:

1) Violation of Article 5§1: The European Court noted in its judgment that since 01/01/2000 Bulgarian law has expressly provided for reopening of criminal cases heard *in absentia* and that the Supreme Court of Cassation refused to reopen the case essentially on the grounds that the case-file of the original proceedings had been destroyed in 1997, a fact which, in its view, rendered a re-hearing impossible in practice. The case-file was destroyed before the time-limit for keeping case-files provided by the law had expired and the applicant received no reply to his request for its restoration. In this context, the publication and the dissemination of the judgment of the European Court to the competent authorities appear to be sufficient measures for execution.

2) Violation of Article 5§4: The Ministry of Justice, following the proposal made by its Directorate for Legislation, requested an opinion of the Supreme Judicial Council on the possibility of introducing into Bulgarian law judicial review of a deprivation of liberty in similar situations.

• *Information provided by the Bulgarian authorities (letter of 12/11/2007)*: The Supreme Judicial Council declined to take a position on this issue as falling outside its competence. Subsequently, the Government Agent proposed to put the question before a working group on legislation to be created in the near future to discuss the setting-up of a permanent Council for Legal Aid. It is envisaged that this Council will comprise representatives of the legislative, judicial and executive powers, and civil society members active in human rights protection. It is expected that this Council will assist the process of execution of judgments of the European Court at national level.

• *Additional information is awaited on the follow-up given by the national authorities to the question of introducing into domestic law judicial review of the lawfulness of deprivation of liberty in situations of detention in execution of a sentence after the expiry of the time-limit for the enforcement of the sentence.*.

3) Violation of Article 5§5: The case presents similarities to that of Yankov (39084/97, 1092nd meeting, September 2010).

4) Publication and dissemination: the judgment of the European Court was published on the Internet site of the Ministry of Justice www.mjeli.government.bg and sent out to the competent authorities (the District Court of Pernik, the Supreme Court of Cassation and the Supreme Cassation Prosecutor's Office) with an accompanying letter emphasising the conclusions of the European Court.

The Deputies decided to resume consideration of this item at the latest at their 1100th meeting (December 2010) (DH), in the light of information to be provided on general measures.

Latest development

Case name :	**STANKOV v. Bulgaria**	**Appl N° :**	**68490/01**
Judgment of :	12/07/2007		
Final on :	12/10/2007		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2fn(02/03/2010)		
First exam :	1013-2(03/12/2007)		

NOTES OF THE AGENDA

68490/01 Stankov, Judgment of 12/07/2007, final on 12/10/2007
This case concerns the violation of the applicant's right to access to court, in proceedings for damages brought by the applicant against the state, because he had to pay court fees which deprived him of almost all the compensation the state had been ordered to pay him for unjustified pre-trial detention (violation of Article 6§1).
Individual measures: The European Court awarded just satisfaction in respect of pecuniary damage equivalent to the loss of compensation in excessive court fees
• *Assessment: no further individual measure appears necessary.*
General measures: Under the State Fees Act (sections 1-4) a court fee at the flat rate of 4% is payable in respect of pecuniary claims. Where the plaintiff succeeds fully or partly, the defendant must pay costs, including court fees, proportionate to the successful part of the claim. Under the State responsibility for Damage Act (section10§2), where a claim for damages is wholly or partly dismissed, the plaintiff is to pay the court fees and costs due. The courts have interpreted this provision as meaning that plaintiffs should pay court fees amounting to a fixed

percentage from the dismissed part of their claims. As a result, where the plaintiff indicates too high an amount in the claim form, the court fees may exceed the sum awarded in damages
The Code of Civil Procedure (Article 63§1(b)) provides for a waiver in cases of indigence. However, this has been interpreted in a Supreme Court judgment (of 1995) to apply solely as regards fees due upon the submission of claims, but not in respect of the outcome of the proceedings.
• *Information awaited on measures envisaged to avoid similar violations. In this respect solutions proposed by the Court in respect of other member states (§ 24-42 of the judgment) could be considered. Translation, publication and dissemination of the judgment of the European Court are expected.*

The Deputies decided to resume consideration of this item:
1. at their 1043rd meeting (2-4 December 2008) (DH), in the light of information on the payment of just satisfaction if necessary;
2. at the latest at their 1st DH meeting in 2009, in the light of information to be provided on general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1100th meeting (December 2010) (DH).

Case name :	**BOCHEV v. Bulgaria**	**Appl N° :**	**73481/01**
Judgment of :	13/11/2008		
Final on :	13/02/2009		
Violation :		Payment status :	No information
Theme / Domain :			
Next exam :	1100-4.2(30/11/2010); 1086-3.B(01/06/2010)		
Last exam :	1078-4.2(02/03/2010)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

73481/01 Bochev, judgment of 13/11/2008, final on 13/02/2009
The case concerns the excessive length of the applicant's pre-trial detention, insufficient guarantees of the judicial review of that detention, the lack of an enforceable right to compensation and the monitoring of the applicant's correspondence by the prison administration.
Charged with several offences including murder, the applicant was taken into custody on 09/05/1998. His pre-trial detention lasted until his conviction by the Sofia City Court on 14/10/2005, i.e. more than 7 years and 5 months. During the trial, the applicant made numerous unsuccessful requests for release, two of which remained undecided; the remaining ones were examined by the Sofia City Court either in private or at an oral hearing, while the applicant's appeals were always examined in private by the Sofia Court of Appeal. On several occasions, relying on Article 268a of the 1974 Code of Criminal Procedure, these courts declined to deal with the applicant's arguments concerning the existence of a reasonable suspicion against him. During the pre-trial detention, the entirety of the applicant's correspondence, including that with his lawyers, was monitored.
The European Court held that the domestic courts had not properly justified detaining the applicant for more than 7 years and 5 months (violation of Article 5§3). It also considered that the applicant had not benefited from the guarantees enshrined in Article 5§4 as the scope of the judicial review had been too narrow and the proceedings had not been truly adversarial, the applicant having not been heard and having not had the opportunity to reply to the public prosecutor's comments (violation of Article 5§4). Moreover, Bulgarian law did not provide the applicant with an enforceable right to compensation (violation of Article 5§5). Lastly, the European Court noted that between May 1998 and December 2000 and between June 2002 and April 2006, the interference with the applicant's right to respect for correspondence had not satisfied the requirements of Article 8§2 (violation of Article 8).
Individual measures: The applicant is no longer detained pending trial as he was sentenced to terms of imprisonment. The European Court awarded him just satisfaction in respect of non-pecuniary damage sustained.
• *Assessment: in these circumstances, no individual measure seems necessary.*
General measures:
***1) Violation of Article 5§3*:** The European Court noted that in this case, in spite of the legislative reform of 01/01/2000, the Sofia City Court and the Sofia Court of Appeal had continued to rely in their decisions chiefly on the gravity of the charges raised and on the presumption that due to the seriousness of the offences of which he had stood accused, the applicant had automatically presented a risk of absconding and committing other offences. The European Court observed that this approach of the domestic courts was due to their expansive interpretation

of the shift of the burden of proof under Article 152§2(3) of the 1974 Code of Criminal Procedure in its version after 01/01/2000, without invoking any concrete facts and arguments to demonstrate the need for the applicant to remain in custody (see §57 of the judgment).
In respect of this violation, the case presents similarities to that of Evgeni Ivanov (44009/02, 1065th meeting, September 2009) in which the Bulgarian authorities were invited to submit information on measures taken or envisaged in order to prevent other similar violations.

2) Violation of Article 5§4

(a) Besides the considerations quoted above (under Article 5§3), the European Court observed that following the introduction in May 2003 of the new Article 268a§2 *in fine* of the 1974 Code, presently reproduced in Article 270§2 *in fine* of the new 2005 Code, trial courts, i.e. those competent to examine requests for release made during trial, were barred from inquiring into the existence or otherwise of a reasonable suspicion against the accused. The European Court considered that such circumscription of the scope of judicial review of pre-trial detention, based on a misconception of the principle of impartiality, was in breach of the applicant's right to have all aspects of the lawfulness of his detention examined by a court (see §66 of the judgment).
• *Information is awaited on measures envisaged or adopted as well as on the dissemination of the judgment to criminal courts, together with a circular drawing their attention to the requirements concerning the reasoning of the decisions on detention pending trial.*
(b) The European Court also noted that the guarantees of adversarial procedure, including a hearing of the detainee and equality of arms, applied both before the first-instance court and the appeal court examining a request for release. However, several applicant's requests for release were examined only in private by the Sofia City Court and the Sofia Court of Appeal. Furthermore, on at least two occasions the applicant did not have the opportunity to reply to the public prosecutor's comments (see §§ 67-69 of the judgment).
The European Court observed (see §§ 34-35 of the judgment) that, following the adoption of the new Code of Criminal Procedure in 2005, Article 304§§1 and 2 of the 1974 Code was superseded by Article 270§2 of the 2005 Code, according to which detainees' requests for release made during trial must be examined by the trial court at an oral hearing. Pursuant to Article 354§1 of the 2005 Code, reproducing Article 348§1 of the 1974 Code, the higher court may then examine the appeal in private or, if it considers it necessary, at an oral hearing.
• *Information is requested on measures envisaged or adopted as well as on the dissemination of the judgment to criminal courts, together with a circular drawing their attention to the guarantees of adversarial procedure under Article 5§4 of the Convention.*
(c) The European Court also found a violation of Article 5§4 due to the failure by the Sofia City Court to rule on two of the applicant's requests for release (see §70 of the judgment).
• *Information is awaited on the dissemination of the judgment, mainly to the Sofia City Court.*

3) Violation of Article 5§5 (lack of an enforceable right to compensation for detention): This aspect of the case presents similarities to the Yankov group of cases (39084/97, 1092nd meeting, September 2010).

4) Violation of Article 8**:** As regards the period before April 1999, the European Court noted that the government had failed to explain what had been the legitimate aim of systematically intercepting all of pre-trial detainees' non-legal correspondence. Moreover, the inspection of all the applicant's mail between April 1999 and December 2000 and between June 2002 and April 2006 was based on section 25(1) of Regulation No.2 of 1999 and section 132d(3) of the 1969 Execution of Punishments Act, both of which were set aside by the Bulgarian courts as being contrary to the 1991 Constitution (see §96 of the judgment). However, the European Court did not find any basis to assume that such interference existed following the adoption in September 2006 of the new section 178 of the Regulations for application of the 1969 Execution of Punishments Act. Under this new section, pre-trial detainees are entitled to unlimited correspondence which is not subject to monitoring; envelopes have to be sealed and opened in the presence of members of staff, in a manner allowing those members to make sure that they do not contain money or other prohibited items (see §§ 49 and 94 *in fine* of the judgment).
• *Assessment: in these circumstances, no general measure appears necessary.*

The Deputies decided to resume consideration of this item at the latest at their 1100th meeting (December 2010) (DH), in the light of information to be provided on general measures.

Latest development

Theme / Domain : Monitoring of prisoners' correspondence

Case name :	**PETROV v. Bulgaria**	**Appl N° :**	**15197/02**
Judgment of :	22/05/2008		
Final on :	22/08/2008		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :	**Monitoring of prisoners' correspondence**		
Next exam :	1100-4.2(30/11/2010)		
Last exam :	1078-4.2fn(02/03/2010)		
First exam :	1043-2.1(02/12/2008)		

NOTES OF THE AGENDA

15197/02 Petrov, judgment of 22/05/2008, final on 22/08/2008
The case concerns the unjustified monitoring of the entirety of the applicant's correspondence between 2001 and 2003, while he was serving a prison sentence (violation of Article 8).
The applicant's letters, including those between him and his lawyer, were systematically opened and checked by the prison authorities. Domestic law provided that the entirety of prisoners' correspondence was to be screened, without distinguishing between different categories of correspondents. Further, the law laid down no rule governing the implementation of such monitoring, nor were the domestic authorities required to give reasons for it. The European Court concluded that while the monitoring of the applicant's correspondence was based on domestic law, it did not correspond to a pressing social need and was not proportionate to the legitimate aim pursued.
The case also concerns the discriminatory prohibition of the applicant from speaking with his unmarried partner on the telephone (violation of Article 14 in conjunction with Article 8). The European Court noted that while contracting states may enjoy a certain margin of appreciation in treating married and unmarried couples differently in fields such as taxation, social security or social policy, it was not readily apparent why married or unmarried detainees who had an established family life were treated differently in respect of maintaining telephone contact whilst in custody.
The case finally concerns the excessive length of criminal proceedings against the applicant and the lack of an effective remedy in this respect (violation of Articles 6§1 and 13).
Individual measures: None in respect of the monitoring of the applicant's correspondents and the limitations imposed on his communications, as he is no longer in prison. The European Court awarded just satisfaction in respect of the non-pecuniary damage sustained.
• *Information is awaited on the present state, and possibly the acceleration, of the criminal proceedings, the length of which was called into question by the European Court.*
General measures:
1) Unjustified monitoring of the applicant's correspondence (Article 8):
• *Information is awaited on measures taken or planned to avoid future, similar violations, and in particular as regards bringing the domestic law in question and its application into line with the requirements of the Convention.*
2) Discriminatory deprivation of telephone contact (Articles 8 and 14 combined):
• *Information is awaited on measures taken or planned to avoid future, similar violations, and in particular as regards bringing the domestic regulations in question and their application into line with the requirements of the Convention.*
3) Length of criminal proceedings and lack of effective remedy in this respect (violation of Articles 6 and 13): The case presents similarities to the Kitov case (Section 4.2).

The Deputies decided to resume consideration of this item:
1 at their 1st DH meeting in 2009, in the light of information to be provided on the payment of the just satisfaction, if necessary;
2. at the latest at their 3rd DH meeting in 2009, in the light of information to be provided on individual and general measures.

Latest development

In a subsequent decision the Committee decided to resume consideration of this/these case/s at their 1100th meeting (December 2010) (DH).