



## Bulgarian police officers' use of electroshock weapons during search of Internet company was excessive

In today's **Chamber** judgment<sup>1</sup> in the case of **Anzhelo Georgiev and Others v. Bulgaria** (application no. 51284/09) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights in respect of three of the five applicants as concerned both the allegations of ill-treatment as well as the inadequacy of the investigation.

The case concerned allegations of excessive use of police force, and notably the use of electroshock weapons. The applicants alleged that they had been ill-treated by armed, masked police officers during a special police operation carried out at their Internet company's offices in order to search and seize illegal software.

The Court found that the preliminary inquiry had not provided a plausible explanation for the necessity of the force used against the applicants. It was particularly unsatisfactory that the prosecuting authorities assumed the lawfulness of the use of electroshock weapons, known to cause intense pain and temporary paralysis, despite insufficient evidence to show that the company employees had disobeyed the police officers' orders in a manner warranting the use of such weapons.

### Principal facts

The applicants, Anzhelo Georgiev, Kamelia Dekova, Georgi Kosev, Nikolay Dragnev, and Pavel Tsekov, are Bulgarian nationals who were born in 1973, 1972, 1986, 1978, and 1978 respectively. They all worked for a private company based in Varna (Bulgaria), one of the city's main internet service providers.

The applicants submitted, in particular, that they were ill-treated by armed, masked police officers during a special police operation carried out at their company's offices on 18 June 2008 in order to search and seize illegal software. All five applicants alleged that the police broke into two of the company's offices and, forcing the employees to lie on the ground, hit, kicked and applied electroshock weapons on some of them causing strong pain and paralysis. Mr Kosev alleged in particular that he had an electroshock gun applied to him while handcuffed to a window grill; Ms Dekova that she was repeatedly subjected to electroshocks; and, Mr Tsekov that he was forced to crouch for an hour with his hands cuffed behind his back. These three applicants submitted that they sustained injuries during the intervention, including bruising, abrasions and burns, shown in reports of medical examinations carried out the next day.

Following a complaint brought by the applicants, a preliminary inquiry was immediately opened. In October 2008 the prosecuting authorities decided not to prosecute the police officers involved in the incident. The prosecution concluded that the employees had disobeyed the officers' orders to lie on the ground and not touch anything, and that the force used had therefore been justified by the need

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](http://www.coe.int/t/dghl/monitoring/execution).

to prevent the destruction of electronic evidence contained in the company's computers. This decision was upheld on appeal in April 2009 on the basis that the officers had used force permitted by national law for the purposes of gathering physical evidence and due to the applicants' resistance to police orders.

## Complaints, procedure and composition of the Court

The applicants complained that the police officers had used excessive force against them, when they had not in any way disobeyed, resisted or provoked the police officers' violent behaviour. They also alleged that the authorities' ensuing investigation into their complaints had been ineffective. They relied in particular on Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

The application was lodged with the European Court of Human Rights on 1 September 2009.

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

Ineta Ziemele (Latvia), *President*,  
George Nicolaou (Cyprus),  
Ledi Bianku (Albania),  
Nona Tsotsoria (Georgia),  
Zdravka Kalaydjieva (Bulgaria),  
Paul Mahoney (the United Kingdom),  
Krzysztof Wojtyczek (Poland),

and also Fatoş Aracı, *Deputy Section Registrar*.

## Decision of the Court

### Article 3 (ill-treatment)

The Court examined the complaints of the applicants in respect of whom forensic medical reports showed that they had sustained injuries, including numerous bruises, abrasions and burns, which had caused them pain and suffering. Those reports, corroborated by the applicants' consistent description of the incident, were not disputed by the Bulgarian prosecuting authorities. The latter unequivocally established in their decisions – to not prosecute the police officers involved – that force had been used by some officers, including handcuffs and electroshock batons, against some company employees. The Court therefore determined that the injuries of three of the applicants had been sustained at the hands of the police and were sufficiently serious to reach the minimum level of severity required for a complaint to pass the threshold of Article 3.

The Court further found that the preliminary inquiry, which was not a fully-fledged investigation involving the applicants, had been inadequate. In particular, the authorities had not identified either the officers who had used electroshock weapons or the precise type of electroshock weapons used, or the duration for which they had been applied to the company's employees. The fact that at the time there were no specific instructions related to the use of electroshock weapons, known to cause intense pain and temporary incapacitation, did not in itself absolve the police authorities from their obligation to abide by the standard under Article 3 of the Convention of using force only if strictly necessary. The Court found that properly trained law-enforcement officers had many other control techniques available to them when in touching distance of a person who had to be brought under their control. Furthermore, the integrity of the police operation could have been maintained with less intrusive means not requiring the use of physical force after entering the offices.

Moreover, where injuries have been sustained at the hands of the police, it was up to the Government to prove that it had been necessary to use force. The inquiry did not give an answer to

the key question of exactly what resistance the applicants had put up, nor did it explain whether the force used by the police had been inevitable in the circumstances. It was particularly striking that the authorities conducting the inquiry could conclude, without supporting evidence other than statements of police officers involved in the operation, that the employees had disobeyed the officers' orders in a manner warranting the use of physical force.

Consequently, as the Government had not provided convincing arguments to justify the degree of force used, the Court was satisfied that during the police operation of 18 June 2008 officers subjected three of the applicants to ill-treatment and that the authorities failed to carry out an effective investigation into the applicants' allegations, in violation of Article 3.

#### [Article 41 \(just satisfaction\)](#)

The Court held that Bulgaria was to pay the applicants Kamelia Dekova, Georgi Kosev and Pavel Tsekov 2,500 euros (EUR) each in respect of non-pecuniary damage.

*The judgment is available only in English.*

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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.