Résolution CM/ResDH(2013)119
Dimitrov-Kazakov contre Bulgarie
Exécution de l'arrêt de la Cour européenne des droits de l'homme

(adoptée par le Comité des Ministres le 19 juin 2013,
lors de la 1174e réunion des Délégués des Ministres)

(Requête n° 11379/03, arrêt du 10/02/2011, définitif le 10/05/2011)

Le Comité des Ministres, en vertu de l'article 46, paragraphe 2, de la Convention de sauvegarde des droits de l'homme et des libertés fondamentales, qui prévoit que le Comité surveille l'exécution des arrêts définitifs de la Cour européenne des droits de l'homme (ci-après nommées « la Convention » et « la Cour »),

Vu l'arrêt définitif qui a été transmis par la Cour au Comité dans l'affaire ci-dessus et les violations constatées ;

Rappelant l'obligation de l'Etat défendeur, en vertu de l'article 46, paragraphe 1, de la Convention, de se conformer aux arrêts définitifs dans les litiges auxquels il est partie et que cette obligation implique, outre le paiement de la satisfaction équitable octroyée par la Cour, l'adoption par les autorités de l'Etat défendeur, si nécessaire :

- de mesures individuelles pour mettre fin aux violations constatées et en effacer les conséquences, dans la mesure du possible par *restitutio in integrum* ; et
- de mesures générales permettant de prévenir des violations semblables ;

Ayant invité le gouvernement de l'Etat défendeur à informer le Comité des mesures prises pour se conformer à l'obligation susmentionnée ;

Ayant examiné le bilan d'action fourni par le gouvernement indiquant les mesures adoptées afin d'exécuter l'arrêt et notant qu'aucune satisfaction équitable n'a été octroyée par la Cour dans la présente affaire (voir document DH-DD(2013)495rev) ;

S'étant assuré que toutes les mesures requises par l'article 46, paragraphe 1, ont été adoptées,

DECLARE qu'il a rempli ses fonctions en vertu de l'article 46, paragraphe 2, de la Convention dans cette affaire et

DECIDE d'en clore l'examen.

ACTION REPORT
Case DIMITROV-KAZAKOV v. Bulgaria
Application No. 11379/03
Judgment of 10 February 2011
Final on 10 May 2011

(Anglais seulement)

1. Convention violation found

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

2. Individual measures

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

The Court did not award compensation to the applicant.

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

3. General measures

a) main legislative amendments and administrative measures

i. Violation of Article 8
There is a new legal framework adopted after the period concerned – Ministry of Interior Act, in force from 01.05.2006 and new secondary legislation – rules, regulations, decrees, etc.

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

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

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

According to the current legal framework, police registration of personal data is made only when charges are brought in relation to a serious wilful crime. The relevant police authorities *ex officio* or upon request from the person concerned are under obligation put an end to the police registration, *inter alia*, in the cases when the criminal proceedings at stake are discontinued or the person is acquitted (Art. 160 of the Ministry of Interior Act).

ii. Violation of Article 13
Chapter III Decree No Iz-701/17.03.2011 on police registration defines the rules for striking off data from the police records, including *ex officio*. Everyone can appeal against a refusal of the police authorities before the administrative courts.

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

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

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

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

b) publication and dissemination of the judgment

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

Such decisions of the ECHR are included in National Institute of Justice lectures.
Moreover, the translation of this judgment in Bulgarian was published in the review edited by the Supreme Lawyers' Council.

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

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

[1] See the report for measures taken at
http://www.mvr.bg/NR/rdonlyres/065FFA5C-7050-4398-BDC3-FC9C083A5344/0/otchet_2009.pdf