



OMBUDSMAN OF THE REPUBLIC OF BULGARIA

MONITORING THE EXECUTION OF THE ECtHR JUDGMENTS IN BULGARIA

STATE OF THE ART IN 2022

MONITORING THE EXECUTION OF ECtHR JUDGMENTS IN BULGARIA - 2022

As regards Bulgaria's progress in executing the judgments under the supervision of the Committee of Ministers in 2022, the following main conclusions can be drawn:

First, **the total number of judgments to be implemented and monitored by the Committee of Ministers has increased significantly.** Statistics show that as of 31 December 2022, the total number of ECtHR judgments in the implementation phase is **227**. Thus, during the year the number of unfulfilled judgments against Bulgaria in monitored cases increased. As of 31 December 2021 they numbered 173 versus 165 as of 31 December 2020 and 170 as of 31 December 2019.

In 2022, the ECtHR ruled on 62 cases against Bulgaria. On 25 of them, it passed judgments establishing a violation. In 2 cases, the Court concluded that there were no violations of the Convention. Judgments on inadmissibility on various grounds were ruled in 20 cases. An amicable agreement was reached on 10 complaints, and a unilateral declaration was made by the State on 5 cases. By way of comparison, in 2021, the ECtHR's judgments against Bulgaria totalled 60, of which convictions were 35.

Current data as of 31 December 2021, source: Country Factsheet <https://rm.coe.int/1680709740> <https://www.coe.int/en/web/execution/bulgaria>

Second, **in 2022, 37 new convictions were placed under the supervision of the Committee of Ministers, the number of which is significantly lower than the number of judgments in 2021, when they were 45.** The number in 2021 was 45, in 2020 it was similar to the number of judgments placed under supervision in 2018 (36), and significantly lower than the number of judgments placed under supervision in 2019 (18).

Third, regarding the compensations paid by Bulgaria **in 2022, our country paid EUR 725,695 in compensations**, or much more than in 2021 when it paid EUR 452,546. In 2020, their total value is EUR 320,393, which is less than the compensations paid in 2019 of EUR 421,823. However, Bulgaria's progress remains extremely unsatisfactory compared to the progress of other countries in the region, e.g. the amount of due compensations paid by Northern Macedonia in 2022 is EUR 112,850.

Current data as of 31 December 2021, source: Country Factsheet <https://www.coe.int/en/web/execution/bulgaria>



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In 2022, the conclusions made in the previous years are still valid, namely:

- a significant number of judgments remain under enhanced supervision for a decade;
- there is also a steady tendency of convictions, which are still under enhanced supervision and unfortunately concern a large number of ECHR texts, which requires a large number of complex measures to be taken;
- the number of leading judgments on which the general recommendations of the ECtHR have been implemented is still incomparably smaller than those on which no satisfactory progress has been made;
- Bulgaria continues to pay extremely high compensations for violated rights. Although actions for implementation have been taken on almost all convictions in the years since they were issued, they are still not enough to close the monitoring, despite the efforts of various institutions and working groups. For this reason the recommendations of the Committee of Ministers on the implementation of such judgments has hardly changed;
- In 2022, Bulgaria continued to be in a situation of being sentenced in similar cases and will pay great amounts of compensation while the citizens' rights are not effectively protected. This situation is unacceptable and decisive actions need be taken to overcome it. As in previous years, the Ombudsman is committed to assisting and providing support to the Minister of Justice through recommendations to the responsible institutions to take specific actions in relation to the sentences against Bulgaria.



- **Signing and ratification of Protocol No. 16 to the ECHR by Bulgaria**

There has been no progress in relation to the signing of Protocol No. 16 to the ECHR by Bulgaria. The Ombudsman will continue to monitor the process and insist on its ratification in 2021.

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Key ECtHR judgments in 2022

In 2022, there is no key judgment of the ECtHR against Bulgaria, unlike 2021.

- **Judgments of the ECtHR on which measures have been taken to address the problem, but are still in supervision procedure by the Committee of Ministers (CM):**

The *Velikova v. Bulgaria* group of cases. The judgment in the *Velikova v. Bulgaria* case entered into force already in 2000, and despite the reported progress, the enhanced supervision of it has not yet been closed.

The *Velikova v. Bulgaria* group of cases relate to deaths, torture (including inadequate incrimination of torture), ill-treatment or lack of timely medical care during arrest, during police detention or in places of punishment, and the failure to investigate these cases effectively (infringements of Articles 2 and 3 of the Convention). Bulgaria systematically fails to execute ECtHR judgments, as it becomes clear after the last review of the execution of Court judgments by the supervisory authority.

The review of the execution of the “Velikova” group cases was carried out in December 2021, and again the CM came out with sharp recommendations to Bulgaria. In the *Velikova case*, the 2021 resolution is the third in a row.

The publication of two resolutions within the framework of one sitting of the Committee means that Bulgaria systematically refuses to execute the judgments of the ECtHR for a long period of time and in relation to more than one fundamental right. Nevertheless, lack of sufficient progress on some significant and long-standing problems revealed by this group of cases raises expectations for decisive action to implement the commitments, especially given the fact that the *Velikova* case has been under the Committee’s supervision for almost 19 years.

[https://hudoc.exec.coe.int/eng#{%22EXECDocumentTypeCollection%22:\[%22CEC%22\]}](https://hudoc.exec.coe.int/eng#{%22EXECDocumentTypeCollection%22:[%22CEC%22]})



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The *Velikova v. Bulgaria* group of cases - Recommendations

It is therefore essential to avoid further delays in the execution process, at least in regard to the implementation of crucial outstanding measures on:

- improving the practical operation of the right of access to a lawyer in police custody and of medical examinations in police custody and places of imprisonment;
- improving the organisation of reporting injuries of detainees in police custody and in places of punishment;
- introduction of judicial review of prosecutors' refusals to open a criminal investigation in cases of ill-treatment during detention;
- putting in place sufficient safeguards for the independence of investigations and preliminary investigations into ill-treatment by members of law enforcement bodies;
- criminalisation of acts of torture and criminalisation of extracting a confession from a person who has not been officially charged with a crime, but is nevertheless suspected of committing a crime.

It is advisable to consider a legislative change to remove the statute of limitations for torture-related offences.

In this way, difficult and hard to investigate cases will not be subject to a limitation period and can be reopened even with slow justice and after a judgment by the ECtHR.



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- ***S.Z. / Kolevi v. Bulgaria* group of cases**

In March 2023, the case will be heard once again.

In December 2021, with the judgments in the cases *Kolevi v. Bulgaria* and *S.Z. v. Bulgaria* the ECtHR raises questions about the efficiency, speed and independence of the criminal investigation.

- ***Nencheva v. Bulgaria* case**

The *Nencheva v. Bulgaria* case was last considered at a CM meeting in September 2021. In 2022, it was not considered. The measures that have not yet been implemented relate to the provision of guarantees that children with disabilities placed outside their families can enjoy independent representation, allowing them to have complaints about their health and treatment dealt with by court or other independent body. The Ombudsman will continue to monitor the implementation of other commitments made in the Action Plan presented by Bulgaria:

- the frequency and results of inspections carried out by various local authorities to assess the living conditions and medical care provided to children in family-type residential centres and social-care homes;
- establishment of 20 new family-type medical residential centres tailored to the need to serve all children who need complex medical assistance.

- ***Stanev v. Bulgaria* case**

The *Stanev v. Bulgaria* case is one of the cases that have been subject to enhanced supervision procedure for many years, but no effective measures have been taken to deal with the problem. The reason is the lack of a comprehensive policy related to support measures for persons with mental problems. In 2022, the Ombudsman, in her capacity as NPM, undertook inspections in residential services for adults and children, the findings of which are presented in this report. Checks were also carried out in psychiatric hospitals and mental health centres. The Ombudsman's observations reaffirm the conclusions and recommendations made in the institution's previous reports.

Psychiatric care remains unreformed and medical and the social care for people with mental health problems has not improved.



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Main recommendations:

1. the Ombudsman proposes the creation of an interdepartmental coordination council, including representatives (experts) of all national institutions, which should be directly involved in the process of coordinating and monitoring the implementation of measures to execute ECtHR convictions;
2. The alignment of national legislation and practice with the ECHR and the case-law of the ECtHR will also ensure a more effective safeguard of the fundamental rights and freedoms of Bulgarian citizens;
3. Fulfillment of the commitments made in the Action Plan for the implementation of the recommendations of the sentencing judgment *Velikova v. Bulgaria*;
4. Incriminating the offence of torture in the context of Bulgaria's commitments under the ECHR and the UN Convention against Torture;
5. Abolishing the statute of limitations for crimes related to torture with a view to resuming proceedings after a conviction by the ECtHR or determining additional adequate compensations with a view to withdrawing the claims of the victims and closing the supervision of these cases;
6. Implementation of the Decision of the CM of 14 March 2019, including in terms of the effectiveness of the investigation and investigation of possible crimes committed by the Attorney General;
7. Development and implementation of specific rules for planning police operations, instructions on how to react if the wife or children are present during the arrest, and training of police officers;
8. Taking urgent steps to bring the bill on natural persons and support measures to the Council of Ministers and the National Assembly.
9. Taking measures to improve the poor conditions in places where people with mental illnesses are placed;
10. Adopting the National Strategy for Mental Health 2020-2030 and the Action Plan for it;
11. Extending the scope of the activity for provision of social services to people with mental illnesses in accordance with the needs of society and to end the long-term stay of patients in state psychiatric hospitals;
12. It is necessary to accelerate the process of deinstitutionalisation of the care for children and adults by building more social services in the community – daycare centres for children and persons with disabilities, community support centers, etc., and providing enough personal assistants.

