



APPEAL COURT, HIGH COURT OF JUSTICIARY

**[2018] HCJAC 31
HCA/2016/000040/XM**

Lord Justice Clerk
Lord Brodie
Lord Turnbull

OPINION OF THE COURT

delivered by LADY DORRIAN, the LORD JUSTICE CLERK

in

APPEAL UNDER SECTIONS 26 OF THE EXTRADITION ACT 2003

by

MARIO KURTEV

Appellant

against

THE LORD ADVOCATE ON BEHALF OF THE BULGARIAN AUTHORITIES

Respondent

Appellant: N McCluskey; Ludgate Dunne

Respondent: D J Dickson, Sol Adv for the Lord Advocate on behalf of the Bulgarian Authorities

7 June 2018

[1] This is an appeal against a decision of the sheriff at Edinburgh to order the extradition of the appellant to Bulgaria in terms of a European Arrest Warrant. It was a matter of agreement, as indeed had been found by the sheriff, that prison conditions in Bulgaria, and repeated and systemic failure of the authorities to improve these, created circumstances, which in the absence of specific and reliable assurances, would give rise to substantial grounds for believing that the appellant faced a real risk of being subject to

inhuman or degrading treatment such as to contravene his rights under article 3 of the European Convention if he were to be extradited from the United Kingdom and then detained or imprisoned there. The sole question was thus whether satisfactory assurances had been given which might permit the sheriff to authorise extradition. The sheriff noted that specific assurances had been given, expressly in respect of the appellant, and that there was no competent evidence that Bulgaria had failed to honour assurances of the kind which had been given in the present case. On that basis, the sheriff ordered extradition and directed that a copy of his decision should be given to the Bulgarian authorities on surrender of the appellant to them in order that it be clear upon what basis the appellant was being returned.

[2] In doing so, the sheriff adopted the approach taken in the case of *Vasilev v Bulgaria* [2016] EWHC 1401 (Admin), namely that great weight should be attached to the principles of mutual recognition and that assurances given by the receiving State should be accepted unless there was a cogent reason to disbelieve them. In that case, a country's failure to improve conditions in general was noted to be relevant, but more relevant was the country's track record in respect of individual cases where, in the case of Bulgaria, it had been shown that prisoners could be accommodated with adequate facilities. The assurances given regarding *Vasilev* were specific, clear and spelled out the conditions which would be applied, and on that basis the court had ordered extradition.

[3] At a procedural hearing, the court, having heard submissions from parties, sanctioned four questions which might be sent to the Bulgarian authorities for supplementary information and clarification. The questions are set out in the minute dated 2 May 2017 and are in the following terms:

- “(1) In which part of which institution or institutions will Mario Toshkov Kurtev be detained for any period of remand pending trial or for the duration of any sentence imposed by the court?
- (2) Will Mario Toshkov Kurtev be accommodated in a cell which (i) provides him with 4 square metres of space at all times and (ii) which contains a self-contained sanitary facility?
- (3) With reference to the part of which institution or institutions Mario Toshkov Kurtev will be detained in, and the cell he will be accommodated in, can an assurance be given that the physical conditions of these facilities, in entirety, are compliant with Article 3 of the European Convention on Human Rights and Article 4 of the EU charter of fundamental rights?
- (4) With reference to questions 2 and 3 more specifically –
- (a) In relation to the cell Mario Toshkov Kurtev is to be accommodated in what is the living space? i.e. what is the living area and what is the bed area?
- (b) What access to toilet will be provided to Marion (sic) Toshkov Kurtev? What is the location of the toilet? What number of persons use it during the day and during the night? What is the level of privacy in using the toilet?
- (c) What is the access to day light? What is the size of the windows? What is the availability of metal bars/sheets to cover the windows? If the beds are two-storied what is the light access on the first floor? Is it sufficient to read?
- (d) What is the access to walking area? When and where it is ensured? How big is it? What is the number of persons who use it at the same time? What are the rules for using it? When walking do prisoners walk in line or circle with others? What are the options for sports and physical activity during this time?
- (e) How much time can be spent outside the cell on a daily basis? In what activities? Are these activities accessible for everyone?
- (f) What mechanisms and sanctions are in place to prevent and punish interprisoner violence or ill treatment?
- (g) What mechanisms and sanctions are in place to prevent and punish violence and ill treatment by prison staff to prisoners?”

[4] The request was responded to by letter from the Bulgarian Ministry of Justice dated 20 September 2017, confirming that the appellant would be received into Sofia prison “during the adaptation period” and that he would serve his full sentence of imprisonment at

Sofia prison since that was the prison nearest his permanent residence. The letter assured that:

- "... the inmate will be kept in a cell with 4sqm and self-contained sanitary facility;
- The sanitary facilities of the prisoners are self-contained with a sink and a toilet bowl with constantly running water. Prisoners have enough space in it for their privacy to be respected and to maintain personal hygiene. All persons staying in the sleeping quarter have access to the sanitary facilities, throughout the day and night;
- The cells in Sofia Prison vary in size from 17 to 42 square meters, but they meet the minimum European requirements; each of them has two openable windows, which provide enough daylight. All windows in the cells have metal grills. The size of the windows in the cells is according to BDS (Bulgarian National Standard) – 1/7 part of the room. The general number of windows varies according to the size of the room;
- Beds in the sleeping quarters are on 2 floors and provide enough daylight to the readers on the first level;
- Prisoners have the right of promenade for 1 hour a day, having the opportunity for sports and physical activity during this 1 hour. The promenade is done in groups according to an established schedule. The number of people is different, depending on their desire to leave the quarters. During the promenade they can organise group sports events – volleyball, football and others;
- Prisoners have the opportunity to attend school, language courses and computer literacy, have the opportunity to work. They have the right to attend organized cultural and mass events in the prison, as well as various sports events taking place in the prison area.
- During the day, accused persons and persons under trial can move freely in the corridor, may also visit the other cells. Their rooms are locked only at night;
- Persons sentenced to "imprisonment" may be punished or rewarded with awards and penalties provided, established by the Law on Execution of Penalties and Remand into Custody;
- In the event extradition is ordered, the rights and interests of KURTEV will be safeguarded by the provisions of Article 276 – 283 of the Law on Execution of Penalties and Remand into Custody – Part Six: Protection against Torture, Cruel, Inhuman or Degrading Treatment.
- It should be noted that the rights of the prisoners in case of violence by the personnel are also safeguarded by the disciplinary liability of the staff, according to the Law on the Ministry of Interior; ...".

[5] The letter specified the mechanisms for monitoring compliance, including a quarterly report by the Director General of the Execution of Sentence to the Ministry of Justice; the National Ombudsman, which through the “National Prevention Mechanism” Directorate part of its administration has access to prisons and can interview prisoners and monitor the conditions in which they are held with a view to making recommendations to the prison authorities; other organisations, including research and not-for-profit bodies, also monitor prison conditions and make representations to the Ministry of Justice; finally, the Bulgarian judiciary have a continuing jurisdiction to monitor compliance with the legality of penal sanctions.

[6] By letter dated 30 November 2017 the Bulgarian authorities reiterated that the appellant would be placed in Sofia prison and enclosed photographs “of a dormitory (prison cell) with two rooms and self-contained sanitary facility at Prison – Sofia and photographs of the visit area at the prison.” The letter advised that the authorities had established an obligation for the Director General of the Execution of Sentence to report every three months to the Ministry the conditions the inmates are kept in after allocation, including the exact cell/dormitory and its conditions requiring a minimum of 4m² and self-contained sanitary facilities. A further letter of 5 January 2018 repeated this information, stating that the photographs enclosed earlier “are only meant to serve as an example”.

[7] At a procedural hearing on 6 November 2017 the parties agreed that “the appeal was in short compass and would require only submissions on the quality and adequacy of the assurances now given.” At a further hearing permission was given for the appellant to lead the evidence of Mr Stanimir Petrov, a member of the Bulgarian Helsinki Committee (BHC).

[8] Mr Petrov had been an employee of the BHC for 21 years and in that capacity had regularly visited prisons in Bulgaria, of which Sofia was the largest and might be visited by

BHC representatives 5 or 6 times a year. In respect of the present case he had made one visit to the prison and had prepared a report in relation to that visit, dated 4 April 2018. If returned to Bulgaria, Mr. Kurtev would spend two weeks in an acceptance ward at the prison before being housed in area 13 of the prison, where extradited prisoners are held. He might subsequently be moved to area 11. In area 13 prisoners would have an average of 4 m² of space and the cells have self-contained sanitary facilities. In Mr Petrov's view "no other European standards" in respect of lighting, ventilation, heating and the like, are met in area 13, save for certain "VIP" cells which had been renovated by prisoners themselves. In these respects cells in Bulgaria did not meet minimum European standards. In cells with bunks there was generally insufficient light on the bottom bunk to allow for reading. The doors of the cells are not locked during the day and the prisoners are free to walk around parts of the prison. He had not seen any "VIP" cells, but their existence was leaked to the Bulgarian press. He had however seen cells which were in a much better condition than other cells within the same hall. In area 11 only 2 or 3 cells will meet the space and sanitary requirements; the remaining cells there will have an average of 3m². In relation to the photographs provided by the Bulgarian authorities he thought these probably showed one of the "VIP" cells. On the visit in preparation for his report, he spoke to the director in charge of the prison, showing him copies of the photographs provided by the Bulgarian authorities, and enquired where exactly the photographs had been taken. The director apparently did not know which cells were shown, saying that the authorities have access to all areas of the prison and must have commissioned the photographs. The director said he might have been on leave when they were taken. Mr Petrov did accept that the photographs might have been taken within Sofia prison. He considered that it was possible for the Bulgaria authorities to fulfil the assurance that the appellant be given enough space to

respect privacy and maintain his personal hygiene, since every cell in Bulgarian prisons now has its own self-contained sanitary facility. Provision is made for exercise for an hour a day for volleyball, football or other sporting activities, and where circumstances allow a longer period will be allocated. The prison allows educational courses such as courses in foreign languages, computer literacy and religious education, but these are all a matter of particular initiatives undertaken by the authority of the prison rather than in implement of formal legal requirements. It is correct to say that when it comes to education the prison does everything possible to increase general literacy. He was aware of 6 cases where prisoners had been extradited, and in 5 of them the assurances given had been broken. (It was not entirely clear, but from the names given (*Vasilev, Asenov, Kirchanov, Petrov, Ivanov* and *Ogoyski*), it appears that in fact the assurances might have been breached in 4 of the 6 cases – we deal with this further below). However, these individuals were later moved to compliant conditions. For the last 21 years the BHC has had access to all prisons in Bulgaria enabling it to see whether assurances were being observed. The BHC is in a position actively to check whether the assurances that are given are met in the case of extradited prisoners.

Preliminary Observation

[9] It would seem from what was said by Mr Dickson, who appeared on behalf of the Lord Advocate as representing the Bulgarian authorities, that there is a perception arising from observations made in *Kapri v Lord Advocate* 2015 JC 30 at para [128] that (a) the criminal rules of evidence apply in their full rigour in extradition proceedings; and (b) consequently the court cannot admit with a view to establishing, from their mere production, the factual content of reports from international governmental /non-governmental organisations or institutions. We do not understand this to be the effect of the

decision in *Kapri*, where, as much as anything else, the concerns in *Kapri* arose from the undisciplined and casual way in which the documents were introduced with the witnesses, with no explanations either in evidence or by joint minute as to their derivation or status and little attempt to tie the documents in to the substantive evidence given by the witnesses in question. As was said in *Kapri* (at para [127]) there are many official documents which can be relied upon without their content having been spoken to in the oral testimony of a witness. Moreover, even where a document does not fall into that category (and is not the subject of any relevant statutory certificate) that does not necessarily mean that it is inadmissible, at least if its provenance is established. What, if any, weight it is given will be a matter for the fact-finder. Notwithstanding the comments at para [128], the court in *Kapri* had regard to the material produced, fragile as it considered the material's evidential basis to be.

[10] The perception to which we have referred led to an objection being taken on behalf of the respondent to the appellant's motion, prior to the taking of evidence from Mr Petrov, to be allowed to lodge the report dated 4 May 2018 of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning its most recent periodic review of measures taken by the Bulgarian authorities in response to recommendations made following prior visits and a public statement made by the CPT in March 2015. Given that the requirement for the Bulgarian authorities to provide assurances that conditions of detention would be article 3 compliant largely arose from concerns raised by the CPT from its earlier reports, and very specifically the public statement of 2015, as well as requirements imposed by the ECtHR, to oppose lodging of the most recent report seemed almost perverse; the more so, given that after a somewhat sterile discussion we were advised that the respondent was willing to agree the contents of the

document by joint minute. Somewhat ironically, only the solicitor advocate for the respondent in fact referred to the document in the course of the hearing.

Authorities addressing prison conditions in Bulgaria

[11] In *Vasilev* the court noted (para 10) that:

“The prison estate in Bulgaria has been an object of concern to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) since the first of ten visits which it carried out to Bulgaria in 1995. It has, exceptionally, been the subject of a public statement by the CPT on 26 March 2015. Prior to 2015, the Strasbourg Court had found a breach of Article 3 ECHR on account of poor conditions of detention in Bulgaria in twenty-five individual cases. In *Neshkov and Others v Bulgaria* the Strasbourg Court adopted the pilot procedure and, in a judgment which became final on 1 June 2015, required preventative and compensatory remedies to be made available by 1 December 2016. Neither the CPT nor the Strasbourg Court adopt these measures save in cases of serious, unremedied, systemic deficiencies in prison conditions in the state concerned.”

[12] The court made reference to the various deficiencies, including overcrowding and lavatory facilities consisting of the use of a bucket in a communal cell. Nevertheless, in *Vasilev's* case the Bulgarian authorities gave undertakings that the appellant would be housed in conditions which were article 3 compliant, and the court felt able to accept these specific assurances. But for those assurances, the appellant would not have been surrendered.

[13] In *Kirchanov No 3* it was explained that at the first hearing it had been accepted that there had been breaches of assurances of a substantial and unexplained nature in three prior cases such that the court, at that hearing, had doubts whether the assurances would be fulfilled. *Vasilev* had repeatedly been kept in conditions with less than 4, and sometimes less than 3, metres square of personal space. Breaches had occurred in two further cases, *Ogoyiski* and *Asenov*. The breaches again relating to personal space, and in the case of *Asenov* the use of a bucket overnight. Further information was therefore sought from the Bulgarian judicial

authorities. The information forthcoming was considered unclear and the court stated that it required detailed and specific assurances in respect of each appellant for the duration of their incarceration. Eventually further information was remitted to the court in respect of all three appellants. The court was also advised of work which had been carried out within various Bulgarian prisons. Eventually the court was satisfied that it had now been given unequivocal assurances that while the intention was that each appellant should be detained within the named prison, should they be transferred they would be placed in conditions meeting the terms of the assurances. The assurances were that they would be kept in conditions where there was at least 4 m² of personal space, direct access to daylight and natural ventilation and a self-contained sanitary facility. The court also had assurances as to two levels of monitoring. First, that the national ombudsman, playing an independent role, now had access to prisons and might interview persons privately and monitor the material conditions of prisons. Second, there was an assurance that the Department of Justice would on a quarterly basis report to the Ministry of Justice on the conditions in which the appellant was being held. The court considered that these assurances were satisfactory, and met any reasonable requirement for internal monitoring. No specific provision had been made for external monitoring but it was sufficient that internationally recognised bodies such as the BHC were afforded access to Bulgarian prisons. There was also provision for complaints about conditions to be made to the administrative court. On the basis of reports from the BHC the appellants sought to cast doubt on the reliability of the information from the authorities, having regard to the methodology used to calculate living space, but the court found that the unequivocal nature of the assurances could be relied upon and that the requesting judicial authority had done enough to meet the court's concerns in respect of each appellant.

[14] The extent to which reliance could be placed on assurances from the Bulgarian authorities was also considered in *Georgiev v Bulgaria* [2018] EWHC 359 (Admin). The history of complaints and criticism in respect of prison conditions in Bulgaria, and the steps taken to address them, are set out in detail in the decision at paras 9-23, which includes reference to both *Vasilev* and *Kirchanov*. Pending the hearing in *Georgiev*, evidence emerged suggesting that the assurances provided in *Kirchanov* had been breached. The court thus required to consider (i) the extent to which any such assurances had been breached; and (ii) whether the court could in all the circumstances have confidence in the Bulgarian authorities complying with the assurances they had given. If there were a real risk about compliance, the court would be unable to surrender the appellants. The court was not persuaded that there had been any breach in the cases of *Kirchanov*, *Ivanov* or in that of a third prisoner, *Kolev*. In respect of a fourth, *Petrov*, the court was satisfied that there had been a breach during a period 26 September to 21 December 2017 when he was housed in a multi occupation cell without a discrete toilet facility. This was the only breach found established since the decision in *Kirchanov No 3*. The assurances given in *Georgiev* were similar to those in *Kirchanov* and in the absence of any change of circumstances in Bulgaria the determination was that the assurances, if adhered to, were a sufficient safeguard and could be relied on. Given that there was now evidence that the Bulgarian authorities had taken steps to improve prison conditions generally and to address issues such as overcrowding, the relevant risk could be regarded as even less.

[15] The court proceeded on the basis that there was a strong presumption that Bulgaria was willing and able to fulfil any assurances it had given, which assurances had to be accepted unless there was cogent reason to believe that they would not be honoured. Failures to comply with assurances in the past may be a powerful reason to disbelieve that

they will be fulfilled in future. However, on the basis of all the evidence, the court was not satisfied that the presumption had been displaced and concluded that on the basis of the assurances there was no real risk of a breach of article 3. The breach in the *Petrov* case, whilst serious enough, was limited in scope and the authorities had taken steps to remedy it when they became aware of it. Further, the steps being taken to improve conditions in Bulgaria more generally exhibited a changing understanding within that country of the importance of the need to comply with international obligations both generally and on a case-specific basis, and to respond constructively when problems are drawn to their attention.

[16] The issue in the appeal thus turned on the extent to which there was a sound basis for believing that the assurances given by the Bulgarian authorities as to the conditions in which this appellant would be held if returned to Bulgaria would be fulfilled.

Submissions for the appellant

[17] The appellant accepted that it was for him to show strong grounds for believing that if returned he would be exposed to a real risk of ill treatment at such level of severity as might breach his article 3 rights. It was also accepted that there is a presumption, not easily displaced, that EU member states will fulfil their international obligations. It is clear from *Georgiev* and the evidence of Mr Petrov that assurances have been breached in at least four cases, and therefore that the Bulgarian authorities must provide case-specific assurances of compliance. It was not sufficient for a requesting state to adhere to their assurances at some point after breach. A state could not pray in aid subsequent rectification as assurance that breaches will be remedied in future. The court in Scotland chose to ask

more searching questions than were asked in *Kirchanov* and *Georgiev*, so the fact that the assurances in these cases were held to be sufficient could not be decisive.

[18] The Bulgarian authorities were asked in which part of which institution the appellant would be kept. The response refers to Sofia prison but does not refer to which part thereof. Further, it makes it clear that a transfer to another institution could not be ruled out. The failure to identify for Mr Petrov the cells illustrated in the submitted photographs cast doubt on the reliability of the assurances. It was accepted that the photographs were taken within Sofia prison, but they seemed to show “VIP cells”, renovated by the prisoners themselves, having nothing in common with the rest of the cells in the prison.

[19] The undertakings relating to space and self-contained sanitary facilities were undermined by a failure to specify which part of the prison the appellant would be detained in. Questions 4(d)(ii)(iii)(iv) and (v), and 4(e)(iii) had not been answered and the mechanism for preventing or punishing inter-prisoner violence or ill treatment by staff (4(f) and (g)) had not been specified.

[20] The correct approach to assurances was summarised in *BB v Secretary of State for the Home Department* SC/39/2005, namely:

- (i) the terms of assurances must be such that, if they are fulfilled, the person returned will not be subjected to treatment contrary to article 3;
- (ii) the assurances must be given in good faith;
- (iii) there must be a sound objective basis for believing that the assurances will be fulfilled;
- (iv) fulfilment of the assurances must be capable of being verified.

Conditions (i) and (iii) have not been met. There is no requirement for any particular set of words to be used in any assurances, the critical question being whether the authorities have

dispelled all doubts about the existence of a real risk of non-compliant treatment (*Vasilev*, para 25).

Submissions for the respondent

[21] The respondent accepted that extradition to Bulgaria could only be ordered when the Bulgarian authorities gave an effective and reliable assurance that the appellant would be held in article 3 compliant conditions. The letter of 20 September 2017 constituted such an assurance. It was also accepted that there have been the prior breaches referred to in *Kirchanov*, but there remained a presumption that Bulgarian authorities would honour both their international obligations and the specific assurances given by them (*Georgiev* paras 8 and 62). The essential question was whether in light of former breaches the assurances given can be considered effective, reliable and unequivocal. It is also a rebuttable presumption that such assurances are given in good faith, and that assurances given by a responsible Minister or senior official will be complied with and binding.

[22] The assurances given unequivocally state that the appellant will serve any sentence imposed in Sofia prison in article 3 compliant conditions and that no issue will arise about his being transferred to another prison. He will serve any sentence in a cell providing 4m²personal space, a self-contained sanitary facility, adequate ventilation, bedding, with a right of one hour's daily exercise and free movement within the corridor during the day to enable contact with fellow prisoners. The letter assures monitoring of conditions by means of a quarterly report on the conditions of detention, resort to the ombudsman, and judicial supervision under domestic law. The BHC has regular access to the prison and will also be in a position to monitor compliance. The result is a robust and effective level of monitoring which will have a deterrent effect on the authorities from departing from their assurances.

[23] It is accepted by the appellant that the photographs supplied show a cell in Sofia prison. In *Georgiev* the court found that:

- a. Sofia Prison has been refurbished (para 70)
- b. There was no evidence of inter prisoner violence there (para 60)
- c. The Bulgarian authorities promptly arranged transfer of Mr Ivaylo Petrov to Sofia Prison where no complaint was made that the conditions of detention were non-compliant.

Analysis and decision

[24] The assurances given in the letter of 20 September 2017 are specific and unequivocal. On the evidence of Mr Petrov the conditions in Sofia prison are such that the court can be satisfied that the assurances that the appellant would be provided with at least 4m² of living space, self-contained sanitary facilities, openable windows, which provide natural daylight and adequate access to exercise, association and education. There may be a question as to whether the levels of lighting meet relevant European standards, but save from the fact that there appears to be a dispute about this we heard no evidence on the matter, either as to what such standards were or what they required. In any event, the issue is not whether certain European standards have been met but whether there remains a real risk that the appellant would be held in conditions which were not article 3 compliant. Whatever may be the situation of the lighting, and even if certain European standards are not met, if the assurances given can be relied upon we would be entitled to conclude that the overall conditions of detention would not constitute a breach of the appellant's article 3 rights. In *Georgiev*, at para 60, the court had noted that none of prisons to which the appellants would be sent, including Sofia, were close to capacity, and that there were generally no complaints

made about conditions in Sofia. The prisoner *Petrov*, one of the appellants in *Kirchanov* in respect of whom a breach of assurance had been identified, was noted in *Georgiev* (para 45) to have asked for a transfer to Sofia because he believed he would be given an assurance-compliant cell there. In all, the court can be satisfied that the assurances given are such that if fulfilled, the appellant would not be subjected to treatment contrary to article 3. The court is also satisfied that the assurances have been given in good faith. We do find the issue of the photographs somewhat puzzling. It first appeared that these were intended to show the cell in which the appellant would be detained, but subsequent material explained that they were provided only as an example. How it came to be that the director of Sofia prison did not know where the photographs were taken (in an institution for which he is responsible) is unexplained. However, we do not think we can conclude that this rather enigmatic circumstance suggests bad faith on the part of the authorities, when regard is had to all the factors before us. It is clear from material in the cases referred to, and in the latest report from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) that the Bulgarian authorities have been taking significant steps towards improving and modernising their prison estate, and have achieved some success in doing so. They continue to make improvements and renovations within the estate. We recognise that the failure to abide by assurances given in previous cases is a matter of concern, and is a factor which we require to consider in determining whether there is a sound objective basis for believing that the assurances will be fulfilled. However, it is in our view significant that the only breach identified since *Kirchanov no 3* is that relating to *Petrov*, and that this was swiftly corrected once it was drawn to the attention of the authorities. It seems clear that from the *Petrov* case assurance-compliant conditions could be made available within Sofia prison. The evidence of Mr Stanimir Petrov showed that there

are available within Sofia prison compliant conditions and that thus the Bulgarian authorities have the means of fulfilling the assurances given. The comments in *Georgiev* suggesting a clearer understanding on the part of Bulgarian authorities as to the requirements incumbent upon them seem to be borne out by the steps being taken to improve prison conditions within the country. We consider that there is a sound basis for believing that the assurances will be fulfilled. Finally, the level of monitoring which is available, even on the evidence of Mr Petrov alone, suggests that fulfilment of the assurances is capable of being verified. In the circumstances we are satisfied that the assurances can be considered effective, reliable, unequivocal and binding and that the appeal must be refused.