Introduction

Throughout 1998, Bulgaria was ruled by the government of the United Democratic Forces (UtDF) which was formed after the coalition won the elections in April 1997. In contrast to previous years, 1998 was not marked by political or economic upheavals. The government continued its policy of reform and reiterated its willingness to abide by advanced European human rights standards. This created a favourable public climate both for legislative reforms in this sphere, as well as for the activity of non-governmental human rights organisations.

The actual development of the human rights situation in Bulgaria in 1998 however, was contradictory. Some positive legislative changes were made and the authorities continued their dialogue with nongovernmental human rights organisations. The opinions of a number of them were sought by different government institutions, including the cabinet and the Constitutional Court. Some progress was also made into the investigation of past crimes. On 11 February, four former militiamen were sentenced for the murder of Bilian Hadjiev from the village of Dobroplodno during the protests of the Bulgarian Turks in May 1989. The highest sentence, however, was only two and a half years imprisonment. Although it was scheduled for hearing in January, in early May the criminal case against a number of senior Communist Party and state leaders, charged in connection with the campaign to forcibly change the names of the ethnic Turks, was once again returned for further investigation by the Supreme Court of Cassation. On the whole, the situation in most of the spheres of human rights violations, by now traditionally problematic for the country, did not change, and a setback was even observed in some of them.

1. The Right to Life, Death Penalty

The death penalty was finally abolished in Bulgaria in 1998. This happened on 10 December, the day of the adoption of the Universal Declaration of Human Rights, through changes of the Penal Code. Capital punishment was replaced by life imprisonment, and the death sentences of persons, on whose execution a moratorium was imposed in 1990 were subsequently commuted.1 Nevertheless, the courts continued to hand down death sentences until the last moment. At least four panels of judges passed death sentences in 1998. On 9 February, a panel of judges of the Supreme Court of Cassation upheld the death sentence of Nikola Tsaikin from Karlovo for the murder of four persons. On 25 March, a panel of the Veliko Turnovo District Court sentenced to death Ivan Bonev, charged with the murder of two persons. On 29 July, a panel of the Supreme Court of Cassation confirmed the death sentence of Miroslav Subev, sentenced for murder in 1995. On October 21, a panel of judges of the Pazardjik District Court sentenced to death Plamen Kostadinov and Georgi Angelov for murder.

No legislative changes were made to amend Article 80 of the Ministry of the Interior Act which permits the use of firearms in the apprehension of a person, committing or having

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committed even a minor crime, or for preventing the escape of a person, detained for a committed crime. These provisions, as repeatedly noted by local and international human rights observers, contravene Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, insofar as they permit use of deadly weapons to apprehend suspects even of minor crimes or to prevent their escape after arrest.

Little progress was made in 1998 into the investigation of previous cases of excessive use of force by police officers, on which the Prosecutor's Office was informed. In September two policemen were sentenced by the Varna Military Court to seven and four years imprisonment respectively, for the murder of Mincho Surtmachev in the Dobrich Precinct Police Department in November 1997. In February a policeman was sentenced to nine years imprisonment for the murder of Emil Dimitrov - Germanetsa, whilst in July another policeman was sentenced only to an 18-months suspended sentence for the murder of Angel Bozhkov. The investigations of many other cases of use of firearms, leading to the murder or injury of people, were terminated by the Prosecutor's Office which concluded that the police had lawfully used firearms. Throughout 1998, the Military Prosecutor's Office was answering the queries of the Bulgarian Helsinki Committee with reluctance and prolonged delays.

In at least eleven cases between 31 December 1997 and 31 December 1998 people were shot and killed in situations which warrant the assumption that excessive force and firearms were used by law enforcement officials or by other persons whilst the bodies of law and order remained inactive. On 31 December 1997, an employee of the District Investigation Service in Stara Zagora shot and killed Stefan Stefanov after a quarrel in the city's 'Zora' neighbourhood. In a chase on 30 January, policemen in Kostinbrod shot and killed the crime suspect Tsvetan Kovachev, a 17-year-old Rom. In December the Sofia District Military Prosecutor's Office dismissed the case on the grounds that it the use of deadly force was lawful. On 4 March, border guards killed the Romanian citizen Ionel Vlad after firing at the boot of the car in which he was hiding whilst attempting to cross the Bulgarian-Greek border near the town of Gotse Delchev. On 28 March, in the village of Bounovo, near Pirdop, a policeman shot and killed Ivan Marinov after a domestic quarrel. On 7 May, a policeman shot and killed the 25-year-old Lyuben Dimitrov during his attempt to steal a car in Varna. On 20 June, a group of policemen in Sofia shot and killed the 26-year-old Rom Yordan Yankov after mistaking him for a wanted criminal. On 24 August, security guards of Pleven Prison shot and killed Hristo Tanev in an attempted escape. On 27 August, in the vicinity of the village of Odurtsi, near Dobrich, masked policemen shot and killed the 31-year-old taxi driver Marin Vlaev who ignored their signal to stop. On 3 October, a security guard in a private farm in the village of Zlatia, near Lom, shot and fatally injured with three bullets the Rom Boris Kourtashev from the village of Dolni Tsibur before the eyes of a sergeant from the Precinct Police Department in Lom after Kourtashev came to the farm to get back his cart, taken by the farm's security guards on suspicion for having been stolen. In one of the most drastic cases of arbitrary use of lethal weapons, on 23 October a policeman inadvertently killed the 16-year-


3 See Amnesty International. Bulgaria: Recent reports of unlawful use of firearms by law enforcement officials, EUR 19/19/98. The termination of the investigations into the murders of Kolyo Todorov and Elin Karamanov by the Prosecutor's Office which concluded that the police had lawfully used lethal weapons are two particularly drastic such cases.
old schoolgirl Staniela Bugova in the Petoluchkata locality near Sliven after firing with a Kalashnikov at the car in which she was travelling in the back seat. On 2 December, policemen in Sofia shot Airedin Moustafov in a chase on the Hemus motorway. He died five days later in a hospital.

Some of these cases were investigated and the perpetrators sentenced in 1998. Most of them, however, are still at the stage of preliminary investigation, and in some cases they were terminated. Most of these cases were reported in the media although the attitude to some of them exhibited also discriminatory attitudes. This was particularly evident in the similar case of the Rom Yordan Yankov the coverage of which was scarce and that of the Bulgarian Staniela Bugova, which was covered through all judicial proceedings.

2. Torture and Ill-Treatment, Excessive Use of Force by Law Enforcement Officials

The problem with torture and ill-treatment in Bulgaria in 1998 continued to be very serious in all spheres of public life, and especially in relations between citizens and law enforcement officials. The Roma continued to constitute a disproportionate number of the victims of police violence. Although amendments were made to the Penal Code and the Criminal Procedure Code, they did not affect the guarantees for effective legal counsel from the moment of detention, nor the possibility for a detainee to get an independent medical examination, including by a doctor of his/her own choice.

On 28 October the European Court of Human Rights in Strasbourg delivered its decision on the case of Assenov and others v. Bulgaria, in which it established a violation of a number of provisions of the European Convention on Human Rights and Fundamental Freedoms, including of Article 3, which prohibits torture, ill-treatment and other forms of degrading treatment or punishment. The complaint of the applicant, an underage Rom from Shoumen, included ill-treatment by police officers after detention.

A number of clashes between police officers and citizens in 1998 give reason to believe that police officers considerably exceeded their powers in the use of physical force. Some of these actions, especially against Roma neighbourhoods, were clearly punitive in design and were not linked with any resistance against law enforcement officials.

In at least three cases police officers indiscriminately beat up groups of Roma after raiding their neighbourhoods. On 23 March in Krivodol, 15 local policemen organised a pogrom in the local Roma neighbourhood. The policemen, apparently drunk, entered the neighbourhood around 8 p.m., after a fight between a Rom and a policeman earlier in the day. According to the reports of eyewitnesses and victims, many people were badly beaten, including women and children. None of the victims dared file complaints with the police for fear of reprisals. On 21 April, policemen from the town of Septemvri indiscriminately beat up innocent people after entering the local Roma neighbourhood around 4 p.m. on the same day in order to arrest crime suspects. The beating of people in the streets of the neighbourhood was accompanied by racist swearing. Despite the fact that several persons managed to obtain medical certificates detailing their injuries, none of the victims lodged a complaint with the Prosecutor's Office out of fear. In the biggest incident involving Roma victims, on 10 July
some 80 policemen burst into the Roma neighbourhood of the village of Mechka, near Pleven, where 272 persons live, beat up people and destroyed property. The Regional Prosecutor's Office in Pleven allowed a search for stolen property and animals. The same day, around 3 p.m., according to information from the Regional Directorate of Internal Affairs in Pleven, 17 policemen met with resistance when they asked to search the neighbourhood. They asked for reinforcement which arrived around 7 p.m. The neighbourhood was then raided. More than 30 persons were beaten and suffered various injuries, including women, disabled people and a 10-year-old child whose arm was broken. Property in at least 15 houses was damaged. The police ordered the local medical auxiliary in the village of Mechka not to send people to the city for medical certificates. Only a few days later 15 people were able to get forensic medical certificates, nine of whom filed complaints with the Military Prosecutor's Office in Pleven. By the end of 1998 the investigation into the case had not been completed, however. The police immediately spread two versions about the incident: that the Roma had been beaten for resisting the police and that their injuries had been sustained during a fight between them a few days earlier. Most media accepted and published the viewpoint of the police, thus reconfirming and encouraging racist stereotypes against the Roma.

Local and international human rights observers in Bulgaria received information about dozens of other cases of violence against Roma in different contexts, mostly during the detention of crime suspects.4

Besides Roma, workers exercising their right to joint protest actions were also subjected to mass police violence during the year. On 24 March, policemen from Pleven beat up many workers, including women, in the local refinery “Plama” during their outdoor protest demonstration. The beating was justified with the need to ensure free access to the enterprise for employees in the administration, but the police actions were clearly not proportional to the purpose. As a result of the beating, seven workers were taken to hospital for emergency aid. The leadership of the Pleven police stated later in the day that the policemen had not exceeded their powers.

In addition to the cases of murder as a result of the use of firearms, during the year the Bulgarian Helsinki Committee obtained convincing evidence of excessive use of force and firearms by law enforcement officials that led to injuries and occasionally also to lasting disablement of people. This abuse occurred in different contexts, which may be grouped in three main groups:

   1. Injuries resulting from the use of firearms in the pursuit of people, suspected of having committed a crime, or in attempted escapes of detainees;
   2. Physical violence by police officers during the 24-hour police detention of crime suspects for the purpose of impromptu punishment or for extorting evidence or for purely discriminatory reasons, especially against Roma;
   3. Physical violence under conditions of detention or imprisonment for the purpose of extorting evidence or for punishment.

Whereas violence in the first and third context was sporadic, it may be said with certainty that violence in the second context was systematic. The problem became a subject of widespread

public debate in May. In the beginning of the month Chief Prosecutor, Mr. Ivan Tatarchev, and the Director of the National Investigation Service (NIS), Mr. Boiko Rashkov, presented to the parliament and to the executive an extensive report, citing numerous instances of illegal use of physical force and firearms by police officers mainly during or after the detention of crime suspects. The report cites 135 such cases, known to employees of the national and regional investigation services, and 70 suits filed against police officers by the Military Prosecutor's Office between January 1997 and March 1998. Despite being widely publicised, the report was interpreted mainly in the context of the institutional fight between the Prosecutor's Office and the Ministry of the Interior, rather than as a serious problem of human rights in Bulgaria. It should also be noted that the cases publicised in the report do by no means exhaust the incidents of genuine violence - a potential subject for actions of the investigation and the prosecution against police officers. This is evidenced by the fact that although the cases reported by the investigation and those reported by the Prosecutor's Office date from the same time, only one of them is common to both lists of cases. It should also be noted that many of the cases which were brought to the knowledge of the Prosecutor's Office by local human rights observers were not properly investigated by it, and a large part of the instituted proceedings cited in the report were later terminated. The investigation into the mass beating in Sofia's Neron-2 discotheque in June 1997 was also terminated in June, without the Prosecutor's Office bringing charges against law enforcement officials.5

The Ministry of the Interior issued contradictory statements in connection with police brutality. At the end of October, Interior Minister Bogomil Bonev said that it was high time for the police to stop shooting at everybody and everything. Despite this, throughout the debate on the report of the Chief Prosecutor's Office and NIS, the Ministry of Interior kept claiming that the problem was greatly exaggerated, that it was fuelled by circles hostile to the present government, and that the ministry itself was taking adequate measures to cope with it. On 3 July, Mr. Bonev said on Radio Free Europe that the concern for human rights was gradually turning into an instrument of political struggle, and from an instrument of political struggle, into an instrument of crime in Bulgaria.

3. Independence of the Judiciary and Fair Trial

The reform of the judiciary continued in 1998. A number of acts were passed which increased the guarantees of access to court and a fair trial. The Decree on Minor Hooliganism was changed in March and the possibility was introduced for legal counsel during the hearing of cases of minor hooliganism, a reform to whose necessity the Bulgarian Helsinki Committee has repeatedly drawn attention.6 In April, the Constitutional Court rejected the possibility of the criminal trials to proceed in the absence of a counsel for the defence, unless officially appointed. The amendments to the Judiciary Act in November deprived the Prosecutor's Office of the possibility to terminate criminal proceedings and ruled that only the court may do so. The possibility of cases being suspended by the Prosecutor's Office through the possibility of judicial control over any suspension exceeding three months, was also


restricted. By the end of 1998 however no amendments of the *Criminal Procedure Code* were made to give effect to these provisions.

With the amendments to the *Criminal Procedure Code* in February, the decisions of the European Court of Human Rights in Strasbourg were used as a reason to reopen criminal cases. In May the parliament passed the *Social Assistance Act* which enables the decisions of the Regional Social Assistance Service to be appealed in court.7

However, the reform did not affect the other problematic spheres of penal legislation, such as the provisions of the general administration and supervision of the investigation by the Prosecutor's Office, mandatory defence and legal counsel for indigent defendants, participation of crime victims in the criminal procedure. The legal framework of Correctional Boarding Schools (the former Labour Educational Schools) was not changed during the year either. Underage offenders continued to be confined to them without their cases being heard in conformity with the principles of fair trial.8

Despite these positive changes, the independence of the judiciary in Bulgaria in 1998 was put to a serious test. Clause 11 of the Transitional and Final Provisions of the *Judiciary Act* decreed the election of a new Supreme Judicial Council, the supreme body controlling the judiciary, before the expiration of its five-year mandate. This happened despite the fact that the mandate of the Supreme Judicial Council is established by the Constitution, and with a number of decisions the Constitutional Court repealed similar provisions adopted in the attempts to subjugate the judiciary under previous governments. A new Supreme Judicial Council was elected soon after the act's entry into force. Furthermore, the quota of the parliament was almost completely filled by pro-government people. With a clearly politically motivated decision of 17 January 1999, the Constitutional Court surprisingly reversed its jurisprudence and confirmed the new election.

4. Freedom of Thought, Conscience, Religion and Belief

Relative progress was made in 1998 in guaranteeing the right to freedom of thought, conscience, religion and belief in Bulgaria. The main factors warranting this conclusion are above all a number of acts of high-ranking state authorities. First, on 28 October the National Assembly passed the *Substitution of Military Obligations by Alternative Service Act*. After a delay of more than seven years, this act finally fulfilled the requirement of Article 59, paragraph 2 of the *Constitution* which holds that "the fulfilment of military obligations, the conditions and procedures for exemption from them, and the substitution of them by alternative service shall be regulated by a law".9 The second factor was the decision of the Council of Ministers of 7 October to recognise the religious community Jehovah’s Witnesses according to the procedure provided in the *Denominations Act*, i.e. as a church. In addition,

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7 On 11 June the Committee of Ministers of the Council of Europe adopted a resolution which established a violation of the right to access to court (Article 6, indent 1 of the *European Convention on Human Rights*) in the refusal of social assistance bodies in the case of *Kovachev v. Bulgaria*.


9 According to Clause 3, Par. 3, of the transitional and final provisions of the 1991 *Constitution*, "the National Assembly shall pass the laws specifically stipulated in the Constitution within a period of three years".
with Article 53, paragraph 1, the new *Radio and Television Act* gave the same rights to the Bulgarian Orthodox Church and the other officially registered religions regarding the possibility to broadcast addresses to the faithful and to cover important religious ceremonies. It should be added that the fierce media attack against the so-called "sects" abated considerably during the year and that the instances of crass police violence against members of the so-called "sects", characteristic of the 1994-1997 period, decreased sharply.

With the *Alternative Service Act* Bulgaria finally joined the countries that guarantee citizens the right to refuse armed military service due to deep-seated convictions or moral considerations. The official recognition of Jehovah's Witnesses was a result of the amicable agreement reached on 9 March between this religious community and the government and ratified by the European Commission of Human Rights. The amicable agreement ended the suit which Jehovah's Witnesses conducted against Bulgaria before the European Commission of Human Rights in Strasbourg during 1995-97. The reason was their ban in July 1994 on the grounds of Article 133A of the *Persons and Family Act*.10

At the same time, a number of violations of the right to freedom of thought, conscience, religion and belief were observed during the year. The government continued to interfere in the internal affairs of the largest religious communities. The archaic *Denominations Act* of 1949, as well as the notorious Article 133A of the *Persons and Family Act* continued to be in force and circles among the ruling majority suggested legislative proposals, which, if adopted, would severely restrict the religious rights of citizens. In addition, the *Alternative Service Act*, although undoubtedly a significant step forward in guaranteeing the right to freedom of thought, conscience, religion and belief, contains a number of major shortcomings which distance it from the standards of most European countries in this respect. In particular, the act creates a discriminatory regime for those who might opt to make use of the possibility to substitute their military obligations with alternative civilian service. Article 15 stipulates that alternative service shall be twice as long as the regular military service, which makes it clearly punitive. Article 6 specifies an annual quota for conscientious objectors, and furthermore does not permit them to work in non-profit nongovernmental organisations. Conscientious objectors may switch from alternative service to regular armed service, but not vice versa. One of the greatest shortcomings of the law is the provision of Article 29, paragraph 2, which forbids people doing alternative service to "conduct religious or atheistic propaganda". Knowing that now, and probably in the near future, too, youths will opt for alternative service mainly for religious reasons this provision could seriously violate the right to freedom of religion. Paragraph 3 of the same article deprives conscientious objectors of the right to trade-union membership whilst doing alternative service whereby their right to assembly is unreasonably restricted.

The unchanging policy of the Bulgarian governments during the last seven years to interfere in the internal affairs of the Bulgarian Orthodox Church continued in 1998, too. The government did not acknowledge the decisions of the All-Orthodox Council, convened in

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10 It was followed by a similar decision taken on 9 October by the government of Latvia. Bulgaria and Latvia were the only member-states of the Council of Europe, which refused to grant official status to Jehovah's Witnesses.

early October, which reconfirmed Patriarch Maxim and the Holy Synod headed by him as the legitimate leadership of the Bulgarian Orthodox Church. Instead, it did everything to help the church council, convened by Maxim's opponents on 6 and 7 November, which declared the Patriarch and his Synod illegitimate. For the time being, however, despite its obvious support for the opponents of Maxim's Synod, it has not officially recognised the new statutes of the Bulgarian Orthodox Church, adopted by the second church council.

The most drastic violation of the freedom of thought, conscience, religion and belief in 1998 was the imprisonment, on 10 December, of the 23-year old Krassimir Savov from Plovdiv, after the Supreme Court of Cassation confirmed earlier that month the sentence of one year imprisonment imposed on Mr. Savov for refusing military service. Moreover, he was sentenced whilst the parliament was debating the Alternative Service Act and jailed after the act had already been promulgated. In addition, although, on 29 October, the National Assembly adopted amendments to the Penal Code criminalising deviations from alternative service, it did not pass the drafted amnesty act for persons convicted for refusing military service. Until it is passed, anyone who is under investigation for refusing military service can be sentenced and imprisoned.

Another case of clearly unjustified repression against representatives of religious minorities was the decision of the Plovdiv District Court of 28 October which confirmed the 500,000 leva (500 DM) fines imposed by the mayor of 'Zapaden' district, Nedyalko Genchev, on Kostadin Stavrev and Nikolai Arabadjiev for violating an ordinance of Plovdiv municipality on the activity of religious communities. A few days later the court also confirmed the same fine imposed on Hans Amon. The three men are local activists of Jehovah's Witnesses, and the fines were imposed because they had organised a meeting of prayer of the religious community in a private home in the Plovdiv neighbourhood “Proslav” on 25 April 1998. The decisions are currently being appealed.

The fines in Plovdiv were the culmination of a series of actions encouraged by some regional mayors, members of the nationalistic IMRO (the Internal Macedonian Revolutionary Organisation, part of the governing coalition) in Plovdiv. They tolerate the extremist manifestations of local activists of this organisation, aimed against religious minorities, and mainly against Jehovah's Witnesses. On 25 April, IMRO activists surrounded the private home in which Jehovah's Witnesses held their prayer and publicly burned literature published by this religious organisation. Instead of taking lawful measures against these instigators of violence on religious grounds, the mayor of 'Zapaden' district issued a penal ruling against the three religious activists. It should be noted that his act was sanctioned neither by the mayor of Plovdiv, nor by the governor of Plovdiv region.

On several occasions during the year local authorities issued restrictive decrees hampering the activities of religious communities even when they had been registered with the Directorate for Religious Affairs. In May the Municipal Council in Burgas took a decision not to register the Jehovah's Witnesses even if they are registered at national level. Following this decision in January 1999 Burgas Municipality refused registration of the Witnesses after they had been registered nationally. In October the Municipal Council of Septemvri took a decision prohibiting municipal registration of a religious group prohibited in at least one European
Union country. In January 1999 the local branch of the Jehovah’s Witnesses were required to submit a proof that they were not banned in every one of the European Union country before being registered with the Septemvri municipality.

At the end of December the Blagoevgrad District Court struck down the action brought by the members of the Unification Church (Moonies) against the police which in June 1997 raided a private home in the town, interrupting a meeting of the followers of the Unification Church and confiscating books and personal belongings of the people living there. The District Court concluded that, under Bulgarian legislation, the Prosecutor's Office, which issued the search warrant, could not be held responsible for illegally ordering a search and seizure by the police.

In several cases the police prevented meetings of minority religious communities. In January, local policemen raided the private lodgings of a follower of Jehovah's Witnesses in the Burgas neighbourhood “Meden Roudnik”, confiscating literature and stopping a meeting of prayer of the followers of Jehovah's Witnesses in Burgas. The incident was accompanied by a particularly fierce slanderous media campaign against Jehovah's Witnesses, fanned by a local cable television network, and later also by the local press. The reason was the "disappearance" of a 14-year-old boy, claimed by "witnesses" to have been "abducted" by the "sect Jehovah's Witnesses". The boy was eventually "found", but this did not put an end to the media campaign. On 28 May, the police in Kyustendil broke up a peaceful assembly of Jehovah's Witnesses in the town. IDs were confiscated and the police officer who led the action claimed they had no right to profess their religion in Bulgaria. On 16 June, policemen in the Burgas neighbourhood “Gorno Ezerovo” detained four Jehovah's Witnesses for proselytism. Two of them were ill-treated. Some 20-30 publications of religious literature were confiscated and destroyed. After being detained in the Fourth Precinct Police Department in Burgas, they were filmed by the local private television despite their protests. The 30-year-old Galina Loukova was reportedly ill-treated in the district police station. At the end of December, the police declared that in Silistra it had seized a large quantity of "sectarian Muslim literature" and that preachers of fundamentalist Muslim sects had been repatriated.

The campaigns of certain political and media circles against what they call "sects" continued during the year. Particularly vivid in this respect were the manifestations of IMRO, a coalition partner of the ruling UDF. In addition to the above-mentioned raid in Plovdiv, on 17 May the organisation surrounded a hall in Sofia where Jehovah's Witnesses were holding their regional congress. The demonstration managed to prevent the second day of the congress from being held in that hall. It should be noted that the central news broadcast of Bulgarian National Television extensively covered the event, the news being presented in a tone clearly hostile to the religious community. In November the same organisation declared that it considers the fight against "foreign" religions as its paramount task. IMRO experts were reported to have prepared a new Denominations Act which would declare Orthodoxy the official religion in Bulgaria and would officially recognise only those religions which were registered in 1908 (the year in which the Kingdom of Bulgaria proclaimed its independence), whereas a trial period and large membership size would be introduced for the others in order to be granted the right to develop their activities.

12 IMRO has two MPs in Parliament elected on the list of the ruling United Democratic Forces coalition.
5. Freedom of Expression, Freedom of the Media

1998 was a year of serious test for all institutions and groups concerned with the freedom of expression in Bulgaria. No progress was achieved in this sphere during the year. Government control over the national electronic media, the criminal prosecution of journalists for insult and libel of public officials, and the illegal confiscation of printed publications of unpopular religious minorities, continued to be the three serious problems of the legislative framework and the application of the laws, related to the guarantee of this right.

The pressure of government institutions on journalists in the national and private media, as well as, to a lesser degree, of other factors (local government, economic groups, etc.) increased considerably during the year. The new Radio and Television Act, passed in November, was supposed to replace the old act which enabled the government to control the management of the national electronic media. Unfortunately, this did not happen. The new Act stipulates the election of a National Radio and Television Council (NRTC) by the National Assembly (which elects five members) and by the President (who appoints four members), without providing any possibility for the participation of interested public groups. In December, the NRTC was purged of its last members, whose pro-government orientation might have been doubted and of whom there were not many to start with anyhow. The two largest electronic media, Bulgarian National Radio (BNR) and Bulgarian National Television (BNT), continued to broadcast programs that were strongly pro-governmental. ACCESS association, an independent media monitoring group, observed that between March and September 1998 the relative share of criticism against the government on the National Radio and the National Television varied between 2 and 5 percent, compared to between 30 and 60 per cent in the print media.

The whole of 1998 was marked by politically motivated personnel and structural changes in the two national media. With an unprecedented decision of 10 January the NRTC dropped the 'Hushove' broadcast from the air of the National Television. On 9 February, the removal of this extremely popular show was motivated by unclear reasons concerning advertisement contracts. The real reason, however, was the showmen's frivolous caricaturing of government figures. Later, after switching to several private television channels, the show's authors continued to be pressured, clearly by pro-government circles. On 29 April, the director of the Drama Theater in Pleven refused to provide a hall for their show, despite having promised to do so earlier. According to the town's mayor, she was prohibited from doing so by the Ministry of Culture. At the end of July, the economic police in Burgas checked the cable operators who screened 'Hushove'. They were forbidden to screen a number of foreign TV programs because they did not have a license. In contrast, other local cable operators who did not have a license either, but were not screening 'Hushove', were neither checked nor banned from screening anything.

In a number of cases journalists were dismissed or removed from the air for criticising the government. On 4 March, the reporter of the 'Horizont' program of Bulgarian National Radio, Ms. Diana Yankoulova, was removed from the air at the decision of the BNR Management Board for reporting rumours of an anonymous compromising material about Interior Minister,
Mr. Bogomil Bonev. On 5 March, the BNT Director fired the journalist Ms. Svetoslava Tadarukova because her statements in the media were allegedly "tarnishing the reputation of BNT". One of the most scandalous cases of administrative arbitrariness by the BNR leadership was the dismissal of three journalists from the 'Hristo Botev' program of BNR. Under the pretext of "violating technological discipline", the popular journalist Ms. Viza Nedyalkova, who did not hide her partiality for the parliamentary opposition of the ruling majority, was sacked from BNR together with Ms. Antoaneta Nenkova and Mr. Emil Ivanov.

1998 started with a serious public debate concerning the criminal prosecution of journalists. A number of nongovernmental organisations (Free Speech Civic Forum, Reporter Foundation, the Union of Journalists and the BHC), initiated a conference in connection with the lawsuits filed against journalists. Until January, suits, some of which for insult and libel of public officials, were filed against many journalists, including Yovka Atanassova, Karolina Kraeva, Lybomira Kalpachka, Krassimir Shahpazov, Vassil Bechev, Diana Rainova and Plamen Kamenov. The participants in the conference held on 26 January came out with an appeal in defence of free speech and the decriminalisation of Articles 146, 147, 148 of the Penal Code. These articles provide for up to two years effective imprisonment for insult and for up to three years for libel. In addition, the Penal Code provides for a discriminatory procedure for criminal liability: in case an ordinary person is libelled, criminal responsibility is carried by a private action, but if a "public official" is defamed, the Prosecutor's Office takes action instead of the victims. Journalists from more than 30 regional publications asked the MPs to impose a moratorium on this archaic legislative framework by contending that nowhere in Europe are journalists sent to prison "for speech". Declarations in support of this demand were also made by international organisations, working to guarantee freedom of speech, such as Reporters sans Frontières - Paris, and the Committee for the Protection of Journalists - New York. In May, over 40 MPs from different parliamentary groups proposed a moratorium on the execution of the sentences of journalists but it was immediately rejected. During the same month, a group of MPs asked the Constitutional Court to declare unconstitutional and violating international human rights treaties the punishment of "imprisonment" for insult and libel, as well as the discriminatory procedure for criminal liability. With Decision N 20/1998 of 14 July the Constitutional Court rejected the request.

During the year a number of journalists were sentenced for insult and libel, but they got either suspended sentences or fines. Yovka Atanassova from the Starozagorski Novini daily received a total of 4 suspended prison sentences. In March, Diana Rainova from the Dobrich paper Nova Dobroudjanska Tribuna received a three-month suspended prison sentence for libelling the chief of the Regional Directorate of Internal Affairs in Dobrich. On 8 October, Karolina Kraeva, editor-in-chief of the Istina paper in Vratsa, received a two year and four months suspended prison sentence plus an order to pay 2 mln. leva (2 000 DM) tort for libel and hooliganism. She was accused by the chief of the Precinct Police Department in Vratsa, Colonel Georgi Assenov, of having "asked inconvenient questions" in an interview that was published.

The illegal confiscation of the printed materials of unpopular communities continued during the year. With the permission of the Prosecutor's Office, on 19 February the police in Burgas raided four flats inhabited by members of Jehovah's Witnesses. In one of them it confiscated
over 70 books, pamphlets and promotional leaflets. On 12 March, Varna Customs employees confiscated nine issues of the *Watchtower* magazine and other materials of Jehovah's Witnesses due to their "religious sectarian content". (See Freedom of Thought, Conscience, Religion and Belief).

6. Freedom of Association and of Peaceful Assembly

The right to freedom of association and of peaceful assembly in Bulgaria was seriously restricted on a number of occasions during the year. The restrictions affected unpopular ethnic and religious groups, as well as workers engaging in trade-union actions.

The only breakthrough in the government’s previous policy was the registration, on June 3, of the moderate Macedonian culture-based group Traditional Macedonian Organisation (TMO) - IMRO of Mr. Georgi Solunski.

Regardless of the fact that the government, following the recommendations of the European Commission of Human Rights in Strasbourg, signed an agreement and registered Jehovah's Witnesses, on several occasions their local groups were restricted by the authorities in their attempts to assemble in order to profess their religion. With the permission of the Prosecutor's Office, on 19 February the police in Burgas broke up several meetings of Jehovah's Witnesses held in private homes. On 5 May, a public official of the 'Zapaden' district in Plovdiv drew up statements, and on 15 May the mayor issued penal rulings for fines of 500,000 leva each (around 500 DM) to two Jehovah's Witnesses for assembling and preaching inside their own homes (See Freedom of Thought, Conscience, Religion and Belief). On 17 May, the police allowed the IMRO to upset a meeting of Jehovah's Witnesses in a hall in Sofia. On 28 May, the police broke up an indoor meeting of Jehovah's Witnesses in Kyustendil. IDs were confiscated, and the police officer who led the action said they had no right to profess their religion in Bulgaria.

As in previous years, in 1998 too, Bulgarian citizens with Macedonian self-identification were seriously restricted in their right to peaceful assembly, regardless of the fact that in early July the European Commission of Human Rights in Strasbourg admitted their complaint of the violation of their right to peaceful assembly. On 18 April, several hundred activists of UMO 'Ilinden' were prevented from placing flowers on the grave of Yane Sandanski near Rozhen. The assembly and manifestations of the group were prohibited by the Blagoevgrad District Prosecutor's Office. People who had set out to drive to Rozhen by car had statements drawn up for technically faulty vehicles, whilst people who travelled by coach to the site of the grave were asked to get out and those who continued on foot were stopped by policemen near the village of Novo Delchevo. In the town of Petrich people were stopped at the bus terminal and some were briefly taken to the police station. Despite these measures, a number of people managed to reach the grave of Yane Sandanski. On their way back they were stopped outside the town of Sandanski. One of them, Vassil Gyudjemov, from the village of Novo Leski near Gotse Delchev, was detained in the local police station for not carrying a passport. There he was beaten by police officers and his front teeth were kicked out. On 2 August, the mayor of Petrich banned the UMO 'Ilinden' celebrations of the anniversary of the Ilinden Uprising in the Samouilova Krepost locality near Petrich. Yordan Toshev, a local UMO 'Ilinden' activist,
was arrested for having thrown flowers at the policemen's feet. On 3 August, the mayor of Sofia Municipality banned the peaceful protest of another UMO 'Ilinden' group, scheduled for 10 August on the occasion of the 85th anniversary of the signing of the Bucharest Peace Treaty. On 2 September, the mayor of Sofia Municipality also banned a UMO 'Ilinden' group from staging a peaceful protest in Sofia, linked with 12 September, the day of the genocide over the Macedonians.

In March and April the government took repressive measures against the protest trade-union actions of railway engine drivers demanding an increase of their salaries. In an unprecedented way, the strike actions were declared illegal, moreover on different grounds, by a number of Bulgarian courts. This enabled the railway management to dismiss all members of the leadership of the Trade Union of Railway Personnel, including those against whom no suits had been filed, for breach of discipline, in gross violation of the Labour Code. Some of the workers were reinstated by the courts by the end of the year, and the trade union filed a complaint with the International Labour Organisation for violation of the right to association.

7. Conditions in Places of Detention

In 1998, as in previous years, the Bulgarian Helsinki Committee was able to visit all prisons in Bulgaria. This was made possible by the management of the Penitentiary Administration. As in previous years, however, the BHC was not allowed access to the pre-trial detention facilities of the National Investigation Service (NIS) due to obstructions by its leadership and of the Chief Prosecutor's Office. The BHC representatives also had access to the detention facilities (both criminal and administrative) under the jurisdiction of the Ministry of the Interior after a three-day preliminary notice, as well as, without the need for prior notice, to Correctional Boarding Schools (the former Labour Educational Schools).

By 1 January 1999 there were a total of 11,237 prisoners, including 808 accused and 1,819 defendants, in Bulgarian prisons. About 1,000 detainees kept in the 89 pre-trial detention centres of the National Investigation Service and in the Interior Ministry divisions under "administrative detention", pursuant to the Decree on Minor Hooliganism, as well as about 800 juvenile delinquents placed for "mandatory education" in Correctional Boarding Schools, should also be added to these figures. Compared to 1997, the total number of prisoners did not change significantly, and the relative share of accused and defendants decreased. This is a result of the 1997 reform of penal legislation which set a statutory limit for detention during the preliminary investigation.13 This helped to solve in a relatively satisfactory manner the problem of the duration of the preliminary detention of accused persons. However, it remained a common problem for defendans because no time limits apply to them. Still, there were fewer cases of unreasonable prolongation of detention in 1998 than during the preceding year. However, as in 1997, in 1998 too, the share of pre-trial detainees among inmates of the prison for juvenile delinquents in Boichinovtsi (61.7%) was much higher than that in other prisons.

As in previous years, some of the violations of human rights in prisons were a result of poor material conditions. A shortage of mattresses, blankets and sheets was established in some prisons. Meals, too, gave rise to concern; a prisoner's daily food allowance amounts to 530 leva (0.53 DM). Some prisons and Labour Correctional Hostels were overcrowded. The Scientific Methodological Board on Prison Affairs found overcrowding to be three to five times higher than the admissible figure in Europe. In some places inmates are accommodated in cells with three-bed bunks, insufficient living space and inadequate airing. The overcrowding was the main reason for the violation of the Law on the Execution of Sentences providing for the separation of sentenced from remand prisoners. Indeed, in a number of prisons these two categories were not separated.

Another serious problem observed by the Bulgarian Helsinki Committee were the cases of ill-treatment in some prisons. Although ill-treatment is not systematic in all of them, clubs and verbal abuse by the security staff are used as a basic means to maintain order and discipline. In only one case did the Prosecutor's Office institute proceedings against a guilty official.

During its visits to prisons the BHC also observed other problems: violations of the law with regard to prison regime, violations of the schedule for locking the corridors, unjustified stopping of correspondence and parcels, continued detention in prison after serving one's sentence, denied access to a psychologist, confiscation of personal belongings.

The worsened material conditions, poor hygiene and lack of funds for medicines limited the possibility of reducing the spread of tuberculosis. Some prisons were unable to contain it, as well as the general predisposition to all sorts of diseases.

Still, prison conditions, notwithstanding their material shortcomings, were considerably better than conditions in pre-trial detention facilities the conditions in which continued to be inhumane and degrading. As of November 1998, with the adoption of the Act to Amend the Judiciary Act, pre-trial detention facilities were shifted to the Ministry of Justice and Legal Euro-integration.

8. Protection of Minorities, Problems of Citizenship, Aggressive Nationalism and Xenophobia

No changes were made in the basic legal framework for the protection of the identity of minority ethnic communities in Bulgaria in 1998. The Framework Convention for the Protection of National Minorities of the Council of Europe, despite being signed in 1997, was not ratified. The periodical ratification debates revealed a mixture of unfounded and xenobically motivated opposition, generated by broad public circles, but mainly among circles of the Bulgarian Socialist Party and IMRO, to the actual idea of recognising the existence of minorities in the country.

No legislative changes affecting the protection ethnic identity of the minorities in Bulgaria were made during 1998. The attitude of authorities to their education and culture did not improve and the position of the expert on Romani at the Ministry of Education continued to be vacant.
A number of conflicts between local groups of Bulgarians and Roma were brought to the public's attention during the year, evidencing the discrimination to which this minority is subjected in all spheres of public life. On several occasions Roma organised demonstrations, demanding to receive their due social assistance payments which were often delayed for several months. In May and June, Roma in Lom organised and staged a series of protest actions, causing sharp conflicts with the local government. Similar protests against irregular social assistance payments were also organised by Roma in Oryahovo in early July. In December, about 300 Roma from Chirpan blocked the road in protest of delayed social assistance payments. One of the demonstrators, the 25-year-old Angel Shmilev, was shot by a warden in the local Labour Correctional Hostel.

In several other cases Roma communities and individual Roma suffered from the violent actions of racist groups, local mobs and groups of private security guards. On 4 March, Minka Stoyanova, a 10-year old Roma from the village of Rozino, near Karlovo, was shot and killed by a carbine, presumably by guards of the local farm co-operative who were chasing thieves. The investigation was still going on by the end of the year. In early March, peasants in Hadji Dimitrovo, near Yambol, organised a pogrom against the local Roma neighbourhood, members of which were suspected of having committed crimes in the village. At least 13 houses were raided, people were beaten and furniture was broken. The District Prosecutor's Office in Yambol did not bring charges against the perpetrators throughout the whole of 1998. On 16 May, a gang of skinheads assaulted and beat up eight Roma children in an abandoned house in Sofia. One boy was killed after falling from or being pushed out a window. Until the end of the year the perpetrators had not been caught and punished.

9. Political Asylum

There were no changes in refugee legislation in Bulgaria during the year. The much needed and very belated refugee law was voted on first reading in Parliament, but was not passed before the end of the year. The procedure for granting refugee status continued to be settled by the 1994 Ordinance for Granting and Regulating Refugee Status. Its provisions are highly insufficient and create possibilities for administrative arbitrariness.

There are no published written instructions/guidelines concerning asylum seekers and refugees for border police and officials from the National Bureau for Territorial Asylum and Refugees (NBTAR). In practice asylum seekers find themselves in police detention for periods far longer than the 24 hours prescribed by the Ministry of the Interior Act. Asylum seekers and detainees in general do not have the possibility to contact a lawyer or the UNHCR from the places of detention; also, family cannot be contacted. Interpreters are usually not available. Thus access to the asylum procedure is hindered.

One of the main problems, which the asylum-seekers continue to face, is the access to the asylum procedure. In many cases the NBTAR refuses to accept requests for asylum under different pretexts, especially when they come from countries that are considered to be safe (e.g. Armenia) or politically sensitive (e.g. Turkey). This deprives the asylum-seekers of effective protection of their rights, especially when the refusal for registration is informal and oral (which it usually is) and therefore difficult to prove. This results in a lack of recourse to judicial protection and brings a risk for deportation for an indefinite period of time.
Asylum seekers are either detained upon arrival in Bulgaria in detention centres (mainly in Detention Centre in Drujba, close to Sofia airport, but also in other centres in the country), or in detention-like situations in the transit zone of Sofia airport. In addition to that, asylum seekers are detained for prosecution purposes if they enter or exit Bulgaria illegally (i.e. without a passport, or with a false passport). Article 279, para. 1 of the Penal Code penalises the illegal crossing of borders with deprivation of liberty for up to 5 years and with a fine (the court may also order banishment). According to Article 279, para. 5 of the Penal Code nobody who enters the country to avail themselves of the right of asylum shall be punished. This paragraph, however, is not always respected and asylum seekers are detained.

As a rule, detained asylum seekers have no access to a lawyer and thus no possibility to find out their rights. As an exception in August 1998 the Refugee Unit of the BHC was given access for the first time to the detention centre in Drujba. An agreement was achieved with the Passport and Visa Department of the Ministry of the Interior that asylum seekers who have contacted the BHC and about whom the BHC had reported would not be detained and deported. This happened after several illegal deportations of registered asylum seekers earlier in 1998 about which the BHC protested. In one of the cases, the Bulgarian Helsinki Committee was refused timely access to the Drujba Detention Centre in Sofia to make possible for a Nigerian woman asylum seeker to appeal the NBTAR refusal for refugee status. The woman was later deported to Nigeria, where she claimed of being persecuted for practising “witchcraft”. Unfortunately, there are still no guarantees that expulsions in the short period between rejection of the application and filing the appeal will not happen.

The lack of governmental reception and/or transit centres of any sort of shelter for asylum seekers and refugees made it until recently difficult for border authorities to receive newcomers. As a result of these practical deficiencies the principle of non-refoulement is not always respected. Asylum seekers were turned back by the border police before having had the opportunity to receive access to Bulgarian territory and the Bulgarian asylum procedure. Border officials conduct an informal “quick” asylum procedure at the border to determine the refugee status.

In order to avoid such cases, in 1998 the UNHCR opened three transit centres at the major border check-points on the border with Greece, Romania and Turkey, which provide temporary shelter and transport to Sofia where the NBTAR carries out the asylum procedures. In the current emergency situation, however, this can remain only a temporary arrangement.

NBTAR has 110 staff members. However, the Registration and Interviewing Department, which carries out the most important tasks in the asylum procedure (registration, interviews of asylum applicants, country of origin evaluation, writing decisions) has only 9 staff members, including the head of department. There is no NBTAR official assigned at the border checkpoints. There are no guidelines/instructions, which regulate the coordination between the Ministry of Interior and the NBTAR. There is no 24-hour on-duty service on the NBTAR in Sofia, nor constant telephone/fax contact between the border police and the NBTAR, nor transportation possibilities or any reception facilities for newly-arrived asylum seekers, apart
from the UNHCR-funded and NGO-run transit centres at the Greek/Romanian/Turkish - Bulgarian border checkpoints.

10. Freedom of Movement

No restrictions on the right to freedom of movement of Bulgarian citizens within the country were registered during the year. Their right to travel to foreign countries, however, was seriously restricted. The ban imposed in February, 1997 by the Minister of the Interior on issuing foreign passports to formerly sentenced persons after they have served their sentences continued to be enforced.

The possibility for Bulgarian citizens travelling abroad was also restricted by the harsh visa regulations which some European countries have imposed. In 1998, as in previous years, the issuing of a visa, especially for the larger European countries, involved an exhausting and lengthy procedure, which is both time-consuming and costly.

11. Discrimination Based on Political Opinion

In October the parliament passed the Administration Act, whose transitional and final provisions contained several discriminatory provisions. For a period of five years it prohibited the employment in the state administration of persons who had occupied leading posts in the political and administrative apparatus of the Bulgarian Communist Party, as well as of collaborators of the communist State Security. Persons who occupied leading posts in the administration were obliged, within a period of 30 days, to present an affidavit that they satisfy the requirements of the act. Soon after the entry into force of the act, however, it was attacked before the Constitutional Court by a group of MPs, which caused its discriminatory provisions to be declared unconstitutional in January 1999.

This report was written by Mr. Emil Cohen, Mr. Krassimir Kanev, Ms. Tanya Marincheska, Ms. Yuliana Metodieva and Mr. Stanimir Petrov. Materials from Tolerance Foundation and the Human Rights Project were also used in the course of its preparation.