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**Synthèse / Summary / Kurzfassung / резюме**

RÉPUBLIQUE DE BULGARIE / REPUBLIC OF BULGARIA /  
REPUBLIK BULGARIEN / РЕСПУБЛИКА БОЛГАРИЯ

The Constitutional Court of the Republic of Bulgaria  
Конституционен Съд на Република България

Anglais / English / Englisch / английский

**COOPERATION OF CONSTITUTIONAL COURTS IN EUROPE –  
CURRENT SITUATION AND PERSPECTIVES**

**(Summary)**

According to the Constitution of the Republic of Bulgaria (Article 5 (4)), any international treaty, which has been ratified according to a procedure established by the Constitution, which has been promulgated, and which has entered into force for the Republic of Bulgaria, is part of the domestic law of the land. Any such treaty takes priority over any conflicting standards of domestic legislation, however not all international obligations binding on Bulgaria become part of the national legislation.

Upon signature of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union (EU) in 2007 and upon its ratification, promulgation and entry into force, Bulgaria becomes a party to the founding treaties of the European Communities and the European Union and accepts their content, which is primary Community law. The acts of primary EU law constitute international treaties within the meaning given by Article 5 (4) of the Constitution and if the conditions provided for are complied with, their provisions become part of Bulgaria's domestic law.

The European Union also adopts the so-called secondary law. According to Article 249, paragraph 1 of the Treaty establishing the European Community (TEC), the institutions of the European Union "shall make regulations and issue directives, take decisions, make recommendations or deliver opinions"... These acts are adopted pursuant to express provisions adopted in primary law.

During the last decade, human rights in the Republic of Bulgaria have turned from an abstract notion into reality. These rights are guaranteed through the ratification of fundamental international human rights instruments, as well as through the adoption by the Bulgarian Parliament of a number of laws by virtue of which Bulgarian legislation in force is brought into conformity with the international instruments. The application of the treaties on the protection of human rights is a typical example of application of international treaties at domestic and international level. The principle of *pacta sunt servanda* with regard to the treaties on the protection of human rights includes a positive obligation to adopt the requisite domestic legislation and a negative obligation

not to admit the invocation of any provision whatsoever of domestic legislation as an excuse for non-fulfilment of a treaty obligation.

The Bulgarian Constitutional Court has repeatedly been approached to pronounce on the consistency of provisions of laws with international treaties where to Bulgaria is a party. The centrepieces among these treaties are the *Convention for the Protection of Human Rights and Fundamental Freedoms* and the *Charter of Fundamental Rights of the European Union*.

The Constitutional Court has also referred to other international sources of law at European level, such as the *European Social Charter*, the *European Charter of Local Self-Government*, the *Treaty establishing the European Community* and the *Treaty on the functioning of the European Union*.

Comparatively numerous judgments have also cited *EU directives* which the National Assembly is supposed to consider in drafting particular laws.

On more than 40 occasions, the Constitutional Court has been approached to pronounce on inconsistency of legal provisions with universally recognised standards of international law, such as the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*.

The Constitutional Court of Bulgaria has furthermore referred to the Convention on the Rights of the Child, the International Labour Organisation (ILO) Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, ILO Convention No. 97 and Convention No. 98, ILO Convention No. 52 concerning Annual Holidays with Pay, ILO Convention No. 95 concerning the Protection of Wages, and the Convention on Environmental Impact Assessment in a Transboundary Context.

The Constitution of the Republic of Bulgaria does not contain a provision imposing an obligation on the Constitutional Court to consider judgments of the European Court of Human Rights (ECtHR). However, Bulgaria is a Member State of the EU and the Constitutional Court takes into consideration the judgments of the ECtHR as well as of the Court of Justice of the European Union. The extent to which the two courts influence the jurisprudence of the Bulgarian Constitutional Court is measured by the frequency at which their judgments are referred to in the reasons of the national court.

For the time being, the Constitutional Court case-law makes fewer references to the judgments of the Court of Justice of the European Union, not because of lack of interest but because the enormous part of the petitions on inconsistency refer

to the Convention for the Protection of Human Rights and Fundamental Freedoms.

An example of divergence in decisions taken by the Bulgarian Constitutional Court and the European courts of justice is Judgment No. 1 of 2000, by which the Constitutional Court declared the unconstitutionality of the political party United Macedonian Organisation Ilinden. The European Court of Human Rights, however, rendered judgment according to which the refusal of the Bulgarian Constitutional Court to register that party violates the various aspects of the freedom of association and the right to hold rallies, meetings and demonstrations.

With regard to the direct application of the international treaties by the Bulgarian courts, the Supreme Administrative Court plays an important role. It is a special judicial body and a court of last resort in administrative justice. After it was restored on 1 December 1996, the Supreme Administrative Court has rendered a number of judgments and rulings in connection with the application of the Convention relating to the Status of Refugees of 1951, the Convention relating to the Status of Stateless Persons of 1954, the Convention against Discrimination in Education of 1960, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Protocol relating to the Status of Refugees of 1966, the Convention on the Elimination of All Forms of Discrimination against Women of 1979, the Convention on the Rights of the Child of 1989 and the ILO Unemployment Provision Convention, 1934 (No. 44). Quite a few acts of the Supreme Administrative Court concern the application of regional international treaties on the protection of human rights.

The eased access to the European international case-law in recent years, including by means of information technologies and its unofficial translation into Bulgarian, will undoubtedly be improving the performance of all Bulgarian courts.