

CASE STUDY - The Agreement with the Prosecutor

Facts of the Case

Six men are being prosecuted for their alleged membership, from the month of November 2014 to the month of November 2015, of an organised criminal group operating in Sofia (Bulgaria). The purpose of that group was to profit from making false official documents or by falsifying the content of those documents, namely identity documents and driving licenses. The indictment maintains that those six persons were working together in an organised criminal group and divided up tasks between themselves with the aim of achieving a common criminal objective.

Only one of these people, namely Mr. Hristov, expressed a wish to enter into an agreement with the prosecutor, in which he admitted his guilt in exchange for a reduced sentence.

According to the information in the order for reference, the other five accused persons ('the five accused persons') gave their 'procedural consent' to the conclusion, by Mr. Hristov and the prosecutor, of such an agreement, while specifically indicating that that did not mean that they were guilty and that they did not waive their right to plead not guilty.

It follows from the description of the facts in the agreement between the prosecutor and Mr. Hristov that the latter was part of an organised criminal group with the five other accused persons. All the accused persons are identified in the same way, that is, by their first name, patronymic, surname and national identity number. The only difference in the way in which those persons are identified is that Mr. Hristov, is, furthermore, also identified by his date and place of birth, address, nationality, ethnicity, family circumstances and criminal record.

Legal Framework

According to settled national case-law, the text of an agreement with the prosecutor must correspond fully to the text of the indictment, in which in this case all the accused



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persons are identified as joint perpetrators of the criminal offence. In addition, the reference to the joint perpetrators could be essential for the purposes of ensuring whether the constituent elements of the criminal act concerned are present, in so far as, in accordance with Bulgarian law, in order to constitute an organised criminal group, at least three persons must be involved.

Questions

- Is national law in line with the requirements of procedural rights guarantees stemming from EU law (Directives as well as Charter Rights) and/or the ECHR?
- Which rights' guarantees would have to be referred to in this case?
- How would the case be decided according to your national legislation?



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