



Media-hyped police operations were in breach of several rights protected under the Convention

In three **Chamber** judgments¹ today the European Court of Human Rights held, unanimously, that there had been:

In the case of [Stoyanov and Others v. Bulgaria](#) (no. 55388/10):

a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights,

a violation and no violation of Article 6 § 2 (presumption of innocence) of the Convention,

a violation of Article 8 (right to respect for private and family life),

a violation of Article 13 (right to an effective remedy) taken in conjunction with Articles 3 and 8;

in the case of [Alexey Petrov v. Bulgaria](#) (no. 30336/10):

no violation of Article 3,

a violation and no violation of Article 6 § 2,

a violation of Article 8;

In the case of [Petrov and Ivanova v. Bulgaria](#) (no. 45773/10):

a violation of Article 3,

a violation and no violation of Article 6 § 2,

a violation of Article 13 taken in conjunction with Articles 3 and 6 § 2.

These cases concerned a number of media-hyped police operations, raising issues similar to those examined by the Court in the case of [Gutsanovi v. Bulgaria](#) (no. 34529/10) regarding the prohibition of torture and inhuman or degrading treatment (Article 3) and respect for the accused's presumption of innocence (Article 6 § 2).

Principal facts

***Stoyanov and Others v. Bulgaria* (no. 55388/10)**

The applicants are ten Bulgarian nationals, notably two brothers Plamen and Yordan Stoyanovi and their relatives, who were born between 1967 and 2007 and live in Sofia, together with ten Bulgarian companies controlled or run by the brothers and based in Sofia.

On the morning of 10 February 2010 the special forces of the Interior Ministry launched a large-scale operation to arrest members of a mafia-type group suspected of organising and running a vast prostitution network and of being involved in extortion, embezzlement of public funds, racketeering, tax fraud and money laundering. The operation was nicknamed "Octopus" and received widespread

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

media coverage. During the operation certain intervention teams were accompanied by cameramen and photographers. A number of photographs of arrested individuals were published in the press and on line.

At about 6.30 a.m. on 10 February one intervention team burst into the home of Mr Yordan Stoyanov, his partner, their two under-age daughters and their eldest son, who was 18 years of age at the time. Meanwhile a second police intervention team entered the building in which Mr Plamen Stoyanov had his flat and arrested him. All the applicants said that they were shocked by the police intervention in their homes. Between 6.30 and 9 a.m. the same day police investigators searched both homes without the prior authorisation of a judge. Plamen and Yordan Stoyanovi were detained for 24 hours and then, on 12 February 2010, the Sofia Court remanded both applicants in custody. On 18 February 2010 the Sofia Court of Appeal set aside that decision on the grounds that Plamen and Yordan Stoyanovi's detention had been unlawful, and ordered their release.

On 27 February 2014 the criminal court decided to close the case, finding that it had remained at the preliminary investigation stage for over two years after the two applicants had been charged and that the public prosecutor had failed to pursue the proceedings within the additional time that had been granted to him.

On 12 February 2010, before the examination of the request to remand the suspects in custody, the Interior Ministry gave statements to the press about the criminal proceedings against the applicants. Following the opening of the proceedings against them, a commission initiated the procedure for the confiscation of their property. At the commission's request, the courts imposed a number of provisional measures in respect of various assets, shares in several companies and bank accounts belonging to the applicants. In decisions of November 2013 and May 2014, the commission decided to discontinue those confiscation procedures. Lastly, all the provisional measures that had been imposed on the property of the applicants, both the individuals and the companies, were lifted by judicial decisions of November 2013, and May and September 2014.

Alexey Petrov v. Bulgaria (no. 30336/10)

The applicant, Alexey Iliev Petrov is a Bulgarian national who was born in 1962 and lives in Sofia.

In the 1980s Mr Petrov had begun his career in the Ministry of the Interior, later becoming a member of the ministry's anti-terrorism intervention group. He obtained the grade of officer in the ministry. In 1992 he resigned from his post then exercised various activities in business, sport, higher education and associations. In 2001 he was recruited by the National Security Agency as an undercover agent and later became an expert. He left the Bulgarian security services in 2009.

On 10 February 2010 Mr Petrov was arrested at his home during the "Octopus" operation. His arrest was filmed and the recording was passed on to the media, after which it was broadcast widely on TV channels and news websites. The Interior Minister and other leading politicians gave several interviews to the press on the subject, as did the Deputy State Prosecutor, the Head of the Sofia public prosecutor's office and one of the prosecutors responsible for the criminal investigation.

On 12 February 2010 Mr Petrov was remanded in custody and on 13 October 2010 he was placed under house arrest. The charges against him gave rise to two sets of criminal proceedings. The first proceedings, concerning the charge of organising a group for the purposes of tax evasion, were closed on 27 February 2014. The second proceedings, encompassing a number of charges surrounding the organisation of a criminal group, extortion and disclosure of classified information, were still pending in September 2014.

Petrov and Ivanova v. Bulgaria (no. 45773/10)

The applicants, Anton Kirilov Petrov and Krasimira Ilcheva Ivanova, are Bulgarian nationals who were born in 1972 and 1979 respectively and live in Sofia.

In December 2009 the Interior Ministry launched an operation to stop a criminal group which had organised and carried out a number of kidnappings in Bulgaria. The high-profile police operation was nicknamed “Shameless”. On 17 December 2009 Mr Petrov was arrested in that connection. On the day of his arrest, the Interior Ministry declared that Mr Petrov had taken part in the kidnappings and that he was one of those who had supplied vehicles for that purpose. The criminal proceedings against Mr Petrov were closed by a discontinuance decision of 17 August 2010.

At around 6 a.m. on 10 February 2010, as part of the “Octopus” operation, an intervention team from the Ministry of the Interior burst into the applicants’ house and searched it without a warrant. According to the applicants, the inside of the house was filmed by a cameraman. On 11 February 2010 Mr Petrov was charged with participating in an armed criminal group engaging in the handling of stolen goods, tax fraud, prostitution and racketeering. On 12 February 2010 the Sofia criminal court remanded Mr Petrov and his presumed accomplices in custody. On 18 February 2010 the Court of Appeal decided to release Mr Petrov on bail.

Between February and October 2010 the Interior Minister gave several statements to the media about operation “Octopus”. Other politicians also gave statements. Between February and July 2010, the Prosecutor-General, his deputy, the public prosecutor of Sofia and the prosecutor responsible for the criminal investigation gave interviews to the media.

Complaints, procedure and composition of the Court

In the case of *Stoyanov and Others v. Bulgaria*, relying in particular on Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life), eight of the applicants complained that they had been subjected to degrading treatment when the police raided their respective homes on 10 February 2010, and that they had been victims of a violation of their right to respect for their home and for their private life. Relying on Article 6 § 2 (presumption of innocence), all the applicants complained of a breach of their rights to be presumed innocent and to respect for their reputation. Lastly, under Article 13, the applicants argued that there had been no effective domestic remedies by which to seek redress for the alleged violations of their right not to be subjected to inhuman or degrading treatment and their right to respect for their home and for the enjoyment of their property.

In the case of *Alexey Petrov v. Bulgaria*, relying on Article 3 (prohibition of torture and inhuman or degrading treatment) Mr Petrov alleged that he had been subjected to inhuman and degrading treatment during the police operation of 10 February 2010. Relying on Article 6 § 2 (presumption of innocence), he alleged that the remarks of a number of judges and politicians to the media during the criminal proceedings against him had constituted unjustified breaches of his right to be presumed innocent. Under Article 8 (right to respect for private and family life), he complained that his arrest had been filmed and that the recording had been passed on to the media by the Interior Ministry’s press unit.

In the case of *Petrov and Ivanova v. Bulgaria*, relying on Article 3 Ms Ivanova alleged that she had been subjected to inhuman and degrading treatment when the police had entered her home on 10 February 2010. Relying on Article 6 § 2 (presumption of innocence), Mr Petrov complained that the remarks of a number of politicians and public prosecutors had breached his right to be presumed innocent. Under Article 8 (right to respect for private and family life), both applicants further argued that the media coverage of the search of their home had amounted to an unjustified breach of their privacy. Lastly, relying on Article 13 they complained that there had been no domestic remedies by which to seek redress for the violations of Articles 3, 6 § 2 and 8.

The applications in the cases of *Stoyanov and Others v. Bulgaria* (no. 55388/10), *Alexey Petrov v. Bulgaria* (no. 30336/10) and *Petrov and Ivanova v. Bulgaria* (no. 45773/10) were lodged with the European Court of Human Rights on 9 August 2010, 7 June 2010 and 27 July 2010, respectively.

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

Angelika **Nußberger** (Germany), *President*,
Ganna **Yudkivska** (Ukraine),
Khanlar **Hajiyev** (Azerbaijan),
André **Potocki** (France),
Yonko **Grozev** (Bulgaria),
Síofra **O’Leary** (Ireland),
Mārtiņš **Mits** (Latvia),

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

Decision of the Court

Article 3

In the case of ***Stoyanov and Others v. Bulgaria*** the Court noted that Plamen and Yordan Stoyanovi had been suspected of belonging to a mafia-type organisation. They had held firearm permits and the police had found firearms and munitions at their homes. The Court did not blame the authorities for deciding to involve the special forces of the Interior Ministry or for the immobilisation and handcuffing of Plamen and Yordan Stoyanovi. On the other hand, it found that there had been no justification for leaving Yordan Stoyanov handcuffed and naked for almost one hour or for forcing Plamen Stoyanov to remain seated on the ground outside his apartment block, handcuffed and in his underwear. The Court therefore considered that the two applicants had been subjected to degrading treatment by the security forces.

The Court observed that Veselin Stoyanov, Yordan Stoyanov’s eldest son, who was not suspected of having committed a criminal offence, had been immobilised and handcuffed by the police officers. There was nothing to suggest that Veselin Stoyanov had put up any resistance to the security forces during his father’s arrest or that the police officers had had any serious reason to fear that he might behave aggressively. The Court held that he too had suffered degrading treatment from the security forces. As regards the other five applicants, the Court considered that their situation had been similar to that of some of the applicants in *Gutsanovi*: the police operation had been carried out early in the morning by a team of masked and heavily armed officers; the possible presence of relatives of the person sought by the police had not been taken into account during the preparation and execution of the police operation; the police operation had been conducted without the prior authorisation of a judge; the suspect’s wife had not been involved in the offences of which he was suspected; and the wife and the under-age children had been severely affected by the events. In view of the combination of all these factors in the present case, the Court found that the applicants had been subjected to a psychological ordeal which had aroused strong feelings of fear, anxiety and powerlessness, the negative effects of which amounted to degrading treatment within the meaning of Article 3 and therefore violated that provision.

In the case of ***Alexey Petrov v. Bulgaria***, the Court noted that the aim of the police operation had been to arrest the applicant, who was suspected of belonging to a mafia-type organisation involved in various cases of extortion and racketeering. The Court further noted that Alexey Petrov had served in the security forces for many years, among other things in the anti-terrorist intervention team of the Interior Ministry, which meant that he had received firearms and martial arts training. In the light of these factors the Court did not blame the authorities for deciding to involve the special forces of the Interior Ministry or for the fact that the latter had immobilised and handcuffed the applicant. The Court considered that the police had not used excessive force and that it had not been demonstrated that the negative emotions aroused in Alexey Petrov had exceeded the severity

threshold making the treatment in question incompatible with Article 3. There had therefore been no violation of Article 3.

In the case of ***Petrov and Ivanova v. Bulgaria***, given that the circumstances had been similar to those in *Gutsanovi* and that the applicant had been pregnant at the relevant time, the Court considered that she had been subjected to a psychological ordeal which had aroused in her severe feelings of fear, anguish and powerlessness, the negative effects of which amounted to degrading treatment for the purposes of Article 3 and were thus in breach of that provision.

Article 6 § 2

In the case of ***Stoyanov and Others v. Bulgaria***, Plamen and Yordan Stoyanovi complained of the comments by the Prime Minister and of the many statements by the Interior Minister in the media. The Court observed that the Prime Minister had not expressly mentioned the two applicants but had merely voiced his confidence in the work of the security forces during the “Octopus” operation. However, it noted that the Interior Minister had been interviewed on national television on the day both applicants were arrested, before their appearance in a court competent to adjudicate on the lawfulness of their detention and in the context of intense media interest in the case. The Court found that the Interior Minister’s comments had gone beyond mere communication of information on the progress of the criminal investigations and might have given the general public the impression that the two applicants held a special status within the hierarchy of a powerful mafia-type organisation. There had therefore been a violation of Article 6 § 2.

In the case of ***Alexey Petrov v. Bulgaria***, the Court considered that the comments by the Interior Minister and the Head of the Sofia public prosecutor’s office had reflected a feeling that the applicant was guilty of committing the criminal offences in question even before the courts had decided on the merits of the charges against him. The comments had therefore been in breach of Article 6 § 2. On the other hand, the comments by the other political and judicial figures had not infringed the applicant’s presumption of innocence. There had therefore been no violation of Article 6 § 2 on that count.

In the case of ***Petrov and Ivanova v. Bulgaria***, the Court observed that the comments at issue had been made during the two consecutive police operations. It held that the Interior Minister’s comments directly referring to the applicant had gone beyond mere communication of information on the progress of the criminal investigations. There had therefore been a violation of Article 6 § 2. On the other hand, the comments by the other political and judicial figures had not infringed the applicant’s presumption of innocence. There had therefore been no violation of Article 6 § 2 on that count.

Article 8 (right to respect for private and family life)

In the case of ***Stoyanov and Others v. Bulgaria***, even though the investigative measures complained of had had a legal basis in domestic law, current national legislation had not provided the applicants with sufficient safeguards against arbitrary action before and after the searches. The interference with the applicants’ right to respect for their homes had not been provided for by law, which meant that there had been a violation of Article 8.

In the case of ***Alexey Petrov v. Bulgaria***, the Court noted that the Interior Ministry’s video recording of the “Octopus” operation had contained images of Alexey Petrov being arrested. The video had subsequently been put on line by the Ministry’s information department. The Court found that that interference had not been covered by any law satisfying the criteria set out in its case-law, but stemmed from a desire to obtain images of police operations that had attracted intensive public and media interest. There had therefore been a violation of Article 8.

Articles 13, 3 and 8

In the case of ***Stoyanov and Others v. Bulgaria***, the Court reiterated that when considering the admissibility of the applicants' complaint under Article 3 it had noted that neither the criminal complaint nor the action for damages against the State could be deemed sufficient domestic remedies. It also pointed out that when examining the admissibility of the applicants' complaint under Article 8 it had found that there had been domestic provision enabling them to challenge the lawfulness and necessity of a house search. The Court consequently found that the applicants had had no domestic remedy in order to assert their right not to be subjected to treatment incompatible with Article 3 and their right to respect for their homes as secured under Article 8. There had therefore been a violation of Article 13 taken in conjunction with Articles 3 and 8.

Articles 13, 3 and 6 § 2

In the case of ***Petrov and Ivanova v. Bulgaria***, the Court reiterated that when considering the admissibility of the applicants' complaint under Article 3 and Article 6 § 2 it had noted that the action for damages against the State could not be deemed a sufficiently effective domestic remedy in the applicants' case. It concluded that the applicants had had no domestic remedy in order to assert their relevant rights. There had therefore been a violation of Article 13, taken in conjunction with Article 3 and Article 6 § 2.

Just satisfaction (Article 41)

The Court held that Bulgaria was to pay the applicant:

- 30,000 euros (EUR) jointly to Plamen Stoyanov, Petranka Stoyanova and Plamen Plamenov Stoyanov, and 50,000 EUR jointly to Yordan Stoyanov, Antonia Ivanova, Emilia Stoyanova, Monika Stoyanova and Veselin Stoyanov in respect of non-pecuniary damage, and 5,000 EUR for costs and expenses;
- 6,000 EUR to Alexey Petrov in respect of non-pecuniary damage and 3,703.26 EUR for costs and expenses.
- 5,000 EUR to Anton Petrov and 10,000 EUR to Krasimira Ivanova in respect of non-pecuniary damage.

The judgment 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.