Human Rights in Bulgaria in 2000
Annual Report of the Bulgarian Helsinki Committee

Throughout 2000, Bulgaria was ruled by the government of the United Democratic Forces (UtDF). The old leadership of the Ministry of the Interior was dismissed and a new one appointed in the beginning of the year. Outwardly, at least, the new leadership showed greater openness for cooperation with nongovernmental human rights organisations and willingness to discuss problems of human rights violations, committed by Interior Ministry officials.

The human rights situation in Bulgaria during the year did not change however. In November Bulgaria ratified Protocols 4 and 7 to the European Convention on Human Rights and Fundamental Freedoms, and in June the government signed the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Several other changes were made in legislation as well as in practice, which had a positive effect on the protection of human rights in Bulgaria. However, there were also many negative developments.

I. The Right to Life

Since 1999 Bulgaria has been a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights and to the Sixth Protocol to the European Convention on Human Rights and Fundamental Freedoms, which prohibit the death penalty in peace time. The death penalty is also prohibited by the Bulgarian Penal Code. No death sentences were passed or executed in the country in 2000. Problems related to the right to life in Bulgaria however remained. They included the excessive use of physical force and lethal weapons by law enforcement officials and the reluctance to investigate cases in which people lost their lives as a result of this.

On 18 May 2000, the European Court of Human Rights in Strasbourg delivered its judgement on the case of Velikova v. Bulgaria. The suit was initiated by Anya Velikova in connection with the murder of her husband, the Rom Slavcho Tsonchev, in a police station in Pleven on 25 September 1994. In contrast to the Bulgarian courts, which deliberately did not investigate the case for years, the European Court found a violation of Article 2 of the European Convention on Human Rights (right to life), holding that there was sufficient proof to conclude that the death of Mr. Tsonchev had been caused during his detention in the police. The Court established a number of flaws in the investigation of the case, related to the inadequate medical certification of the victim and to the conscious omissions of the Prosecutor's Office to collect evidence about the way in which his death had been caused. It also established a violation of Article 13 of the European Convention on Human Rights (failure to provide an effective remedy) because of the absence of an adequate investigation into the case by the Bulgarian authorities. The judgement of the court in Strasbourg did not serve as a ground to reopen the criminal investigation in Bulgaria. The persons who killed Mr. Tsonchev, as well as the officials who covered up for them, are still working in the criminal justice system.
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 an individual, committing or having committed a crime, or for preventing the escape of an individual, detained for a committed crime. These provisions, as repeatedly noted by local and international human rights monitors, 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 lethal weapons to apprehend suspects even of minor crimes or to prevent their escape after arrest.

The investigation of previous cases, which warrant the assumption that excessive force and firearms were used by police officers, as a result of which people lost their lives, was inadequate. Contrary to the trend towards a greater opening of the state bodies to society after the entry into force of the Access to Public Information Act, the Prosecutor's Office grew unresponsive. This contributed to the climate of impunity in which law enforcement officials act. On 10 July, the Supreme Cassation Prosecution Office sent a letter to the Bulgarian Helsinki Committee, with copies to the military district prosecutor's offices, stating that prosecutors are not entitled to state opinions on cases[1] and refused to provide information on BHC inquiries on specific cases of excessive use of force and firearms. Prosecutor Yordanov from the Supreme Cassation Prosecution Office, who has signed the letter, recommended that BHC register "a law firm with lawyers to take on the defence of the victims", in order to receive information on their cases. The applications submitted by BHC in November under the Access to Public Information Act, containing questions about specific cases, were ignored in gross violation of the law by the Chief Prosecutor's Office and by most military district prosecutor's offices.

On 14 December, an Interior Ministry officer was sentenced to four and a half years' effective imprisonment for the murder of Airedin Mustafov committed on 2 December 1998.[2] Not a single case of use of force and firearms by law enforcement officials in 1999,[3] as a result of which people lost their lives, about which BHC possesses information, was adequately dealt with by the justice system. In the case of the Rom Tancho Vassev, killed by border guards in February 1999, an indictment was initially brought and a perpetrator surrendered to the court, but he was subsequently found innocent. The investigative proceedings into the murder of Nikolai Filipov during a chase on 13 May 1999 were suspended. The investigation into the other case, widely covered by the Bulgarian media, that of Gancho Vuchkov - Ganetsa, killed in a car chase in Sofia on 6 June 1999, was dismissed back in 1999. On 12 February 2001 a prosecutor from the Military Prosecutor's Office of Appeal confirmed the 1999 ruling for termination, which had been appealed by the relatives. With decision no. 235/2000 the Military Court of Appeal surprisingly terminated the criminal proceedings into the murder of Konstantin Sherbetov in a Sofia police station. On 4 July the Sofia Military Court of Appeal terminated the investigation into the killing of Oleg Georgiev without bringing in any charges.

In 2000, BHC received information about at least seven cases in which people lost their lives as a result of torture, excessive use of force and firearms by the police, border guards and military servicemen. In a number of cases, the Prosecutor's Office employed the new possibility, introduced in the Code of Criminal Procedure in 1999, to terminate the criminal proceedings with a plea bargain agreement. Some of the reached plea bargain agreements, however, threw a shadow on the wish of the Prosecutor's Office and of the court to seriously tackle the problem of excessive use of force and firearms by law enforcement officials.
On 4 March, 23-year-old Boyan Yovchev died instantly after being shot in the heart by an Interior Ministry sergeant in Varna. In October, the Prosecutor's Office indicted the sergeant for causing death through negligence. The case was terminated with a plea bargain agreement, under which the Interior Ministry officer received only a two years' suspended sentence. On 13 June, Miroslav Marinov - Strandjata, 27, was detained in the Vratsa police precinct. After his release the next day, he told fellow villagers that he had been suffocated and severely beaten all night in police custody. According to eyewitnesses, his entire head was in wounds, he had difficulty breathing and was able to take in only liquids. He died in the Vratsa hospital the next day, officially from bronchopneumonia. Policemen from the Precinct Police Department in Vratsa personally went to the hospital to check the record in Marinov's death certificate and inquired after the autopsy results. The chief of the Vratsa Regional Directorate of the Interior ordered a police inquiry into the case, but no investigative proceedings were initiated because the police concluded that there was no evidence that the death had occurred as a result of exercised violence. On 5 July, in the Sofia suburb of Zapaden Park, police officers killed the Rom Traicho Dimitrov Lyubomirov, 19, by shooting him point-black in the back of the head. According to the police reports, he had been chased for suspected car theft, put up resistance, and the police officer who shot him had fired his gun inadvertently. Witnesses to the arrest alleged, however, that he had first been arrested and handcuffed before being shot. The Sofia District Prosecutor's Office informed BHC that an indictment had been submitted on 13 November 2000 against an Interior Ministry sergeant for a crime under Article 123, paragraph 1 of the Penal Code - causing death through negligent performance of vocation, which carries a maximum penalty of five years imprisonment.

On 5 August, Emil Arnaudov from Assenovgrad was severely beaten by policemen near the town's Tequila Bar and died from his wounds on 15 August. One policeman was prosecuted and temporarily removed from office. The investigative case was not resolved by the end of the year, however. According to information from the Interior Ministry, the chief of the Assenovgrad Precinct Police Department was punished only by a written reprimand. On 15 August, in the village of Gortalovo, near Pleven, two persons who identified themselves as policemen shot the Rom Mitko Marchev at his nephew's home. He later died from his wounds in hospital. Criminal proceedings were instituted into the case, which were still ongoing at the end of the year. On 17 November, border police units shot dead Rebin Omar Mohamed, a 16-year-old Iraqi national, in an attempt to cross the border into Bulgaria. The official Interior Ministry version is that the boy had been hit by a stray bullet. The investigation opened into the case by the Plovdiv Military Prosecutor's Office, had not ended at the year's end. On 21 November, Dimiter Dimitrov, a conscript recruit in a Stara Zagora army unit, died after being ordered by his commanding officer to run laps while wearing a gas mask as a punishment for being late after going to the toilet. The reported cause of death is asphyxiation, after vomited food particles got into the victim's respiratory system. The investigation into the case had not ended at the end of the year.

The case of Dimitrichka Marinova, a 41-year-old Roma woman from Dolni Chiflik, near Varna, should also be added to these cases. On 28 July, she was shot dead by an unlicensed private security guard after having been caught stealing apricots together with two other Roma in an apricot orchard. The security guard was charged with causing death through negligent performance of vocation. The case was settled in court with a plea bargain agreement between the Prosecutor's Office and the defendant.

The situation in some of the homes for mentally and physically handicapped children gave rise to serious concern during the visits of BHC monitors throughout the year. In
several cases poor living conditions, malnutrition and inadequate medical services seriously endangered the life and health of these children, some of which died in 2000 in the children's homes in Mogilino and Medven.\[4\]

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

Torture, ill-treatment and excessive use of force and firearms by law enforcement officials continued to be a serious problem in Bulgaria in 2000. No changes were introduced in the legislation and policy to make punishment and prevention more effective. The legal framework was not improved to guarantee legal defence from the moment of detention, access to an independent medical expertise and the possibility to inform one's family or other people about the place and conditions of detention.

Several police officers were sentenced during the year for illegal use of force and firearms, although the sentences were lenient and inadequate to the severity of the offences. However, they comprised but a negligible share of the total number of cases requiring criminal prosecution. On several occasions during the year, the Interior Ministry leadership stated that it was aware of the problem of illegal violence by police officers and wanted to combat it. In May and June the Ministry organised five workshops with high-ranking police officers, where BHC representatives were invited as lecturers. However, there have been no noticeable changes in the police practice at the working level. As in previous years, torture, ill-treatment and excessive use of force by law enforcement officials, as a result of which people were brutally beaten, and often even crippled, were a common occurrence. Investigations were rare, and criminal proceedings - an exception. In answer to a question from a Sofia Bar lawyer in December, the Interior Ministry stated that six officials, sentenced for causing death through negligence, were working in the bodies of the Ministry by the end of 2000.

Besides death cases caused by the use of firearms, during the year BHC received a lot of convincing evidence of excessive use of force and firearms by law enforcement officials, causing injuries and sometimes even crippling people for life. As in previous years, Roma continued to constitute a disproportionate number of the victims of official violence. This abuse was carried out in different contexts, which can 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.

In December 2000 - January 2001, BHC conducted a survey in the places of detention among detainees and prisoners who had become defendants after 1 January 2000, the date of the entry into force of the amendments to the Code of Criminal Procedure, which increased the powers of the police to investigate crimes. A total of 309 detainees and prisoners were interviewed in all prisons in the country. The purpose and extent of the
survey repeated a similar BHC study conducted in January - February 1999. The survey showed that the situation of the use of physical force during arrest in Bulgaria had not changed during the last two years, regardless of the new legal framework. Forty-nine per cent of the prisoners reported that physical force had been used against them during arrest, compared to 51 per cent in 1999. A slight improvement was recorded with regard to the use of physical force inside police stations - 44% of the respondents said they had suffered physical violence, compared to 53% in 1999. The likely reason for the decreasing cases of illegal violence under conditions of detention is the changed attitude of the Interior Ministry leadership, as well as the possible restraining effect of the case of Velikova v. Bulgaria. Together with this however, the data shows that the problem of illegal use of force by the police during and in the first hours following arrest is extremely serious in Bulgaria. Physical force during arrest is practically used against every other detainee, who subsequently lands in prison. Among Roma respondents the share of those reporting illegal violence is larger than among Bulgarian respondents. Fifty-six per cent of Roma respondents reported use of physical force during arrest, compared to 46% of Bulgarian respondents, and 48% of Roma respondents reported violence inside police stations/pre-trial detention centres, compared to 42% of Bulgarian respondents. The Roma are the only group in which the use of physical force during arrest increased compared to 1999.

The Bulgarian Helsinki Committee continued to monitor children's institutions in the country during the year. In many of them BHC monitors established malnutrition, poor hygiene, lack of medical care and physical violence both by the staff and among the children themselves, undeterred by the staff. As far as bad living conditions are concerned, the situation was particularly serious in some of the homes for mentally and physically handicapped children under the Ministry of Labour and Social Policy. Illegal physical violence also presented a problem in some of the correctional boarding schools and social educational boarding schools where juvenile delinquents are forcibly placed (see Rights of Children in Institutions).

The situation in places of detention and prisons were another matter of concern during the year. The conditions in almost all pre-trial detention facilities to which defendants are confined during the preliminary investigation were inhuman. Cases of torture of ill-treatment were also reported. The conditions in some prisons were also inhuman (see Conditions in Places of Detention).

Domestic abuse of women continued to be a serious problem in 2000, too. The legal framework for criminal prosecution in such cases was not changed - it continued to be initiated by a private complaint of the victim, without the participation of a prosecutor, which places a heavy financial and moral burden on the victim. Child abuse continued to be a widely accepted and widespread phenomenon in the Bulgarian family.

**III. Right to Liberty and Security of Person**

On 5 October 2000, the European Court of Human Rights in Strasbourg delivered a judgement in the case of Varbanov v. Bulgaria. In it the Court established a violation of the right to liberty and security of the Bulgarian national, Mr Varbanov, who was confined to a psychiatric clinic for psychiatric examination with an order of the Prosecutor's Office. The Court ruled the detention arbitrary and established a number of deficiencies in Bulgarian legislation, guaranteeing the right to liberty and security of person, including: absence of legal provisions empowering prosecutors to detain a
person for psychiatric examination, the possibility to deprive a person of liberty for psychiatric examination without obtaining the opinion of a medical expert, the impossibility to appeal detention in a psychiatric clinic for the purpose of effecting a psychiatric examination.

Already in 1999 Parliament amended the Public Health Act with a provision, which entitles prosecutors to commit a person to compulsory confinement for psychiatric examination for up to 30 days, and by exception, even for up to three months. However, the law does not provide for the seeking of a medical opinion as a precondition for ordering detention, nor does it provide the possibility to appeal the prosecutor's order before court. Hence, most of the legislative problems established by the judgement Varbanov v. Bulgaria continue to exist.

Arrests in the army continued to be another problem related to the right to liberty and security of person. They are imposed by military commanders for breach of discipline and are not subject to judicial control.

IV. Independence of the Judiciary and Fair Trial

In contrast to previous years, in 2000 there were no gross interventions in the judiciary by the executive and legislative branches. The old problems facing the judicial system, however, including protraction of cases, poor coordination between the institutions and corruption, continued to exist. The transfer of cases from the investigation to the police after the reform of the Code of Criminal Procedure in July 1999[6] increased the speed of criminal proceedings, but no information is available as to whether this was accompanied by a satisfactory quality of evidence in criminal cases.

In December 2000 - January 2001, BHC conducted a survey in the places of detention among a representative sample of detainees and prisoners, who became defendants after 1 January 2000. One of the objectives of the study was to examine the issue of the access to a lawyer after the entry into force of the amendments to the Code of Criminal Procedure, which provide for the possibility to appoint an official lawyer for indigent criminal defendants "when the interests of justice so require". According to the survey results, the introduction of the new Code of Criminal Procedure provision in 1999 contributed little, if anything, to the access to justice of indigent defendants. Whereas 54% of the respondents in a similar study conducted in 1999 reported that they did not have a lawyer during the preliminary investigation, 55% did so in 2001. Somewhat fewer respondents, 37%, reported they had no lawyer during the trial before the first instance court, compared to 43% in 1999. The slightly improved situation with regard to access to a lawyer before the first instance court is probably due to the greater willingness of judges, compared to investigators and police officers, to appoint official lawyers. The ethnic minorities were discriminated in their access to justice - in 2001 61% of Roma respondents stated that they had no lawyer during pre-trial proceedings, compared to 53% of the Bulgarian respondents.[7]

The legal framework for the placement of children in correctional boarding schools and social educational boarding schools did not improve in 2001 either. Besides discrepancies with international fair trial legal standards,[8] the BHC visits also established gross violations of the internal procedure. In many cases of imposing educational measures, the local commissions for combating juvenile delinquency, set up with the municipalities, had either not held any meetings or had functioned without observing
the legally established procedure. Some children had been committed to boarding schools only on the basis of referrals from children's pedagogical offices without having their cases considered by local commissions or even without any document at all (see Rights of Children in Institutions).

V. Freedom of Thought, Conscience, Religion and Belief

On 26 October 2000, the European Court of Human Rights delivered a judgement in the case of Hasan and Chaush v. Bulgaria. The case concerns the refusal of the socialist government in February 1995 to register the leadership of the Muslim believers with Mr Fikri Hasan as chief mufti.[9] The Court held that Bulgaria had violated Article 9 of the European Convention on Human Rights through the failure of the Bulgarian state to remain neutral in the exercise of its powers in respect of the registration of the Muslim denomination. According to the Court, the State had interfered in the internal organisation of the Muslim denomination by favouring one leader of the divided religious community and forcing the community to come together under a unified leadership. The Court also held that the legally established procedure for the registration of denominations and their leaderships did not include guarantees against arbitrary interference by public authorities and had not met the required standards for clarity and foreseeability. The Court also held that there had been a violation of Article 13 of the Convention (right to an effective remedy in the violation of human rights) in that the Bulgarian Supreme Court had refused to examine the substance of Mr Hasan's appeal against the decision of the State and only assessed whether and to what extent the decision for registration had been taken by the competent authority within the scope of its powers.

As a whole, the situation concerning religious freedom did not change significantly in 2000. The most typical violations of the religious rights of citizens remained more or less the same. The only new positive development was related to alternative service. According to information furnished by the Alternative Civilian Service Board in December 2000, a total of 11 applications for alternative service had been received during the preceding 11 months of the year. A total of 28 applications had been granted during the year, most of which lodged in 1999, but not approved at the time.

The most serious, as well as the most alarming event in the sphere of freedom of thought, conscience and religion were the attempts for the adoption of a new denominations act. Fortunately, these attempts were not brought to a successful conclusion by Parliament. If they had been, the new law would undoubtedly have been the worst of its kind in Eastern Europe, and a serious infringement on the right to freedom of thought, conscience and religion. Paradoxically, ten years after the onset of the democratic changes in Bulgaria, attempts are made to adopt a law regulating relations between the state and religious groups which, according to the unanimous conclusion of both experts and religious activists, is more restrictive even than the 1949 Denominations Act enacted in communist times which, save for some changes, continues to be in force today.

In addition to the attempts to adopt a new law, the other serious violations of the religious rights of citizens in 2000 included:

1. Expulsions of foreign citizens on the grounds of “illegal religious activity”;
2. Adoption by the local authorities in several cities of illegal ordinances, which greatly restrict the rights of the local branches of religious communities;

3. Break-ups of peaceful meetings of religious communities by the authorities or by private citizens, undeterred by the authorities;

4. Discriminatory treatment of religious communities by administrative bodies.

On 2 February 2000, the National Assembly adopted on first reading the three draft laws on religious denominations tabled by the United Democratic Forces (UDfD), the Bulgarian Socialist Party (BSP) and the Internal Macedonian Revolutionary Organisation (IMRO), and rejected the draft tabled by a group of MPs of the Alliance for National Salvation. The three drafts were sharply criticised by dozens of representatives of religious and human rights organisations at a conference organised by the Tolerance Foundation in July 1999. At a special press conference organised on the day of the voting, the content of the three drafts adopted on first reading was also sharply criticised by American human rights activist Prof. William Cole Durham, chairman of the OSCE sub-committee on freedom of conscience and religion, who was visiting Bulgaria at the time. On 8 February, 19 religious and human rights organisations adopted a declaration to the National Assembly, the President and the Council of Ministers. In it they voiced their deep concern over and protest against the absence of a dialogue between religious organisations and the National Assembly on the adoption of a new law. They also declared themselves against the repressive nature of the adopted drafts, their unclear and ambiguous character, and against the attempt of the state to subject religious organisations to administrative control. In response to the appeal of the Bulgarian human rights organisations, a number of churches, human rights protection groups and prominent personalities called on the Bulgarian authorities not to adopt a repressive denominations act.

On 12 October, the parliamentary Committee on Human Rights and Religious Denominations submitted a consolidated draft denominations act for the second and final reading to the National Assembly. On 20 October, more than 90 representatives of religious and human rights organisations, gathered at a conference organised by the Tolerance Foundation and the Bulgarian Helsinki Committee, critically examined the final version of the draft. Foreign guests also took part in the conference.

The participants stated that although the final version was a slight improvement over the three drafts on which it was based, it still reproduced their main shortcomings: excessive administrative supervision of the internal affairs of religious organisations. Thus, according to the consolidated draft, the state authority for interaction with religious organisations, the Directorate of Religious Affairs, in conformity with Article 10, paragraph 9 of the draft, exercises “supervision over the activities of denominations” and also “issues the opinion of the Sofia City Court on the registration of denominations” (Article 10, paragraph 4), which in practice is compulsory for the court. In addition, it "approves the rules of higher theological schools" (Article 10, paragraph 6). A particularly important power vested in the Directorate, which could easily turn into a precondition for arbitrariness, is the "study of the religious basis and services and rites of the ... denomination" (Article 16, paragraph 1). The Directorate clears the consignments of humanitarian aid intended for denominations (Article 42), and gives its consent for the participation of foreign clergy or teachers in the liturgical or educational practices of denominations (Article 35).
The draft also creates a large number of preconditions for arbitrariness on the local level. Article 25, paragraph 2, entitles municipal mayors to "refuse the registration of the local branches if the services and rites, which the local branch wishes to practice, do not comply with the statutes of the registered denomination". According to Article 33, paragraphs 1 and 2, religious organisations may use a private flat as a house of worship only if all other owners agree. If they decide to rent a public building, it must on all accounts have a separate entrance. The draft also artificially narrows the possibility of citizens to associate for the attainment of their religious goals. This is effected with the ban on the existence of religious organisations as separate legal entities if the state authority judges their names to be the same or if their "religious basis and rites" are the same (Article 19, item 2). Finally, all denominations, regardless of whether state-subsidised or not, are subject to state financial control (Article 39).

According to the participants in the conference on 20 October, the following also constitute a danger to the freedom of religion in Bulgaria: the introduction in the draft of "a denomination, directed against national security" as a reason for the ban of a religious organisation, which directly contradicts Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention on Human Rights, the heavy fines in the penal provisions (Articles 50-52), which render the establishment of new religious groups in Bulgaria virtually impossible, and especially the definitions of the legitimate restrictions of the right to profess a religion, provided in the supplementary provisions of the draft, which pave the way for extensive arbitrariness in their application. The conference called on the National Assembly not to adopt the draft in its present form. Many MPs also made a number of comments on the draft and criticised different aspects of it. As a result the draft was sent for expert assessment to the Council of Europe and its adoption was postponed.

The expulsion of foreign nationals from the country, claimed to represent a "threat to national security" due to their religious practices, continued in 2000. On 8 January, a group of six Islamic preachers - Ahmadis - was caught in the region of Shumen and expelled from the country. According to information from the police, they had been preaching without a permit by the Directorate of Religious Affairs. Later, in May and June, another three Muslims were ordered out of the country. One of them was Ahmad Musa, a Palestinian, living in the country for 15 years and married to a Bulgarian. He was later detained and expelled on 6 August. His wife and three children remained in Bulgaria. In this case too, the reason for expulsion was "threat to national security". Orders based on national security considerations in Bulgaria are not subject to judicial control. For this reason, in end effect nobody understood exactly on what facts the authorities were basing themselves. Press reports, clearly implied by the Interior Ministry, revealed that the accusation was one of "illegal religious activity". The only "proof" in this regard was Mr Musa's participation in the "illegal" Muslim seminar in Narechenski Bani in August 1997.[11] Mr Musa's case is now being considered by the European Court of Human Rights.

Throughout the year, several Bulgarian cities (Burgas, Plovdiv, Pleven, Gorna Oryahovitsa and Stara Zagora) adopted ordinances on public order or on the activities of religious communities, containing many discriminatory and restrictive provisions under pressure by IMRO municipal councillors and in violation of a number of laws. Thus, for example, an ordinance adopted in Plovdiv in May, prohibits "the sale and advertisement of newspapers, magazines or other literature or articles with a religious or pornographic (!) content in the streets, in underpasses, public transport and other similar public places". It also obliges religious organisations to inform the municipality in advance about all and any of their mass events. To hold them without preliminary permission is
prohibited. Preaching of any kind in public places and posting materials with religious content outside houses of worship is also prohibited. An ordinance adopted in Stara Zagora in October denies municipal registration to religious communities, which are banned in EU member states, regardless of whether they are centrally registered in Bulgaria. It also prohibits the advertisement of "miraculous", "curative" and "healing" effects of the activities of denominations, as well as any activities among children in children's institutions and educational establishments. On the other hand, the ordinance obliges denominations in Stara Zagora to declare any donations from abroad before the municipal mayor. The Pleven ordinance, adopted in November, requires religious communities in the city to send all their documents to the municipal authorities. It prohibits proselytising of any kind outdoors, as well as the distribution of religious literature outside churches and specialised bookshops. Denominations are also banned from attracting persons under 18 to their activities in any form whatsoever, except with their parents' written consent, or from conducting their activities in all kinds of schools and/or children's establishments. On the other hand, they are obliged to declare their incomes and expenses before the municipal authorities. In November, eleven local branches of denominations instituted proceedings against the Pleven ordinance in court, and on 8 November the Evangelical Alliance issued a sharp protest declaration, stating that the ordinance contravenes a number of provisions of the Constitution and is based on Denominations Act provisions, which were ruled unconstitutional by the Constitutional Court in June 1992.

As in previous years, in 2000 too, the authorities and private citizens and groups, undeterred by the authorities, dispersed peaceful meetings of religious communities, often violently, in a number of settlements throughout the country. On 28 January, the police in Kurdjali dispersed a meeting of Pentecostal preachers from Turkey. They were told they had no right to preach without permission by the Directorate of Religious Affairs. On 31 May, several persons, residents of the village of Maritsa near Samokov, led by the local Orthodox priest, severely beat up Peter Nikolov, Georgi Angelov and Nikolov's wife who wanted to screen the film "Jesus" after preliminary agreement with the village mayor. Their film reels were confiscated. The police refused to deal with the case. On 21 June, IMRO activists in two towns in Blagoevgrad region chased and threatened representatives of religious communities before the very eyes of the police. In Petrich, 12 Jehovah's Witnesses were brutally driven out of the town for distributing leaflets and brochures near the bus terminal and town park. Round about the same time, IMRO - Blagoevgrad gave an ultimatum to members of the Mormon Church to leave the town.

On 2 October, the National Radio and Television Council (NRTC) refused to licence the first religious radio in Bulgaria - Vyara - Nadezhda [Faith - Hope] Ltd., a group belonging to the United Church of God. Discrepancy with five of the requirements of the National Radio and Television Council (NRTC), a necessary condition for receiving a licence, was cited as a pretext. This happened at a time when many licences were granted to purely commercial radio stations. The NRTC, in violation of the Access to Public Information Act, refused to present the minutes of its meeting on 2 October, which would have revealed the real reasons behind the refusal.

On 18 December 2000, the Ministry of Education issued an instruction on the experimental study on Islam in optional religious classes, ordering that instruction in this religion should be conducted in Bulgarian and that it should be financed by the Chief Mufti's Office. Instruction in the Orthodox religion in Bulgaria is financed by the state. In answer to a question in parliament in connection with these discriminatory provisions, the Minister of Education and Science replied that instruction is carried out in Bulgarian
because Article 8, paragraph 1 of the National Education Act stipulates that Bulgarian is the official language in kindergartens, schools and auxiliary teams of education in Bulgaria. However, there are dozens of schools in the country in which the language in which both different subjects, as well as the syllabus as whole, are taught in a foreign language - English, French, German, Spanish, etc. The Minister failed to provide a clear answer to the question why the Chief Mufti's Office, and not the state, should finance the teaching of Islam.

VI. Freedom of Expression, Freedom of the Media

Both positive and negative developments were observed in the sphere of freedom of expression in Bulgaria during the year. The positive developments included the adoption of the Access to Public Information Act and the launching, albeit for only 10 minutes at 5.10 p.m., of a Turkish-language newscast on Bulgarian National Television on 2 October. Another positive development was the licensing of a number of nationwide private television and radio broadcasters, which were successfully competing with the national ones at the end of the year.

The Access to Public Information Act adopted in June regulates the right of citizens and legal entities to gain access to information from state and local government bodies, including information of public interest. In case of refusal, citizens and legal entities are entitled to turn to the courts, which may rule information to be provided if the relevant authorities have failed to make it accessible in conformity with the law. However, the act contains some ambiguities and contradictions, which make for arbitrary interpretation of what information is made accessible and what not. It gives the authorities from which information is requested a wide discretion in judging what information to make accessible on the basis of the ambiguous texts. In addition, besides state and local government bodies, the act also obliges the mass media to provide information, something that could be abused for political purposes. The attempts of a number of organisations and individuals to seek information during the year met with the resistance or disregard of their applications for information by many state bodies, including the Directorate of Religious Affairs, the Ministry of Education, the Ministry of Justice and the Chief Prosecutor's Office.

The level of democratic achievements in the sphere of freedom of expression during the year continued to be low. The old problems remained. They included: political control over the national electronic media, severe punishments for insult and libel in criminal prosecution, as well as other kinds of official repression, assaults against journalists and the confiscation of unpopular printed publications.

Amendments to the Radio and Television Act were promulgated on 29 September: Article 10, paragraph 1, item 6 prohibits pornographic broadcasts and broadcasts praising or excusing violence or inciting to racial, sexual, religious or national hatred. BHC qualified this as a violation of the freedom of expression, since it does not define the exact meaning of "pornography" in the conditions of widespread distribution of papers and magazines with such content in the country. Obviously, this makes it difficult for individuals to set criteria for legitimate behaviour with regard to pornography.

During the year, the composition of the National Radio and Television Council (NRTC), the state body, which enforces the Radio and Television Act, was changed several times. Not one of the changes helped to make it more independent however. On 24 February,
writer Ivailo Petrov, a person close to the government, was elected NRTC member in the place of Neli Ognyanova who had left the Council. The opposition nominee was not even put to the vote due to which all opposition parliamentary groups boycotted the meeting and Mr Petrov was elected solely with the votes of the ruling majority. In December the NRTC re-elected two of its three former members whose mandates had expired. Both were close to parties from the parliamentary majority. The third vacancy was filled by the President who appointed a lawyer from his office. The nominee of a broad coalition of human rights and branch organisations, united in the Bulgarian Media Coalition, was rejected by the President. The coalition reacted in the media, expressing concern over the poor partnership between the presidential institution and civic organisations, as well as over the underrating of the expert character of the NRTC. In addition, the limited powers of the NRTC should also be noted. As a result of the clumsily drafted Radio and Television Act, after the issue of a programme licence by the NRTC, a state body, the State Telecommunications Commission, is the last instance, which decides who may be granted a telecommunication licence. Several dozen television and radio operators were licensed during the year. In practice, the licences are made effective with the last signature - that of the prime minister. This caused some of the applicant radio stations to be chosen over others (for example, the Mila Radio). Problems were also caused by Article 105 of the Radio and Television Act, according to which the NRTC is not entitled to demand retroactively transparency of the capital of applicants, which enabled radio operators with dubious origin of funds to be licensed.

Political control over the national electronic media during the year was seen in the attempts at interference in the content of broadcasts and in several politically motivated appointments and dismissals. The chance to control the content of broadcasts in Bulgarian National Television (BNT) was provided with the new BNT rules of operation of the director of the News and Current Affairs Department whose initial appointment had not been politically unbiased. This was even qualified as a violation of the freedom of speech by one NRTC member in April. On 5 January, the BNT Programme Council attempted to censure the Bulgarian TV series "The Big Games", directed by Ivanka Grubcheva and written by Georgi Danailov. The motives of the BNT leaders were party-biased: detrimental allusions of the characters to the elitist school in Gorna Banya, which is attended by the children of well-known politicians. In the end, however, in view of the brewing public scandal, the series was screened. In September Polya Stancheva was appointed "programme director" of Bulgarian National Radio (BNR), a position which had only just been created. Without any experience in the management of an electronic media, Ms Stancheva, head of Public Relations in the National Assembly, was clearly sent to BNR as a person loyal to the government, which triggered sharp protests by some of her colleagues. BNR director general Alexander Velev continued to take interviewees off the air and to thematically restrict the presenters of the most popular programmes "Horizont Ahead of All" and "Sunday 150". Several cases of lay-offs and dismissals from BNR and BNT caused and led to publicly voiced doubts of political motives. At the end of the year BNT director Lili Popova took two songs of the NLO [UFO] band off the air. The songs, which were to be broadcast in the "NLO" New Year's Eve show, contained a harmless joke about prime minister Ivan Kostov. In this connection deputy programme director Nevyanaya Usheva commented in the Trud daily that "he who pays the piper, calls the tune".

The Penal Code was reformed in 2000 in the part on insult and libel. The punishment of imprisonment, a possibility envisaged in the old provisions, was revoked, leaving only penal fines. The possibility to criminally prosecute insult and libel of "public officials" through the prosecutor's office, was also done away with. After the reform of the Penal Code, insult and libel may only be prosecuted by private complaints of the aggrieved.
party. During the final voting of the provisions in January 2000, however, the National Assembly adopted heavy fines - between 5,000 and 30,000 leva [5,000 - 30,000 DM], which would actually encumber the situation of some defendants rather than ease it. On 28 January, President Stoyanov vetoed and returned the texts of the Act to Amend the Penal Code, relating to insult and libel, for repeated discussion. In March the National Assembly voted on the President's veto and reduced the fines to 1,000 - 20,000 leva [1,000 - 20,000 DM]. But they still remain far too high for the financial possibilities not only of Bulgarian citizens, but of the media in Bulgaria as well. In addition, the size of the fine for insult and libel of a public official remained higher than in the case of insult and libel between private citizens. The revocation of imprisonment also revoked the possibility for cassation claims, leaving local courts as the final instance. Their attitude, judging by their jurisprudence to date, was far more repressive than that of the Supreme Court of Cassation.

Journalists and private individuals continued to be sentenced for insult and libel by politicians, albeit under private procedure, in 2000 too. The district court in Zlatograd fined journalist Efim Ushev, editor-in-chief of the local newspaper, for an article against UDF politician Filip Kyurtev, nominated by the UDF for mayor. 24 Chassa journalist Liliyana Stoyanova was sentenced by the district court in Varna to pay a fine and damages totalling 1,500 leva to a municipal administration official. The sentence was passed in a libel case, instituted by the Prosecutor's Office, but was later continued by private complainant for an article written in 1998.

In addition, through criminal proceedings, during the year freedom of expression was also restricted by other kinds of official repression. In February the Supreme Cassation Prosecution Office started questioning journalists in Sofia under the inquiry ordered by the Chief Prosecutor, aiming to establish whether investigative information in the case of the assassination of the former prime minister Andrei Lukyanov had been released without permission by the prosecution. Journalists from the 24 Chassa daily, 168 Chassa weekly and Monitor daily were questioned. These interrogations demonstrated the desire of the judiciary to intimidate journalists. In June Alexander Kandjov, a UDF activist, was kept for four days in a pre-trial detention centre in Pleven for organising a petition for the resignation of the minister of justice in the city. Criminal proceedings on two counts were later instituted against him by the prosecutor's office - for hooliganism and insulting of a public official, and for falsely accusing a person of committing a crime. At year's end only the case on hooliganism and insult had gone to court.

As in previous years, in 2000 too, several journalists were assailed by private citizens because of their publications. On 28 February, the car of Momchil Milev, a journalist from the Kapital weekly, was set on fire, probably due to his publications in the paper. This was the second assault against a Kapital journalist, after Alexei Lazarov was beaten up in June 1999.[13] On 28 November Angel Atanassov, editor-in-chief of the Dobrich paper Dobrudjanska Tribuna, was beaten with rubber truncheons by an unidentified perpetrator for articles published in the paper in connection with the illegal transactions of a number of local companies. On 16 December a journalist from the Yambol newspaper Tundja Dnes, Todor Dimov, fell victim to a brutal contract beating, again because of his publications in the paper. In this case the perpetrators were quickly caught and brought to justice.

In several cases during the year the authorities confiscated printed publications of unpopular groups and private citizens. In May the police in Pernik burst into the office of the Flamingo company and confiscated Trayko Georgiev's book Mafioso Bulgaria in order to prevent its distribution. On 7 August, a delegate to the World Macedonian
Congress, held in Skopje, was searched at the border checkpoint near Delchevo. Materials relating to the work of the congress were confiscated. Later she was summoned and questioned by the police in the town of Belitsa. At the end of December the police organised an action to confiscate Hitler's Mein Kampf from several distribution outlets in Sofia.

VII. Right to Respect for Private and Family Life

Several scandals related to the violation of the right to respect for private and family life ensued in 2000. They were all linked with widespread police wiretapping of private citizens and organisations. In January 2001, following an inquiry, the Prosecutor's Office announced that the courts had issued more than 10,000 authorisations for wiretaps at the request of the Interior Ministry in 2000. A negligible part (2-3%) of these wiretaps were later used in criminal proceedings. In April the press reported the wiretapping of a journalist from national television. In July, listening devices were discovered in the home of the Chief Prosecutor, as well as in the homes of another prosecutor and of an opposition BSP MP. The inquiry into the cases was unable to ascertain whether the devices had been activated, but it was revealed that listening devices had been installed in some residential buildings already during their construction, even after 1989. In November a prosecutor with the Chief Prosecutor's Office stated that several politicians, as well as the director of the National Investigation Service had been wiretapped by the police. In several subsequent interviews, he said that Interior Ministry officials were engaging in illegal private wiretapping. Later, according to him, his office was broken into and materials stolen from it, which he had to present in the course of the initiated inquiry.

Reports were also received during the year that the security services were placing people under surveillance due to their religious convictions. At the end of October, Maria Mindeva, member of a Protestant religious community in Dobrich, reported that she had been visited by a National Security Service official who had asked her to cooperate with the service "in the fight against the sects".

VIII. Freedom of Association and of Peaceful Assembly

On 21 September, the parliament adopted the final version of the new Non-Profit Corporations Act. On the whole, the act is a sign of progress in that it establishes clear rules for the registration of associations of citizens and foundations, as well as by enabling those of them who wish to be granted privileged status, which would entitle them to tax exemptions or direct funding by the state. These exemptions are expected to be established with other legislation which was still pending at year's end. The act also enables non-profit corporations to carry on business linked with their goals and to facilitate the decision-making procedures of their bodies.

At the same time, the freedom of association and the right to peaceful assembly in Bulgaria continued to be violated in 2000 with regard to a number of ethnic and religious minorities, as well as with regard to unpopular political and trade union groups. The most drastic violation in this respect was the decision of the Constitutional Court of 29 February 2000, whereby the political party of a part of the Bulgarian Macedonians, the United Macedonian Organisation (UMO) "Ilinden" - PIRIN (an acronym of the Bulgarian
for 'Party for Economic Development and Integration of the Population'), was ruled unconstitutional. The court held that the party is a threat to Bulgaria's national security with its activities, which are separatist and in violation of Article 44, paragraph 2 of the Constitution. The court was approached in 1999 by a group of MPs, mainly from the BSP, but their petition was supported by a number of state institutions, including the Interior Ministry, the Ministry of Justice and the Chief Prosecutor's Office. They presented "evidence" of the "separatist" activities of UMO "Ilinden" - PIRIN, some of which apparently had been collected illegally. The bulk of this evidence consisted of statements of leaders and activists of the party and of publications in the press prior to the party's establishment. However, they were not examined and considered in the course of the judicial proceedings in conformity with fair trial standards. Nor did the Constitutional Court take into account the statutes and programme documents of UMO "Ilinden" - PIRIN, which expressly state that the party shall pursue its goals in a peaceful way and with legal means. With its decision the Constitutional Court held that any statement by a leader or activist of a political party may be interpreted as "separatist activity", regardless of the circumstances in which it has been made and regardless of the real threat it constitutes to the territorial integrity of the country. Thus, according to this decision, the Constitution can be violated not only with actions, but with words and theories. One of the statements of a party activist cited by the Constitutional Court in the list of statements whereby it substantiated its decision, was that "the human rights of the Macedonians in Pirin Macedonia stand higher than the national sovereignty of Bulgaria". With its decision, the Constitutional Court provides serious reason to believe that it is actually based on the traditional denial of all Bulgarian state institutions of the existence of a Macedonian ethnic identity in the country. It claims that "no distinct Macedonian ethnos exists in the Republic of Bulgaria". On the basis of the Constitutional Court decision, on 13 July the Sofia City Court issued an order whereby it deleted the party from the register of political parties, thus effectively banning it.

The right to peaceful assembly of Bulgarian citizens who identify themselves as Macedonians was put to the test on several occasions during celebrations of anniversaries, which they consider important. During 2000 the mayor of Sandanski prohibited the celebrations by Macedonian activists of the anniversary of the death of Yane Sandanski near the Rozhen Monastery. Despite this, on 22 April activists of the UMO "Ilinden" association were allowed to lay flowers and to stage a rally at his grave. Prior to this however, policemen near the town of Melnik had checked their cars, including for snow chains, and imposed a number of fines for alleged technical irregularities. They confiscated a report on the activities of the organisation, leaflets, posters, banners and a ribbon for a wreath written in Macedonian. Several persons were warned not to make political speeches and not to wave banners at the grave. On 23 April, UMO "Ilinden" - PIRIN activists also paid their respects at the grave of Yane Sandanski. Their vehicles were also subjected to police inspection, including for weapons. Banners and ribbons were confiscated, and the police demonstratively filmed the participants on video. On 30 July, Macedonian activists, in contrast to previous years, were able to get to the Samuilova Krepost locality in order to celebrate the anniversary of the Ilinden Uprising. This assembly, too, had been banned by the Petrich mayor, but the police hinted to the participants that they could conduct their celebrations despite the ban.

The generally more lenient attitude of the authorities to the peaceful assemblies of citizens who identify themselves as Macedonians in 2000 was probably due to a case pending before the European Court of Human Rights. In a public session on 17 October, the court heard the case of Boris Stankov and UMO "Ilinden" v. Bulgaria, which concerns the violation of the right to peaceful assembly in connection with celebrations held outdoors in five cases between 1994 and 1997. The decision of the court is still pending.
In a flagrant relapse to the old attitude, however, on 12 September (the day of the "Macedonian Genocide"), Blagoevgrad district prosecutor Snezhana Katsarska banned UMO "Ilinden" from celebrating the anniversary of the 1924 massacre of Macedonians on the grounds that it would cause "confusion among the citizenry". The celebrations were to have been held in Blagoevgrad's Macedonia Square, in front of the Gotse Delchev monument. Several policemen read the decree to UMO "Ilinden" activists already in Sandanski, before they left for Blagoevgrad, but did not furnish them with a copy. The next day they were stopped by policemen with truncheons who barred their access to the venue of the celebrations.

Except in relation to Bulgarian citizens who identify themselves as Macedonians, problems of the restriction of the freedom of association and the right to peaceful assembly in 2000 were also faced by unpopular political, trade union and religious groups. On 2 April, the monarchist group "Civil Alliance for Bulgarian Interests, National Dignity, Unity and Unification - for Bulgaria" lodged an application with the European Court of Human Rights after receiving a final refusal for registration by the Supreme Court of Cassation. The group was refused registration despite its declared intention to adhere to legal means in the accomplishment of its goals, due to its demands to restore the Constitution of the Kingdom of Bulgaria, to change the form of government in the country from republican to monarchist, and to eliminate the borders between Bulgaria and the Republic of Macedonia.[14] In several cases religious communities and different groups of believers suffered arbitrary banning of their peaceful assemblies by the authorities and private citizens and groups (see Freedom of Thought, Conscience, Religion and Belief).

In March, the Committee on Freedom of Association with the International Labour Organisation (ILO) sent its second report on the case of the Trade Union of Railway Engine Drivers in Bulgaria in connection with their strike, as a result of which many drivers were dismissed and later threatened and forced to leave the trade union.[15] In its report the Committee recommended that the dismissed workers be reinstated without delay in addition to being paid compensations. It also recommended the establishment of an independent commission to investigate the threats against the engine drivers. It also expressed concern over the rather vague provisions of the Settlement of Collective Labour Disputes Act, which permit arbitrary actions by the authorities in dealing with strikes. By the end of the year, however, only eight engine drivers had been reinstated, no independent investigation into the cases of intimidation had been initiated and the law was not amended.

IX. Conditions in Places of Detention

In 2000, the Bulgarian Helsinki Committee continued and broadened its monitoring of the human rights situation in places of detention and prisons in Bulgaria. These places may be divided into two main groups:

- places of detention according to the criminal procedure;
- places of detention according to the administrative and judicial procedure.

The first group includes prisons of different types and their labour correction hostels, pre-trial detention centres and police custody.
The second group consists of several types of places of detention under the Decree for Minor Hooliganism: detoxification centres, homes for temporary placement of either adults or minors, places of detention with the transport police, educational boarding schools and social educational boarding schools, psychiatric hospitals and other clinics for forceful treatment.

By 1 January 2001 there were a total of 8,971 prisoners, including 347 accused persons and 1,100 indicted persons in the country's 13 prisons and 23 labour correction hostels. About another 1,000 persons in pre-trial detention centres should be added to this figure. This number is smaller than in previous years. Despite this, the old housing stock and the relatively large share of persons confined to facilities of a closed type hinders the lasting solution of the problem with overcrowding. Last year the prison management in Plevno reported an overcrowding of 160%; overcrowding in Troyan amounts to 200%, 260% in Burgas, 150% in Lovech and 200% in Stara Zagora. The calculations in some places, however, are based on lowered standards. In some prisons up to 30-35 persons can be accommodated in the same cell (Plevno, Varna, Lovech, Troyan, Kremikovtsi). The beds in these cells are arranged on two and sometimes even three levels. Overcrowding makes it impossible to separate prisoners according to the conditions under which their sentence is served, impedes individual and group re-socialisation and creates a number of problems of personal hygiene. Only a few prisons have lavatory facilities inside the cells. In all other prisons buckets are still used for the needs of nature during the night. Inadequate heating in common rooms is another problem in some prisons. Even during the coldest days the heating was only turned on for a few hours a day.

Many of the prisons are in desperate need of repair. No repair works have been carried out for the last six years in the 8th unit of Sofia Prison, housed on the top floor, commonly known as the "pigeon-loft". The ceiling leaks when it rains, leaving stains on the cell walls and in the corridors. The walls grow damp and mouldy in the winter.

The Execution of Punishments Act provides that prison food is adequate in chemical and calorie value. As in previous years, its quality and quantity has given frequent rise to complaints. Some prisons have good subsidiary farms, which facilitate product supplies, while others buy food supplies mainly at market prices.

The large number of incarcerated persons in prisons and pre-trial detention centres for prolonged periods of time presents a serious problem. Lately, there has been a trend towards keeping the duration of preliminary proceedings within reasonable terms. Defendants are detained for more than six months only in isolated cases. In the reform school for juvenile delinquents in Boichinovtsi, which until recently reported the largest number of defendants, only two persons had been detained for over six months without an indictment at the end of 2000.

Only a small part of prisoners have access to work which leads to a reduced sentence - one fourth on the average for the whole system. The issue of the selection of prisoners for work has always been controversial. In one prison non-working prisoners had to sign declarations that they were willing to work without payment only to have it count towards a reduction of their sentence. These inmates also often worked outside the scope of normal working hours and occasionally also on Saturdays and Sundays. A petition from the prison in Stara Zagora, signed by 26 inmates, reports that despite bad working conditions, no food is ensured to neutralise the harmful effect of the working environment, and days worked only count towards reduction of sentence and payment if the work quota has been met. An average of 30% of working inmates meet their quotas. Daily quotas are not subject to control or correction by an outside body. The inaction of
responsible Justice Ministry officials, who for years have done nothing to legally settle
the issue of counting work behind bars as length of service towards retirement, may well
be qualified as irresponsible.

The re-socialisation carried out in prisons and labour correction hostels does not have the
desired effect. There are 70-100 prisoners for every social activity inspector, which is the
reason why individual programmes are not carried out. In most prisons amateur cultural
events are organised only on holidays. The category of recidivists is considered beyond
redemption and no cultural, artistic or sports events are organised for it. In some places
there are no educational facilities, and in places where they exist they are in bad
condition and poorly equipped.

The organisation and standard of medical services is yet another serious problem in the
system of the places of detention. Medicine and possibilities for specialised treatment are
lacking. Prison doctors occasionally refuse to issue medical certificates to victims of
excessive use of physical force and auxiliary means of restraint by wardens. Toxicomania
and the dependence on medicines among inmates is growing and in need of urgent
preventive measures.

The Prosecutor's Office, the courts and the Office of the President often do not reply to
applications and grievances of prisoners or delay the answers. In May 2000, an inmate
from the prison in Lovech was punished by deprivation of the right to visits for a period
of two months and by confinement to a penal cell without the right to work for a period
of 10 days for having lodged a complaint with the prison governor and with the Ministry
of Justice and Legal Eurointegration, stating his grievances and alleging that he was a
victim of ethnic discrimination (the prisoner is an ethnic Turk). In protest, he went on a
hunger strike and lodged a complaint with the BHC. As a result of the intervention, the
head of the Central Penitentiary Administration cancelled the punishment. The governor
of the Lovech prison was told to be more careful in his actions when imposing
disciplinary punishments for the personal opinions of prisoners expressed in complaints.

According to Article 33 of the Execution of Punishments Act, inmates' correspondence is
subject to checks. Only correspondence addressed to certain state institutions and
international organisations is excluded. In all other cases, however, letters are routinely
checked by the prison administration, including those addressed to lawyers. In
December 2000 the Supreme Administrative Court repealed Article 25, paragraph 1 of
Ordinance No. 2 according to which the correspondence of accused and defendants is
subject to checks by the administration because no such legal restriction has been
established.

The BHC monitoring established several cases of unjustified detention in excess of the
imposed punishment in every prison. The length of excessive detention varied from a
few days to over a year (Bobovdol). The reasons are primarily excessive red tape in the
administration of justice.

A number of reports were received during the year, which concerned failure to allow
prisoners to be visited by a lawyer who is a spouse, antecessor or descendant of the
defendant. Lawyers deprived of these rights most often refrain from seeking their rights
under the legal procedure in order not to harm their clients.

In connection with the excessive use of physical force in prisons during the year, 72
complaints of violence were received from prisoners by the Ministry of Justice as at
November 2000. Of these, the ministry judged only four as being justified. Disciplinary
measures against 36 officials were taken in the Central Penitentiary Administration system as a whole.

The BHC findings after dozens of visits to prisons show that the use of force in the solution of problems has still not been overcome. The practice of maintaining discipline through ill-treatment and threats still exists in some prisons, and the procedure of filing complaints against wardens does not function effectively. In a complaint to BHC, two inmates from the prison in Stara Zagora reported that they had been beaten by one of the officers for having refused to go down to breakfast because they were ill.

Medical care in prisons as a whole was inadequate. The system is unable to cope with many problems, including the increasing drug addiction, treatment of chronic diseases and dental care. Medical care in pre-trial detention centres was particularly inadequate. A typical case was recorded in the pre-trial detention facility in Varna where in September 2000, after several months in police custody, a 32-year-old defendant suffering from diabetes was finally taken to hospital where he died. Some progress was sustained in the battle against tuberculosis. This was largely due to the large number of hospitalised and treated patients and the active, adequate therapy provided in the TB dispensary in Lovech. By rearranging the rooms and adding extra beds in offices and administrative premises the capacity was increased to about 120 hospital beds. The addition of a new hospital wing is also under consideration. However, most of the patients are admitted for treatment in a very bad condition, after they have developed lung caverns and the disease has become contagious.

Extremely great concern is bred by the subordination of medical services and specialists to the prisons and pre-trial detention centres governors and its consequences. As a result of this administrative structure, purely medical issues are very often decided by prison administration officials rather than by medically qualified personnel, and that on the basis of conditions of sentence and economic considerations. One case which causes alarm is that of the Mustafa Ramiev Mustafov from the village of Mostich, who died in the Lovech prison in February 2000. The prisoner was in poor health. On 11 February the medical commission of the Lovech prison insisted on outside treatment due to the prisoner's poor state of health, being unable to look after himself, suffering from diabetes and tuberculosis of both lungs, complicated by pneumonia. The commission recommended his urgent transfer to an outside treatment facility. But the governor of the prison in Lovech refused to give his consent for the termination of punishment due to the conditions of the sentence, as a result of which the prisoner died in the Lovech prison hospital on 18 February 2000.

After the appointment of clergymen in prisons, professors of the Orthodox religion were able to conduct regular services. However, other denominations registered officially in the country are still facing difficulties in their attempts to conduct religious activities in prison. The Muslim religion was only able to organise a service in Sofia Prison and to receive permission for weekly services by the prison administration at the end of 2000.

The oversight of legality in prisons in accordance with Article 127, paragraph 2 of the Constitution of the Republic of Bulgaria was irregular and ineffective. The visits of prosecutors in places of detention rarely ended with findings and recommendations. Conformity of the actual situation with statutory requirements is not being observed and no meetings and talks are held with inmates in private.

Violations of rights were also registered in connection with detention in places, which are not mentioned in Bulgarian legislation. Any detention outside the units of the Interior
Ministry, pre-trial detention centres, prisons or psychiatric clinics should be considered illegal. During the summer press reports revealed a case of detention in a villa in Koprivshtitsa in which a defendant was subjected to torture in order to confess. An inmate from the Plovdiv prison reported that he had been arrested by a police officer and taken to a private home, which served as a place of detention for five days.

At the end of 2000, the Ministry of Defence ordered the closure of the two military correctional centres. The most frequent crime committed by servicemen is escape from the barracks, which is treated as draft evasion and a crime against the defence capability of the republic. In future, sentenced servicemen will serve their prison sentences together with other prisoners. Although this might well save money for the Defence Ministry, incarcerating draft dodgers together with persons convicted for grave crimes is likely to have a negative educational effect on young soldiers.

At the end of 1998, pre-trial detention centres were taken out of the system of the National Investigation Service and transferred to the Ministry of Justice and Legal Eurointegration, with which a separate directorate was established. There were 75 detention centres in the country in 2000. In fulfilment of the recommendation of the European Committee for the Prevention of Torture to place all accused persons in prison conditions in order to detract from the practice of keeping persons under preliminary investigation in conditions which are virtually the same as in police stations, 14 out of the total 29 pre-trial detention centres housed underground were closed by the spring of 2000. The remaining 15, however, as well as the others in which conditions can fairly be described as inhuman, continued to function. The statutory framework for the functioning of pre-trial detention centres is provided by Ordinance No. 2 of the Ministry of Justice from 19 April 1999. It is applicable to conditions in prisons in which the accused and indicted are kept, but the conditions in pre-trial detention centres do not permit the observance of the rights guaranteed by it.

This refers to the right to outdoor exercise, the right to visits and correspondence, the right to use personal belongings, adequate medical care, acceptable living conditions - lighting, ventilation, sufficient space, etc. Some of the cases brought against Bulgaria in the European Court of Human Rights are for damage sustained as a result of inhuman conditions in pre-trial detention facilities. The worsened psychological atmosphere in them often results from wanting to go to the toilet or having a cigarette. To prevent the use of buckets for the needs of nature, guards should unlock the cells every time a detainee wants to use the lavatory. In crowded detention centres, however, it is impossible to follow this instruction. Prohibiting detainees from requesting the use of lavatory facilities is one of the reasons for the excessive use of physical force. In some detention centres, however, detainees are beaten as soon as they are admitted in order to intimidate them. According to repeated reports by prisoners, the problem of excessive use of physical force and auxiliary means of restraint was most serious in the Plovdiv pre-trial detention centre. There, at the end of May, a detainee who suffered from epilepsy was found dead in his cell with internal haemorrhages caused by beating.

During the year BHC continued its visits to social educational boarding schools and correctional boarding schools. The analysis of conditions in these special schools revealed a gloomy picture. The Ministry of Education does not provide regular funding for either social educational boarding schools or correctional boarding schools. The monthly subsidy in many boarding schools only covers staff wages. For this reason the children are fed mainly with canned food and donated products. Pupils placed in social educational boarding schools or correctional boarding schools are not allowed to leave the premises without permission. If they do, the police track them down and returns
them. To compensate for the restriction of leaving the boarding school or region it is necessary to significantly improve the facilities for education, entertainment and games. The violations of the rights of children in some schools are due to the imposition of illegal punishments such as shaving the children's heads, forced labour, forcing them to do repeated crouches and front supports, and different forms of ill-treatment.

X. Protection of Minorities, Aggressive Nationalism and Xenophobia

No discernible progress was made in the protection of the rights of persons belonging to different ethnic, religious and linguistic minorities in Bulgaria in 2000. Some of the few positive developments included the attempt to desegregate a Roma school in Vidin and the launch of Turkish-language newscasts on Bulgarian National Television in October. In September, after the start of the academic year, 252 children from the Roma school in Vidin were enrolled in Bulgarian schools in the town. However, the initiative was not organised or funded by the authorities, but by local and international nongovernmental organisations for the protection of Roma rights and was facilitated by the decreasing number of pupils in the town's Bulgarian schools. The launch of Turkish-language newscasts (see Freedom of Expression, Freedom of the Media) was of symbolic significance more than anything, since it was done in a time interval during which very few people watch television. Despite this, it met with the fierce resistance of nationally inclined circles in Bulgarian society, including some close to the government. It prompted several other minority communities to demand broadcasts in their languages, which were not satisfied.

By ruling the party UMO "Ilinden" - PIRIN unconstitutional, the authorities confirmed their reluctance to recognise the existence and rights of Bulgarian citizens who identify themselves as Macedonians in Bulgaria (see Freedom of Association and of Peaceful Assembly). The ethno-cultural rights of members of the Turkish minority were violated in several cases. At the end of May, municipal officials in Pleven put pressure on the organisers of the celebrations of the Day of the Child to cancel the cultural programme they intended to present in Turkish. At the end of November and in December the mosque and building of the mufti's office in Pleven were repeatedly defaced with graffiti of "Turks, Go Home" and "Bulgaria Above All". Later in December, 50 graves in the local cemetery were desecrated. In March the regional MRF leader in the Lovech region, Bahtiyar Karaali, said that employers in the region refused to hire members of the minorities even for unskilled jobs, which forced them to change their Muslim names to Bulgarian. A total of 173 applications for name changes had been lodged with the Lovech court alone by 30 March. In possibly the most drastic case of an attack against the religious identity of the Bulgarian Muslims, on 18 December the Ministry of Education issued an instruction decreeing that classes on Islam in school should be taught only in Bulgarian (see Freedom of Thought, Conscience, Religion and Belief). The Bulgarian Jews were also the target of xenophobic actions. At the end of May the walls of the former synagogue in Burgas were painted with swastikas and anti-Semitic slogans, such as "The world is a nicer place without Jews". The Jewish cemetery in Vidin was repeatedly desecrated through defiled graves and thefts.

Nevertheless, as in previous years, the most drastic violations were committed against the rights of the Bulgarian Roma. The Framework Programme for Equal Integration of Roma in Bulgarian Society[16] remained merely a piece of paper throughout 2000. No actions were taken for its implementation, despite the terms set down in it, aside from the appointment of a number of individual Roma as experts in the regional
administrations. However, these appointments were not linked with implementation of other elements of the programme and were mostly made for political purposes. No progress was made during the year in allocating land to landless Roma, in the urban planning of Roma neighbourhoods and in assisting enterprises hiring indigent people as required by the Framework Programme. No headway was made in the encouragement of Roma culture or in the study of the Romany language at school. Roma children continued to constitute a disproportionate share in children's institutions and especially in correctional boarding schools, social educational boarding schools and auxiliary schools. The only state body in the country working on minority issues, the National Council on Ethnic and Demographic Affairs, did not convene a single time in 2000.

Roma were the target of discrimination and societal violence by private citizens and groups in many instances in 2000. On 2 December, several Roma families in the village of Orehovitsa, near Pleven, were attacked by local inhabitants. The windows and furnishings in at least three Roma homes were smashed after the attackers broke into them; several persons were beaten with wooden posts and metal rods. The Roma families were resettled in the village in 1991 from the nearby village of Podem after their houses there had been set on fire by organised mobs.

In the course of several months Roma in the village of Mechka, near Pleven, were prevented from shopping in the local stores and from selling the milk they produce; their children were prevented from attending the local school. The reason was a conflict that had ensued between the local Roma and Bulgarian community after a crime, which a Roma was suspected of having committed. On 2 May a number of Bulgarian intellectuals signed an appeal to the state institutions, asking the state to intervene in order to limit the birthrate among the Roma. On 15 May members of a neo-fascist group of skinheads set fire to a Roma vagrant in a garbage container in a suburb of Veliko Turnovo. On 26 May a group of racist bikers beat up Roma children in Shumen.

The practice not to allow Roma to public catering places and other communal services continued. Such refusals were reported in Sofia, Plovdiv, Pazardjik, Balchik, Vidin, Blagoevgrad, Haskovo, Shumen, Svilengrad, Pavlikeni, Stara Zagora and Yagoda. At the end of the year thousands of Roma staged protests because their due social benefits had not been paid in several of the country's municipalities, including Vukchedrum, Oryahovo, Targovishte and Russe.

However, much of what the Bulgarian authorities promised, but failed to do with regard to the Roma and other minorities in the country was done in respect of ethnic Bulgarians abroad. In April Parliament adopted the Bulgarians Resident Outside the Republic of Bulgaria Act. The act grants a number of privileges to Bulgarians residing abroad: to receive work permits under facilitated procedures, to receive financial and other assistance from the state bodies while settling in the country, to enjoy the gratuitous right to use of land from the state or municipal land stock, to receive credits for buying real estate, homes and implements under facilitated conditions. In July the regional governor of Kurdjali, the region most densely populated with ethnic Turks, said that some 30,000 Bulgarians from Moldova and the other former Soviet republics would be settled there. If implemented, these measures would drastically change the ethno-demographic structure of the region.

XI. Political Asylum
In 2000 BHC continued to be actively involved with the protection of the rights of refugees and asylum seekers in Bulgaria. The problems in the application of the Refugee Act, effective since August 1999, as well as its shortcomings, were revealed during the year. Some of the shortcomings observed in previous years in proceedings before the relevant administrative body - the Agency for Refugees - were corrected during the year. However, new violations of the law were committed in the attempts to limit the number of refugees with access to asylum procedure and the number of refugees with recognised status.

The problems concerning access to registration of asylum seekers without identity documents continued. On the other hand, despite the United Nations High Commissioner for Refugees (UNHCR) initiative for the drafting of a harmonised legal framework, favouring the integration of recognised refugees, at present no such legislation has been adopted and in the current economic situation many recognised refugees are seeking ways to leave Bulgaria due to being unable to integrate fully in the country.

The accelerated procedure for considering asylum applications, regulated by the new law, was only introduced on the country’s border checkpoints at the end of the year. A number of basic problems were outlined in this connection. The absence of transit centres at the border checkpoints not only impedes the accelerated procedure, it also virtually makes it unlawful. Quite often, as a result of the "accelerated procedure", asylum seekers are unlawfully detained for prolonged periods of time without being served a determination of their appeal or in absolutely inadequate conditions. A related problem is that there is no independent judicial review of decisions in the accelerated procedure. The two different authorities in the procedure - the Agency for Refugees and the National Border Police Service - are unable to reach an agreement and a common approach, which leads to the virtual absence of the accelerated procedure, and hence also to the mass practice of turning away asylum seekers at the borders.

One of the shortcomings of the Refugee Act is the absence of provisions providing for additional measures for the protection of de facto refugees who do not satisfy the clauses of the 1951 convention. Not a single law in Bulgaria has provisions on their treatment.

At the end of the year, a particularly great stir was caused in the media by the case of several dozen Iraqi Kurds who illegally crossed the border into Bulgaria. Most of them were refused refugee status. Subsequently they were granted the so-called "humanitarian status", which consists in the simple admission on Bulgarian territory without any government commitment for assistance. They were all detained for over two months in inhuman conditions due to the absence of transit centres and were ultimately left at fate’s mercy in the centre of Sofia without any means of support. More than 80 of them were forced to spend several days in a room without beds, food or lavatory facilities. Some of them reported ill-treatment by the police during their detention,[17] and one youth was shot dead while trying to cross the border (see Right to Life). Aid for recognised refugees was not paid regularly and the conditions in some of the places in which they were accommodated were inhuman.

The Bulgarian Helsinki Committee was unable to ensure access to the preliminary version of the currently prepared new act on aliens in Bulgaria, making it difficult for BHC to formulate additional recommendations to the government and parliament, addressing the need for drafting a realistic, clearly regulated and differentiated immigration policy of the Republic of Bulgaria, in conformity with the intense migration
processes in different parts of the world. The current absence of such a policy leads to abuse with the asylum-seeking procedure and to its overburdening.

XII. Rights of Children in Institutions

Throughout the year 2000 BHC continued its work on the Children in Institutions project, the basic goal of which is to monitor and protect the rights of children in public institutions. In Bulgaria there are several different types of state and municipal institutions accommodating some 35,100 children,[18] as well as several private institutions, the capacity of which, however, is too little at this stage. This figure places Bulgaria among the European countries with the largest share of institutionalised children. These establishments can be divided in five groups: (1) establishments for children without parental care (orphans, abandoned children, etc.) - these are mainly homes for children of pre-school and school age, also known as 'orphanages', and in the medical and social care centres; (2) homes for children with slight mental retardation, also called 'boarding assistance schools'; (3) homes for children with severe mental retardation considered "ineducable"; these homes are under the authority of the Ministry of Labour and Social Policy; (4) punitive juvenile establishments- social educational boarding schools and correctional boarding schools, and (5) shelters for children and other places for temporary accommodation of children. The Child Protection Act, adopted in June 2000, provided the possibility of placing children deprived of parental care in foster families. It also introduced new forms and established special state child protection bodies. Until the end of 2000, however, the enforcement of the law had not brought about any significant change in the number and situation of institutionalised children.

Throughout the year BHC researchers visited about 200 institutions, mainly from the first, third and fourth group. In general, the conditions are best, but also most differentiated, in establishments for children without parental care and in the medical and social care centres. In some of them the BHC researchers established a good level of organization and relatively high standards of care for the children. Serious problems were registered in others, however. First and foremost this is the inadequate budget allotted by state to cover the children's basic everyday needs. According to data from the Ministry of Education and Science from May 2000, the average daily food allowance in the system of the homes for children without parental care is 0.5 BGN [0.5 DM]; funds for bed linen, shoes or clothing are lacking. For this reason, almost all homes without exception are forced to rely on additional funds in the form of donations in order to exist. If in the big cities and relatively well-of municipalities donations can guarantee a significant part of the establishment's budget, in small and poor towns and villages such campaigns yield modest results, if any. Underfed, poorly dressed and unhealthy children met the BHC researchers in a significant portion of the homes.

Although the medical care in these homes, and especially in the medical and social care centres, is at a satisfactory level, the same can hardly be said about the educational activities. The share of children who develop different forms of retardation in their mental or general social development, especially in the medical and social care centres, is significantly higher than the country average. The reason is the lack of individualised care, which is a consequence of the inadequate children-educator ratio, as well as of the social isolation in which children grow up.
Another problem established by BHC researchers in the homes for children without parental care, are the cases of ill-treatment by the personnel, and the cases of violence between the children to which the personnel remains indifferent. In several homes there were registered cases of labour exploitation of children inside or outside the homes.

The social educational boarding schools and the correctional boarding schools pose a more serious problem from the point of view of children's rights. The placement of children in these establishments is still executed in violation of fair trial standards. It is being done on foundations that are unclearly defined in law, by administrative bodies - the local commissions for combating juvenile delinquency - whose decisions are either not subject to judicial control (this is the situation with social educational boarding schools), or the judicial control is purely formal (which is the case with correctional boarding schools). The procedure of examining the cases before the commissions is not competitive and allows for serious abuses. In several boarding schools there were cases of children placed there with only the recommendation of inspectors from children's pedagogic offices. Several months after being placed there their documents had still not been examined by the commission.

The larger part of correctional boarding schools and social educational boarding schools are located in hard to reach out-of-the-way places. This in turn seriously hampers their functioning. In the first place, these are places where access is difficult - on the one side, for the children to leave, but on the other, for potential donors and for inspections of various kinds - educative, hygienic or human rights. The poorly developed local infrastructure, the long economic depression and their location far away from cities make these schools unattractive also for well-qualified and motivated staff. Finding donations, especially for children with deviant behavior, in such conditions can be extremely difficult. These are, literally, "forgotten" places, with all the ensuing consequences for the living conditions, the quality of education, supervision and the possibility for creating social connections of various kinds.

Medical care is a serious problem in the correctional boarding schools and the social educational boarding schools. For the time being not in a single child has adequate access to medical care; immunizations and prophylactic examinations are not carried out. The reason is that the vast majority of children in these schools have no health insurance because of flaws in the Health Insurance Act.

The BHC monitoring in these schools has also registered an important, not institutional, systematic discriminative effect - a disproportionately large share of ethnic minorities (mainly Roma). The share of minority children in system is 65% on average. But if the four of the boarding schools with a relatively small number of minority children are subtracted from this number, the share would rise to 75%.

Among other human rights violation established by the BHC team, which deserves special attention, is the reported sexual ill-treatment by the personnel of girls in two of the boarding schools (Yagoda and Loznitsa). BHC has notified the Ministry of Education and Science about the incidents, but no information on the outcome of the Ministry's possible investigation is available. It was established that in several of the schools the personnel did not react with the necessary decisiveness to beatings and other forms of abuse among the children. In other schools, under various pretexts but without any legal foundation whatsoever, searches were conducted - of the children, as well as of their lockers.
In many boarding schools the BHC researchers found out illegal hiring to work of children and working activities conducted by children that were on the border of exploitation. The children are most often hired by locals who give them hard work in exchange for worthless presents or money, but without work accident insurance. It would not be unfounded to say that the very system of conducting work in some of the boarding schools allows exploitation. This is the case, for instance, in the educational boarding school in Gabrovtsi, where free child labour is used the school's farm, and in other boarding schools (e.g. the social educational boarding school in Pelatikovo).

Quite serious with regard to violation of children’s rights in the year 2000 was the situation in the homes for children with moderate, grave and deep mental retardation. Whereas in social homes, where the children stay throughout the day, the situation is relatively good, in institutions for minors with mental retardation where they stay all year long and in some of the social educational and professional establishments it was the cause of concerns expressed many times by local and international organizations monitoring children’s rights.

Twenty-five out of the 32 all-year-round homes for children with mental and physical disabilities are located in small towns and villages in economically lagging areas. An estimated 90% of the children there have been left behind by their parents. Children with mental and physical disabilities are most commonly accommodated in former hospitals, village medical offices, army barracks, municipalities, even frontier posts and railway stations. BHC researchers established cases of admission of children without the necessary documents (usually medical), which is in contradiction with the law. Twenty-five per cent of the children in the Kachulka childcare centre near Sliven, for example, have been accommodated without documents, even birth certificates.

The statistics about the sources of funding of the social childcare homes reveal that the state has turned its back on them. The children from the overwhelming majority of all-year-round homes are badly fed and poorly dressed. The food allowance per child in the village of Fakia, near Sredetz, is a meagre 5 stotinki [0.05 DM] a meal. BHC established that the poverty, the cold and the hunger in this home have been a threat to the lives of 42 orphans for years. The headmasters in some of the visited homes (those for children with mental disabilities in the villages of Djurkovo, Strazha, and Pravda) confessed that they were forced to economise on food, soap, hygiene products, sanitary napkins. Not a single social childcare home in the country can count solely on the state subsidy to feed its children. Donations exceed the funds allocated by the state and the municipalities for food and materials in most homes. In some of the establishments, e.g. the Mogilino home for children with mental disabilities, the BHC researchers established that the Dve Mogili municipality had not provided a single penny for foodstuffs during 2000.

The ratio between specialists (pedagogues, psychologists, speech instructors, therapists, rehabilitators) and supporting personnel varies in the range of 2:3:1. This alone is indicative that the focus in the homes for children with disabilities is on the children's physiological upbringing rather than their education and socialisation. The correctional-compensatory and educative activities in most social childcare homes are rudimentary.

The issue of the additional motivation of the personnel working in the homes for disabled children deserves special attention. The remuneration of the personnel engaged in this sphere rates among the country's lowest. The monthly salary of specialists working in the system of the social homes is in the range of 160-170 BGN [160-170 DM], while the supporting personnel can expect to receive 85-100 BGN [85-100 DM] for their work. The pedagogic qualification of the educators in the social homes does not count for
extra salary benefits. Furthermore, they are not entitled to additional leave and compensations for their work with children with special needs.

Medical care is another serious problem, especially with regard to the all-year-round homes for children with mental disabilities. With the launch of the health reform in Bulgaria, the larger part of the children was deprived of the medical professionals who had looked after them prior to the reform. The responsibility for the health of the disabled children is now in the hands of the GPs - usually working in towns and cities miles away from the children's homes. As a consequence, specialised medical treatment and rehabilitation are not carried out. Cases of re-certification of diagnoses are isolated, and if they do occur they are incidental. The only case of systematic re-evaluation of preliminary diagnoses, which BHC researchers established, was in several homes, which had been under medical supervision in 1999 in the framework of a project implemented by CARE International - Bulgaria.

The mortality rate in the homes for children with the severest disabilities over the last years has varied between 5% and 18%; the headmasters explain this with the severe pathology. BHC researchers believe, however, that the living conditions, the inadequate care and the limited possibilities for stimulation of the children with special needs also contribute to this situation. Three childcare homes have an especially high mortality rate:

- The home for children with mental disabilities in the Vidrare village, had 18 deaths in 1997, twelve in 1998, and four in 1999;

- The home for children with mental disabilities in the village of Djurkovo registered ten deaths in 1997, and three in 1999;


The documents usually cite bronchopneumonia or heart failure as the cause of death, progressing in the context of severe illnesses - Down syndrome, children's cerebral palsy, hydrocephaly, polymalformation syndrome, among others.

XIII. Women's Rights

No significant improvement in the situation of women's rights in Bulgaria occurred during the year. The three basic problems - domestic violence, labour discrimination and the unsatisfactory participation of women in the country's political life, continued to exist with the same intensity as in previous years.

Domestic violence is a widespread phenomenon according to 68% of the respondents in a representative survey carried out by the Bulgarian Gender Researches Foundation in May 2000. Fifty eight per cent of the respondents knew women who were being physically ill-treated by their husbands, and 32% reported that they had needed medical aid after being ill-treated. Forty eight per cent of the respondents claimed they knew women who were victims of psychological harassment.

During 2000, a total of 40 women addressed the Bulgarian Gender Researches Foundation's programme for legal aid for women in Sofia and Burgas. Fifteen of them
have lodged complaints with the Prosecutor's Office, and 10 have reported the case to the police with no significant practical result. The data at the District Prosecutor's Office in the town of Dobrich, which receives approximately 2-3 complaints daily from women victims of violence, reveals that during 2000 a total of 1,000 such complaints were received. (For a comparison - seventy of these women addressed the Animus Association in Dobrich for help.) The submitted complaints remained, however, without any significant consequences for the victims, and the warnings to the violators by the Interior Ministry officials did not yield the necessary results.

The number of shelters for women victims of violence in Bulgaria is insufficient and does not correspond to the actual needs. During 2000, the Demetra Association shelter, which has only 7 vacancies, gave shelter to a total of 45 women, but was addressed by 300, approximately half of which needed shelter. Practically all NGO centres in the country who work with victims of violence badly need shelters; such centers function in Varna, Pernik, Dobrich, Silistra and Gorna Oryahovitsa. According to information from the Bulgarian Gender Researches Foundation, in average every fourth woman who used the services of these NGOs, needed shelter. Because of inadequate resources, in such cases women are redirected to the Nadya Center in Sofia, which is equipped with 16 beds and allows a stay of up to 6 weeks. The victims usually come with their children. From April 1997 to the end of 2000, 381 women and 126 children were given shelter at the Nadya Center.

Nearly 55% of the Bulgarian adult population perceives gender discrimination as discrimination towards women. Fifty seven per cent of the female respondents and 53% of the male respondents in a representative nationwide survey carried out in November 2000 by the National Public Opinion Poll Center share this opinion. Only 3.5% of all respondents connect discrimination with unequal positions of men compared to women. In most cases the concept of gender discrimination is connected with the following concrete acts: physical ill-treatment - 81%; psychological harassment - 79%; labeling of certain spheres as "male" and others "female" - 74%, human rights violations - 73%; dismissive treatment - 70%. Compared to men, women are more inclined to consider physical ill-treatment as a reason to talk about discrimination.

After 1989 the share of women occupying political posts has decreased. Nonetheless, women are still being widely used in pre-election campaigns and to fill in unelectable positions in party lists. In June 2000 only three women occupied high-ranking posts in ministries or other institutions; only two out of a total of 28 regional governors are female; likewise, two out of a total of 27 high administrative body governors are women. After the October 1999 local elections every eleventh municipality and every seventh town council has a woman mayor. The average ratio between male and female mayors is 87:13. A somewhat larger share of women have been elected in the new municipal councils, thus increasing their share from 22% to 23.5%.

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Recommendations of the Bulgarian Helsinki Committee to the Government of Bulgaria

The Bulgarian Helsinki Committee makes the following recommendations to the Bulgarian government and the other state institutions in the Republic of Bulgaria with a view of improving the human rights situation in the country.

We appeal for:

I. Accession to International Human Rights Instruments

The process of accession to international human rights instruments should continue. The list of such instruments accession to which will produce a long-lasting positive effect on the country's domestic and international situation is still long. The signing and unreserved ratification of several such treaties should be considered as a matter of priority. These instruments include:

- Protocol 12 of the European Convention on Human Rights and Fundamental Freedoms;
- The Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women;
- The Optional Protocol to the Convention on the Right of the Child on Involvement of Children in Armed Conflicts;
- The European Charter for Regional and Minority Languages;
- The Statute of the International Criminal Court;
- The UN Convention on Reduction of Statelessness.

II. Prevention of Torture, Inhuman and Degrading Treatment or Punishment

In order to effectively curb any possibility of torture, illegal use of force and all other forms of violence by law enforcement officials, and in order to bring Bulgarian legislation in line with the international human rights standards, it is necessary to:

1. Introduce legislative amendments to effectively guarantee participation of a lawyer, including free-of-charge counsel for the defence, when the detained individual does not have the necessary means to hire one, from the moment of detention or charging, by establishing for the
establishment of a legal aid system for indigent criminal defendants. The possibility for immediate notification of the detainees' relatives about his/her location and the conditions of detention should be legally guaranteed. Access to an independent medical expertise upon detention, including by a doctor of the detainee's choice, should also be legally guaranteed.

2. Ensure that the Prosecutor's Office and the other state bodies carrying out pre-trial proceedings promptly and effectively investigate all reports of unlawful use of physical force and firearms by law enforcement officials.

3. Establish an independent body to supervise the law enforcement authorities, authorised to receive and investigate individual complaints. This body will guarantee that investigations of unlawful use of force by law enforcement officials are conducted promptly and effectively, and that the findings are made public. The existing system of internal control at the Interior Ministry should also be improved.

4. Amend Article 80 of the Ministry of the Interior Act by ruling out the possibility for use of firearms by law enforcement officials in all cases of apprehension of individuals suspected of committing even minor offences, and for the prevention of the escape of detained individuals.

5. Ensure passing of legislation to guarantee women victims of domestic violence adequate access to justice and rehabilitation, e.g.:

- introduce amendments to the Penal Code, which provide for prosecution of domestic violence as a crime of a general nature;
- establish or support the existing shelters and centres for rehabilitation of victims of domestic violence.

III. Independence of the Judiciary and Fair Trial

Irrespective of the amendments introduced to a number of acts, the problems relating to fair trial remain.

1. In order to guarantee the independence of the judiciary a new reversal of the jurisprudence of the Constitutional Court is necessary to determine that the constitutionally established mandate of the Supreme Judicial Council cannot be changed with a law.

2. There is a pressing need for legislative reform to speed up the process of administration of justice in both civil and, to a higher degree, criminal cases. In order to overcome the unnecessary lag, it is necessary to introduce amendments to acting procedural laws and to adopt a full set of measures, aimed at improving the organisation of the judiciary and the motivation of those engaged in it.
3. Obsolete acts such as the Decree on Minor Hooliganism and the Juvenile Delinquency Act (despite the 1996 amendments) should be fundamentally revised.

4. Detention for up to 15 days under the Decree on Minor Hooliganism should be treated as deprivation of freedom, and not, as presently, as an administrative punishment. Accordingly, legislative amendments should be introduced to bring the administration of justice in line with the requirements of the European Convention on Human Rights and Fundamental Freedoms, including in the part dealing with the time and possibility for effective acquaintance with the charges, preparation of the defence, calling of witnesses, etc.

5. Confinement of children to correctional boarding schools (the former 'labour educational schools') should be considered as deprivation of freedom. Accordingly, a judicial procedure for confinement in such schools should be introduced, which was explicitly requested by the UN Committee on the Rights of the Child in para. 34 of its Recommendations to Bulgaria from January 1997.

IV. Freedom of Expression and Access to Information

The right to freedom of expression in Bulgaria is in need of additional encouragement. As far as the right to access to information is concerned, the country has yet to introduce basic legislative safeguards. For this purpose:

1. We insist that an adequate act regulating the national electronic media is adopted to conclusively curb the possibility for political control. This act should also regulate the status of the Bulgarian Telegraph Agency (BTA). Bulgarian National Television, Bulgarian National Radio and the BTA should be run by independent management boards, composed of professionals, nominated by educational establishments, professional bodies and other interested civic groups.

2. The independence and political impartiality of the executive body should be guaranteed by the composition of the managing bodies.

3. The labour relations of the journalists working in the national electronic media and the BTA, and the disciplinary sanctions, should be regulated as to provide them with security, autonomy and freedom of expression.

4. At the same time, legislative safeguards should be introduced to ensure that all types of public interest are expressed in a non-discriminatory manner in the national electronic media.

5. We insist to see further reform in the Penal Code provisions on slander and libel. Amendments should be introduced to decriminalize the present general defamatory provisions, and introduce civil liability for inflicted damages.
6. We insist that amendments are passed in the legislation regulating access to public information to make the access of individuals, media and NGOs to this information more effective.

V. Freedom of Thought, Conscience, Religion and Belief

The freedom of thought, conscience, religion and belief, particularly during the last few years, has been one of the most discussed human rights problems in the country. Legislative reform in almost the entire body of legislation dealing with the freedom of thought, conscience, religion and belief, is necessary.

1. The legislation regulating church-state relations is in pressing need of radical reform. It is inconceivable how eleven years after the onset of the democratic reforms this right can still be regulated by the 1949 Denominations Act, passed to subjugate the religious denominations to the totalitarian government, rather than guarantee religious freedoms.

2. The new law should ensure conditions of equality between the denominations themselves, on the one hand, and between the denominations and other organisations, established on non-religious beliefs, on the other, in all spheres of public life, including during the process of acquiring of juridical person status.

3. The discriminatory Article 133A of the Persons and Family Act, passed especially to restrict the freedom of association and the freedom of religion of minority religious communities, should be repealed.

4. The Prosecutor's Office and the other bodies in charge of pre-trial investigation should conduct prompt and effective investigations into all reports of illegal acts against believers and their houses of prayer.

5. The Alternative Service Act should be amended to reduce the length of the alternative service and to widen the scope of organisations, which are entitled to submit applications and to hire individuals serving alternative service, by including non-profit organisations in this group. Amendments should also be passed to ensure that substitution of military service with alternative is possible at all times, including during the serving of the military service itself.

VI. Freedom of Association

The Bulgarian Constitution and legislation contain a number of provisions, which unreasonably restrict and are openly discriminatory to freedom of association. We insist on legislative initiatives, which affect:

- The provisions, which prohibit the formation of political parties along ethnic and religious lines. In several cases, Bulgarian courts, including the Constitutional Court, have given a very restrictive interpretation of these
provisions. Moreover, over the last years, these provisions and practices have given rise to tension in the internal organisation of civil society, and have solicited the attention and justified concern of many international organisations.

- The provisions on the role of the Prosecutor's Office to ban peaceful civic gatherings outside the hypotheses of the Meetings, Gatherings and Demonstrations Act.

- The acting system of taxation of donations, which hinders the establishment of sustainable civic associations in Bulgaria.

VII. Protection from Discrimination on Political Grounds

For more than a decade after the onset of the democratic changes in the country, the problem with discrimination on political grounds and political participation is as acute as ever. Political appointments and political dismissals at all levels of the administration and the civil services have and continue to take place with every change of the political power in the country. Some openly discriminatory laws have been passed, which provide for exclusion from particular positions in society of certain groups of people on account of their affiliation. We appeal for the establishment of a mechanism for supervision and counteraction to political discrimination, including by means of an effective system of dealing with individual complaints, should be established.

VIII. Protection of Refugees and Asylum Seekers

In spite of the progress made over the last few years, there is still much to be done in this sphere.

1. We insist that amendments are passed to the acting Refugee Act to bring it in line with the standards of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.

2. We insist that agencies empowered to resolve all refugee and asylum seeker problems, other than the status determination procedure, are set up.

3. We insist that the Ministry of Justice urgently organises diverse and effective forms of training of judges in refugee law.

IX. Prohibition of Ethnic Discrimination and Protection of the Ethnic Identity of Minority Groups

We insist that progress is made in the further protection from ethnic discrimination and in the reinforcement of the ethnocultural rights of minorities.
Many spheres of public life are not regulated by any anti-discriminatory provisions apart from the broad provisions of the Constitution. Other spheres contain no mechanisms for enforcement of the existing provisions. No bodies or institutions have been set up to deal with the problem of ethnic discrimination. The country's state institutions have even failed to acknowledge the existence of these problems. In this regard:

1. It is necessary to pass a law against ethnic discrimination to ensure effective protection from ethnic discrimination in all spheres of social life;

2. It is necessary to improve the existing procedures and court practices for protection from ethnic discrimination;

3. The government should recognise on a non-discriminatory basis the existence of civic groups and associations, which should be able to freely declare their belonging to a particular minority.

4. Further progress is needed in guaranteeing mother tongue education for members of ethnic minorities, and particularly regarding language instruction in the Romany language;

5. It is necessary to start the process of effective desegregation of Roma schools and improving the quality of education for the Bulgarian Roma.

6. It is necessary to start solving the other problems of the Roma as provided for by the Framework Programme for Equal Integration of Roma in Bulgarian Society such as: urban development of Roma neighbourhoods, encouragement of Roma employment, improvement of the social welfare system, among others.

X. Right to Privacy, Inviolability of the Home and the Correspondence

The right to privacy, inviolability of the home and the correspondence should be safeguarded against government interference. The security services currently act in a manner which is non-transparent both for the public and for the very bodies and institutions, which in a democratic society should control them. It is necessary to pass legislation to guarantee adequate judicial and parliamentary control over the activities of the security services and especially those aspects, which are connected with possible infringements of the right to privacy.

XI. Protection of the Rights of the Child

As the UN Committee on the Rights of the Child noted in its concluding observations from January 1997 in connection with the Report by Bulgaria on its implementation of the requirements of the Convention on the Rights of the Child, a number of legislative measures ought to be implemented in order to guarantee more adequate protection against violations of the rights of the child. Besides the need to ratify the Hague Convention and to introduce radical reforms in the system of administration of juvenile justice, it is necessary:
1. To establish a national system for monitoring the status of all children in Bulgaria with particular attention to children from risk groups;

2. To establish specialised bodies dealing with children, which would as a matter of priority deal with the issue of effective exercise of children's rights;

3. To ban and effectively combat all forms of corporeal punishment;

4. To intensify and make effective, including by means of setting up specialised agencies, the control against sexual exploitation and drug abuse among children;

5. To take legislative and other measures to keep children in school, including by motivating the work of teachers in schools, where the problem with dropping out is particularly acute;

6. To guarantee effective protection from exploitation of child labour by passing the necessary legislation and by a more effective system of administration of justice.

In addition to the above it is necessary to take urgent steps to improve the living conditions in the children's institutions. As a minimum, these should include:

1. Passing of legislation to determine the basic parameters of their support, e.g. the financial allowance for food, clothing, heating, hygiene maintenance, etc.;

2. Revoke the notion of the 'uneducability' of children with mental disabilities and undertake the necessary steps for their adequate socialisation;

3. Introduce a system of periodic re-certification of children in all homes for children with mental disabilities, as well as measures for reducing the share of minority children in them;

4. Ensure that all children have access to medical care by undertaking the necessary legislative changes and by introducing appropriate forms of medical care for children in institutions.

5. Introduce a system of periodic inspections by an independent body in all childcare establishments.

Footnotes:

[1] For more than seven years to date, prosecutors at all levels of the Prosecutor's Office have routinely replied to BHC inquiries on specific cases. back


[15] Ibid. back
