



The applicant association did not have legal standing

In its decision in the case of [Bulgarian Helsinki Committee v. Bulgaria](#) (application nos. 35653/12 and 66172/12) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The case concerned the death of two children with mental disabilities in special homes in which they had been placed, and the request submitted to the Court by an association specialising in human rights protection to grant it legal standing either as an indirect victim or as the representative of the two deceased adolescents.

In view of the fact that the applicant association had not been in contact with the girls before they died, the fact that it did not have a procedural status encompassing all the rights enjoyed by parties to criminal proceedings, and the fact that its intervention in the criminal proceedings following the discontinuance orders had been delayed, the Court made a distinction between the present cases and the case of [Câmpeanu v. Romania](#). As the criteria established in that case were not satisfied, the Court was unable to find that the applicant association had legal standing.

The Court specified that its decision should not be interpreted as disregard for civil society's work to protect the rights of extremely vulnerable people.

Principal facts

The applicant, the Bulgarian Helsinki Committee, is an association specialising in human rights protection which was founded in 1992 and is based in Sofia (Bulgaria).

In December 2007 a television channel broadcast a BBC documentary denouncing the situation of children with disabilities in a home located in Mogilino, Bulgaria. Further to that broadcast the applicant association sent a letter to the State Prosecutor requesting a criminal investigation into the conditions under which these children were accommodated in homes for children with disabilities and into the deaths in question. The State Prosecutor's Office replied that the relevant investigations would be carried out. Once completed, the investigations found that there were no grounds for criminal prosecution and the cases were dismissed. In August 2009 the association brought a civil action against the State Prosecutor's Office to establish that the latter's refusal to instigate an investigation constituted discrimination on grounds of the children's disability and general state of health. During the course of 2010 the State Prosecutor's Office inspected various homes for disabled children, in cooperation with the applicant association. The association monitored the criminal investigations and lodged appeals against a number of decisions not to prosecute and discontinuance orders.

Aneta Yordanova was born on 16 June 1991 and abandoned at birth. At the age of three she was placed in a home for children with severe mental disabilities. In June and July 2006 she had two surgical operations. Her condition subsequently deteriorated and a doctor diagnosed gastroduodenitis and recommended hospitalisation. The girl died in hospital on 7 October 2006. On 10 October 2006 the Targovishte regional prosecutor's office commenced criminal proceedings against persons unknown for manslaughter. On 10 May 2007, on completion of the investigation requested, the prosecutor discontinued the proceedings. Further to a general campaign conducted by the applicant association *vis-à-vis* the State Prosecutor and the latter's instructions to the regional prosecutors to investigate cases of deaths in the homes in question, the Varna appellate prosecutor's office conducted a review of the investigation of its own motion, and in an order of

8 July 2008 upheld the discontinuance order. In May 2012, in the wake of a fresh campaign conducted by the applicant association, the prosecutor at the Supreme Court of Cassation ordered an official review of the investigation into Aneta's death. The prosecutor's office set aside the order of 8 July 2008 and ordered the continuation of the proceedings, indicating a number of additional investigative measures to be conducted. On completion of the investigation the Targovishte regional prosecutor's office issued another discontinuance order. The Government stated that the home where Aneta Yordanova had been accommodated had been closed down on 1 January 2015 as part of a national reform geared to improving conditions for children placed in special institutions.

Nikolina Kutsarova was born on 8 February 1988. She was abandoned shortly after her birth and placed in a home. A developmental delay was noted at the age of six months. She was placed in a home for children with mental disabilities when she was six years old and became a ward of court at the age of fourteen. Nikolina started refusing to eat in July 2007. She was admitted to hospital, and died on 31 October 2007. No investigation was ever conducted into her death. On 24 September 2010, following the campaign conducted by the applicant association *vis-à-vis* the State Prosecutor, the Targovishte regional prosecutor's office commenced criminal proceedings against persons unknown for manslaughter. The investigator completed the investigation on 21 March 2011, concluding that the facts had not constituted a criminal offence. The Varna appellate prosecutor's office upheld the discontinuance order. On 2 February 2012 the association intervened in the criminal proceedings relating to Nikolina's death by challenging that decision before the prosecutor's office at the Supreme Court of Cassation. On 6 April 2012 the latter upheld the discontinuance orders. Finally, in an order of 14 June 2013, the regional prosecutor's office found, on the basis of a fresh expert opinion, that the death had not been due to a lack of treatment and that there was no reason to continue the proceedings.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 10 May and 4 October 2012.

Relying on Article 2 (right to life), Article 3 (prohibition of torture and inhuman or degrading treatment), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination), in relation to Aneta Yordanova and Nikolina Kutsarova, the applicant association requested the Court to grant it legal standing either as an indirect victim or as the representative of the two deceased adolescents.

The decision was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,
Khanlar **Hajiyev** (Azerbaijan),
Erik **Møse** (Norway),
André **Potocki** (France),
Síofra **O'Leary** (Ireland),
Carlo **Ranzoni** (Liechtenstein), *judges*,
Pavlina **Panova** (Bulgaria), *ad hoc Judge*,

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

[Article 34](#)

The Government maintained that the applications did not satisfy the requirements of Article 34. In their view, the applicant association did not have victim status and had not demonstrated that it

could validly represent the direct victims. The applicant association argued that the circumstances of the present applications were exceptional and required the Court to conduct an examination on the merits as it had done in its Grand Chamber judgment of 17 July 2014 in the case of [Câmpeanu v. Romania](#), either finding that the association was acting as the girls' representative or acknowledging that it was an indirect victim.

The Court observed that the present applications were to be distinguished from the case of Câmpeanu and from that of [Association for the Defence of Human Rights in Romania – Helsinki Committee on behalf of Ionel Garcea v. Romania](#) of 24 March 2015. In those cases the applicant associations had been involved in the specific cases of the victims, had been in contact with them prior to their deaths and had instituted proceedings at domestic level immediately afterwards. In the present cases the applicant association had had no contact with the adolescents and had not been involved in their cases before they died. The applicant association had not intervened in Aneta's case until 14 October 2011, five years after her death, although criminal proceedings had been instituted as far back as 10 October 2006 and the prosecutor's office had publicly issued two discontinuance orders in 2007 and 2008. In the case of Nikolina, the applicant association had learnt of the girl's death in June 2010 and it had first intervened in the investigation on 2 February 2012, over four years after her death and despite the fact that the investigation had been in progress since 24 September 2010. The first discontinuance order which the applicant association could have challenged had been made on 5 April 2011, ten months before the association intervened.

The Court further pointed out that in the Câmpeanu case the applicant association had intervened on Mr Câmpeanu's behalf in the domestic proceedings following his death and that its legal standing had at no stage been contested by the domestic authorities. In the present cases the applicant association had also intervened at domestic level, alerting the prosecuting authorities to the overall situation and to the deaths that had occurred in the homes and requesting that investigations be carried out, contesting the decisions not to prosecute and applying to the higher prosecutor's office for review of the discontinuance orders. However, it was clear from the case file that under Bulgarian law the applicant association had lacked any formal status in the domestic proceedings, as it had neither been a party to the proceedings nor had it represented the deceased adolescents. Accordingly, despite the fact that the prosecuting authorities had carried out inspections in the homes in cooperation with the applicant association, had given it access to the evidence in the ongoing investigations and had reviewed the decisions not to prosecute after receiving correspondence from the association, the latter had not been a party to the proceedings. It had not enjoyed the procedural rights granted to the parties, and although it had been able to contest the prosecutor's discontinuance orders it had not subsequently had the right to appeal against them before the courts. The Court considered that the applicant association's status *vis-à-vis* the domestic authorities had not been comparable to that of the organisation acting in the Câmpeanu case.

In view of the fact that the applicant association had not been in contact with the girls before they died, the fact that it did not have a procedural status encompassing all the rights enjoyed by parties to criminal proceedings, and the fact that its intervention in the criminal proceedings following the discontinuance orders had been delayed, the Court made a distinction between these two applications and the case of Câmpeanu. As the criteria established in that case were not satisfied, the Court was unable to find that the applicant association had legal standing in the context of the present applications.

The Court specified that its decision should not be interpreted as disregard for civil society's work to protect the rights of extremely vulnerable people. It noted the active and vigilant role played by the applicant association, which had alerted the competent institutions and had cooperated with them during the investigations and inspections that had been carried out. The Court welcomed the fact that the Bulgarian authorities had taken the reports made by the applicant association seriously despite the fact that the latter had no formal status in the domestic proceedings.

The Court considered that the applications were incompatible *ratione personae* within the meaning of Article 34 of the Convention and should therefore be dismissed.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.