Human Rights in Bulgaria in 2001
Annual report of the Bulgarian Helsinki Committee
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Introduction

Bulgarian political life changed fundamentally in 2001. The formerly ruling party, the Union of Democratic Forces (UDF), was defeated in Parliamentary elections on 17 June 2001. The National Movement of Simeon II (NMSII), headed by former Tsar Simeon Saxe-Coburg Gotha, won the most votes in those elections. On 24 June the NMSII created a new Bulgarian government in coalition with the Movement for Rights and Freedoms (MRF), which is the party supported by the majority of Bulgarian Turks along with many Bulgarian-speaking Muslims and parts of the Roma population. This new government ruled Bulgaria for the rest of 2001.

On 18 November, in the second round of Presidential elections, the incumbent President also suffered defeat and was replaced by the chairman of the Bulgarian Socialist Party (BSP), who took the Oath of the Presidency in January 2002.

The human rights situation in Bulgaria did not change significantly during 2001. Almost all of the historical problems continued and most remained just as acute as they had been in past years. In some spheres, such as control of the national electronic media, the situation worsened. In October the government published its administrative program, in which it took on responsibilities for legislative and other changes with the goals of improving the human rights situation and particularly of integrating ethnic minorities. None of these engagements had been completed by the end of the year, however.

1. Ratification of International Human Rights Treaties and Performance of International Responsibilities Resulting from Them

In June, Bulgaria signed the two Protocols to the Convention for the Rights of the Child, concerning the sale of children, child prostitution, and child pornography, and on the involvement of children in armed conflicts. In 2001, however, Bulgaria did not perform its international duties to present in a timely fashion the reports required by the agreements to which it is party. Bulgaria missed a total of nine deadlines for regular reports, in the context of the UN’s six major conventions - the International Covenant on Economical, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. In addition to
these missed deadlines, Bulgaria missed the deadline for the presentation of its initial report on the Council of Europe’s Framework Convention for the Protection of National Minorities.

2. The Right to Life

In 2001 no measures were taken to guarantee the right to life in Bulgaria, and the old problems in this regard continued to exist. No legislative changes were made to Article 80 of the Ministry of the Interior Act, which allows the use of firearms during the arrest of persons who have committed or are committing crimes or in order to prevent the escape of persons under arrest for the commission of crimes. This act, as local and international human rights observers have pointed out on many occasions, contradicts Principle 9 of the UN Principles for the Use of Force and Firearms by Law Enforcement Officials, since it allows the use of deadly weapons during the arrest of persons suspected of committing even the most minor crimes as well as in order to prevent their escape after capture.

Throughout the year, the Prosecutor's office continued to be stingy with information regarding the investigation of cases of excessive use of force and firearms by law enforcement officials. In August the Sofia Regional Military Prosecutor refused to provide the BHC with any information whatsoever regarding such cases. It appealed to the provisions of Article 191, paragraph 4 of the Code of Criminal Procedure, which prohibits the Procuracy from announcing the fact that it has begun preliminary investigations, and to Article 136, paragraph 2 of the Judiciary Act, which requires magistrates to protect the confidentiality of third parties and to keep information related to their interests confidential.

As in previous years, at least 9 people died in 2001 under conditions that prompt serious suspicions about the excessive use of force and firearms by police officers and private bodyguards. Many of the people killed were ethnic Turks and Roma.

- On 10 January 2001 in a Sofia restaurant, police killed 46-year-old Mehmed Myumyun by kicking and beating him in front of his friends and relatives. According to the police, they had confused Myumyun with a wanted criminal. The Prosecutor's office charged two police officers with the murder. On 5 March 2002, the Sofia City Court cleared them of the charges.

- On 1 February 2001 the body of Zlatin Zlatinov, a suspect in the shooting of two policemen a few days earlier, was found in Dolni Chiflik with bullet wounds. The official story told by the police was that Zlatinov had killed himself, but Zlatinov's relatives assert that he was murdered by the police, who had been following him.

- On 5 April 2001, 23-year-old Emil "Rusty" Velinov was found dead in his cell in the pre-trial detention facility in Dupnitsa. The guards claim that Velinov hanged himself. His relatives, however, assert that the guards murdered him. By the end of 2001, the investigation of the case was still not completed.

- On 5 June 2001 Private Yordan Andreev died after jumping from a window on the fourth floor of the First Army Corps, where he was under investigation for theft. The investigation was not completed by the end of 2001.
On 30 June, two Roma men - 32-year-old Radostin S. and 31-year-old Selyahtin H. - were shot and killed near Yambol by the two guards during an attempted robbery in a cooperative agricultural farm.

On the same day, again by private bodyguards during an attempted robbery, 44-year-old Encho Ivanov was stabbed to death in an orchard near Lyaskovets.

On 23 July 2001 an officer with the Varna military police shot and killed 21-year-old Sevgin Asanov, who had run away from his army barracks. Investigations were not completed by the end of the year.

On 21 September 2001 a private security guard in Sliven shot and killed the 27-year-old Blagoy Asenov in the course of an attempted robbery. The investigations were not completed by the end of 2001.

Throughout the year, the BHC continued to monitor homes for children and homes for adults with mental disabilities. Because of the miserable conditions, the systematic malnutrition, and the lack of adequate medical care, the lives of many patients in these facilities are at risk. The death of 14 patients in the Home for Mentally Ill Men in the village of Dragash Voyvoda, near Nikopol, in the winter of 2000-2001, is evidence for this assertion. (See also the section of this report on Conditions in Places of Detention).

3. Torture, Inhuman and Degrading Treatment, Excessive Use of Force by Law Enforcement Officials

Torture, illtreatment, and excessive use of force and firearms by law enforcement officials continued to be a serious problem in Bulgaria in 2001. No changes were made in the legislation or politics in the country to improve the effectiveness of methods of punishment for and prevention of such abuses. There were no improvements in the legal framework guaranteeing legal defense from the moment of detention, access to an independent medical opinion, and the possibility to inform one's relatives about the place and conditions of detention. Throughout the year several police officers were tried for illegal use of force and firearms, but they received short sentences and punishments that were not concomitant to the serious nature of their offenses. The cases that made it to court make up only a tiny portion of those that deserved criminal investigations. Torture and beatings at the time of arrests and in the holding cells at the police stations continued to be de rigueur. In its visits to places of detention, the BHC heard numerous complaints from inmates. The examination and solution of this problem does not seem to be among the priorities of any of the directorates of the Ministry of the Interior.

In February 2002, BHC conducted a survey among inmates and detainees, who had been charged after 1 January 2001. Of the 155 persons interviewed, 130 stated that they had been arrested during the waiting period for their trials. Of those, 45% stated that physical force had been used against them at the time of their arrest. Forty-five percent also stated that physical force had been used against them inside the police station after their arrest. Seventeen percent said that they were ill treated during the investigation. Roma more than others complained of physical abuse. These results are hardly different from those that the BHC collected during its 2000 study.1

One of the fundamental problems with inhuman and degrading treatment to which the BHC paid close attention during 2001 was connected with the system for psychiatric care
in Bulgaria. The BHC conducted a detailed study on inpatient psychiatric care and published its findings in a special report. In this report, which was limited to the system of active care in inpatient facilities, the BHC established facts about the poor organization, material facilities, and hygiene; about the use of humiliating and degrading forms of treatment, such as unmodified electroconvulsive therapy; about violations of the right to informed consent before treatment; about the systematic malnutrition of the patients; and about the arbitrary use of immobilization and isolation. All of these factors, taken alone or together, make the very admittance of patients in some of these inpatient psychiatric facilities amount to inhuman and degrading treatment.

Throughout the year the BHC also visited a large number of the homes for children and adults with mental disabilities and psychological illnesses. The material conditions and treatment of patients in some of these homes was even worse than that in the inpatient psychiatric facilities. Again, this treatment qualifies as inhuman and degrading. In some of the social homes (Sanadinovo, Dragash Voyvoda, Cherni Vrah, Radovets, Podgumer, Samuil), the BHC discovered metal cages, basements, spaces under stairways, and closets, which were used for the isolation of clients, sometimes for extended periods. Instances of isolation were not recorded in any of the home's documents or, indeed, anywhere at all. The material conditions (the conditions of the buildings and facilities, the heating, the food, the conditions of sanitary facilities) in many of these homes were appalling, and they alone constitute inhuman and degrading treatment of clients. In some homes the BHC established systematic use of beatings and other forms of physical and sexual abuse, both on the part of the personnel against the clients, and between the clients themselves when the personnel did not take measures against it.

The situation in places of detention also prompted the BHC's concerns throughout the year. The conditions in almost every single investigation detention facility, where suspects are held during preliminary investigations, were inhuman. There were also cases of torture and abuse. The conditions in some prisons were also inhuman. (See also the section on Conditions in Places of Detention.)

Domestic abuse against women continued to be a serious problem in 2001. The legal basis for criminal prosecution of such cases was not changed. Prosecution of domestic abuse is still carried out at the personal expense of the victim, without the participation of a prosecutor. This is a serious financial and moral burden for the victims.

4. The Right to Liberty and Security of Person

After the European Court of Human Rights announced its decision in the case of Varbanov v. Bulgaria in Strasbourg in 2001, no domestic legal changes were made. Bulgarian legislation still contradicts the norms on compulsory psychiatric treatment elaborated in the European Convention on Human Rights, which guarantees liberty and security of person. Admittance into inpatient psychiatric facilities for expertise and with the purpose of determining whether continued care is necessary is initiated in Bulgaria with a decision of the Prosecutor's office. The period of detention is usually one month or, in rare exceptions, three months. The National Health Act contains no requirement that the Prosecutor's decision be based on a doctor's report, nor is there a legal possibility for appeals of the decision.

In the second half of 2001, the BHC conducted an observation of the system of inpatient psychiatric care in Bulgaria and published a report. The study established that the
largest number of patients admitted for compulsory treatment in inpatient psychiatric facilities in Bulgaria were victims of arbitrary detention and deprivation of freedom. The very procedure dictated by Bulgarian law, which in turn is in conflict with the standards of international law, is routinely violated. In some psychiatric hospitals, the BHC learned of cases of people who were illegally placed in these facilities and then left there for months at a time.

5. Independence of the Judiciary and the Right to a Fair Trial

In 2001 Bulgarian society witnessed constant pressure from the Prosecutor's office and the Ministry of the Interior for a change in the legislation concerning detention during pre-trial investigations. After several judicial decisions at the European Court for Human Rights in Strasbourg, this legislation was changed in 1999 such that decisions for detention were made by the courts and were subject to periodic review. Some circles in the Prosecutor's office and the Ministry of the Interior were dissatisfied with these reforms, and they used various tactics to reverse them throughout the year. Several draft laws were introduced in Parliament addressing this problem, but by the end of the year, none had been passed.

Another serious problem with the right to a fair trial - access to justice for indigent criminal defendants - was as acute in 2001 as in previous years. No changes to laws or to legal regulations were made to facilitate this access. Consequently, thousands of indigent criminal defendants went without lawyers at all stages of the court proceedings. Many of these people were sentenced to extended periods of detention, in blatant violation of the norms for fair and just trials. In February 2002 the BHC conducted a survey among inmates in places of detention. This survey sought to establish the dynamics of access to legal aid over the past few years and especially since the new changes in criminal legislation of 1 January 2000. Those changes introduced, at least in theory, the provision of court appointments of lawyers to defendants who cannot afford to pay for their own legal defense. The survey established that, in practice, there has been no change since the law's introduction in the percentage of defendants who are defended by a lawyer, despite the theoretically favorable legal changes. This is the case both at the level of pretrial investigations and during the trials themselves.5

The legal procedures for interning children in correctional boarding schools and social educational boarding schools were not improved during 2001. Aside from the non-compliance of Bulgarian procedures with international norms for a fair legal trial, the BHC also established severe violations of internal procedures inside the facilities. In many of the cases, the municipal Commissions for Combating Juvenile Delinquency sent children to detention in such facilities either without discussing the cases formally at a meeting, or without following the legal procedures for doing so.

6. Freedom of Thought, Conscience, Religion, and Belief

In 2001 the situation concerning the religious rights of Bulgarian citizens was the same as it had been in 2000. Nothing worsened, but there was also no significant improvement in this sphere of human rights. The general patterns, which have existed every year since 1998, can be summed up as follows: The massive police actions and unrestrained media campaign against the so-called "sects" that existed in the past are no longer present. But
the fundamental problems stemming from the outmoded legislation that takes no standards of human rights into account (the 1949 Denominations Act is still in effect), as well as those stemming from the arbitrariness of local authorities, continue today. Furthermore, attempts are still made to limit religious rights in many new spheres - such as the media.

In 2001 no new legislation was passed in the area of state relations with religious groups. At the same time, local authorities took no new measures to limit religious rights as they had in the past (in 1999 and 2000 more than 10 municipalities took such measures). The old measures, however, were not changed. This only exception was the decree in the city of Pleven, whose discriminatory clauses were partially removed by court order. On 24 January 2002, after seven years of waiting, the Church of the Nazarene finally received its registration from the Council of Ministers. Some municipal authorities - such as those in Plovdiv, Burgas, and Stambolijski - continue illegally to refuse registration to the Jehovah's Witnesses, despite the fact that the church is registered at the national level.

The most important development in the realm of religious rights was undoubtedly the incident in the village of Ravnogor, in the Bratsigovo municipality. There, on 21 June 2001, fanaticized crowds of Orthodox Christians attacked a group of Protestants from the United Church of God, who had come to the village to show a film. That evening about 20 Protestants from the Plovdiv branch of the UCG arrived to show films with Biblical themes and to give a concert. A crowd of enraged local residents, led by the local Orthodox priest and the local director of the Internal Macedonian Revolutionary Organization (IMRO) attacked the visitors. With shouts of "Get out of here, get out of here! You have no business in our village!" dozens of villagers ran at the young Protestants, who were camped out on a field at the edge of the village. They destroyed the visitors' tent, beat one of them with a tent stake, and stole their expensive projector and generator. The police who were called to the scene refused to file an official protocol about the incident, and in this way effectively covered for the villagers who had committed the attacks and the theft. A few days after the victims filed an official complaint with the Prosecutor's office, the stolen projector was thrown into the yard of the UCG office in Plovdiv and broke when it hit the ground. No information is available to point to whether the Prosecutor’s office formally continued its official investigations after the silent return of the stolen projector.

According to reports from the Institute for the Principles of Justice, a local non-governmental organization, there were at least two other cases in which local municipal authorities impeded the Agape Association from showing its film "Jesus." These happened on 6 April at the Students Municipal Association in Sofia and on 12 April in Nova Zagora. The decisions in both cases were arbitrary.

At the end of March the results of the analysis of the so-called Consolidated Draft Denominations Act were announced. This analysis was conducted after the Bulgarian government sent the draft act to the Council of Europe for expertise at the end of 2000. It was conducted by a team of experts on Religion and Human Rights. The government of the UDF concealed the report from the public, probably because of the severe criticisms of the draft act contained in the 30-page text. The analysis, however, reached human rights organizations by unofficial means, and on 2 June it became the topic of a conference attended by representatives of practically all religious faiths. The conference was organized by lawyers working in the realm of religious and human rights. One of the Council of Europe experts wrote the following about the consolidated draft act: Looking at the draft law as a whole, all of the experts pointed out one main problem, which is serious enough to prompt the conclusion that serious changes must be
made for this document to meet the requirements of the European Convention on Human Rights." Another part of the analysis states that "The inadequacies of this draft act are such that neither this general report nor the three individual analyses can focus on the act's specific technical problems, because they must spend so much time pointing out the inadequacy of the act as a whole and the general approach that it takes."

The most significant criticism in the experts' report was directed at the procedures for registration of religious organizations. The report states that "The very procedure for registration contains serious problems from the point of view of the European Convention on Human Rights. These include:

a. The theological prejudice in the procedures for registration
b. The limitation of religious pluralism and limitations on the evolution of the doctrine of religious organizations
c. The lack of clarity and double-meanings in the criteria for refusing registration or annulling registration, which provides a broad leeway for arbitrariness
d. The lack of criteria concerning the subsidization of religious groups."

The report especially emphasized the fact that the regulations concerning the registration and refusal of registration of religious groups directly contradicted the practice of the European Court for Human Rights on theological and ideological neutrality in such procedures. The regulations dealing with the rights of religious organizations to open houses of prayer and to use public buildings for religious purposes were seriously discriminatory. The powers of the local authorities to limit the practice of certain religions on their territory were unjustly broad.

The experts contended that the regime of relations between the state and religious communities was by its very nature discriminatory. The report stated that "Even if we accept that second-level relations between the state and the church theoretically correspond to the criteria of the European Convention on Human Rights, and even if the procedures for registration are neutral, prior tempore potior jure, the procedures still must be revised in terms of all of the points (a) through (d), in order to guarantee that there will be no discrimination and that the state will not interfere on the basis of religious doctrine."

The new government, however, did not show that it had paid attention to the criticisms against the draft act. On 5 July, the day that the new Parliament was first called to session, NMSII MP Borislav Tsekov unexpectedly introduced his own draft denominations act. This draft provoked widespread public debate not only because it was the first law introduced by the NMSII movement, but also because it contained a series of regulations directed at the forcible unification of the two hostile groups within the Bulgarian Orthodox Church. In addition to the fact that it contained (albeit in somewhat softened form) several of the restrictive regulations that the Council of Europe had already criticized, Tsekov's draft also prohibited the division of the Bulgarian Orthodox Church and allowed the state to recognize only that branch of the church that is currently led by Patriarch Maksim. The fate of this law is still not clear, but many observers believe that its contents are symptomatic of the attitude prevalent among the parliamentary majority and in the current government on the problems of religious freedom.

In 2001 it became clear that, 12 years after the democratic changes in Bulgaria, the problem of the restitution of the property of religious groups that had been nationalized by the communist regime was not solved. Until this real estate is returned to its previous
owners, the religious organizations' right to property is blatantly violated. The situation also hinders the groups' ability to carry out their normal activities. On 27 July the Tolerance Foundation held a special conference on this topic. The information presented at the conference confirmed that the injustice of the communist confiscation in 1944-89 of the majority of the buildings, cult objects, and underground properties that belonged to religious communities has not been corrected.

Even though some laws for restitution exist and even though some of these - such as those for the Rila Monastery and for Catholic Church properties - effect specifically church real estate, the state continues to hold on to a large number of properties. The largest portion of such properties was confiscated from the Catholic Church. These include schools, hospitals, orphanages, and land. Muslims contend that many of their religious buildings, which were turned into museums after their nationalization, are still in state hands. Methodists and Seventh-Day Adventists have made claims on nationalized buildings. The Dunovites' property has tragically been destroyed, for the most part. Even the Orthodox Church claims that the state still controls some of its property.

The major obstacle to fair restitution is juridical. The laws for restitution are written in such a way that, in practice, it is impossible for a religious group that exists today to prove in court that it is the rightful heir to the property of a group that existed before 9 September 1944. This is the case despite obviousness of the relations between the historical and the current groups. Moreover, there is an obvious lack of political will to solve this problem, and no government in the past 12 years has tried to solve it.

The deputy directors of the National Assembly's Religion and Human Rights Commission, Ahmed Yusein and Kiril Milchev, attended the conference of the Tolerance Foundation. They took on the responsibility to do whatever they can to solve the problem, but for now they have made no progress.

In August the Supreme Administrative Court refused to approve the application of Radio "Voice of Hope" (which was founded as a commercial association by a group of people tightly connected to the United Church of God). The court reversed a 2 October 2000 decision of the State Commission on Media and Communications, refusing programming, and thereby radio broadcasting licenses, to this Christian radio station. This was the first attempt in Bulgaria to found an electronic media with a religious orientation. The National Council on Radio and Television blocked it for the implicit reason that an Orthodox radio station should be registered before any Protestant one is allowed. After the decision of the Supreme Administrative Court there was nowhere else to turn in Bulgaria, and so the radio station's founders turned to the European Court of Human Rights in Strasbourg.

According to press reports in November, the government intends to strengthen its relations with the major religious groups in the country by appointing their representatives to a Directorate of Religious Affairs. It is unclear what the functions of these representatives will be, nor is it clear whether they will have any influence - other than in an advisory capacity - over governmental decisions on religion. On 14 December the leaders of the Evangelical Alliance (an alliance of the five largest Protestant churches in Bulgaria) sent a letter to Prime Minister Saxe-Coburg Gotha, to Chairman Gerdzhikov of the National Assembly, and to Chairman Toshev of the Commission for Religion and Human Rights. In this letter, they sharply protested against the government's intentions to include in the reformed Directorate of Religious Affairs representatives from the Orthodox, Muslim, Catholic, and Jewish communities, while excluding representatives
from Protestant groups in the Directorate's structures. Leaders of Bulgarian Protestant groups declared in the letter that the changes constitute an act of discrimination against Bulgarian evangelists, whose number they claim is over 300,000 Bulgarian citizens. They insisted upon receiving a place in the reformed administrative organ for religious affairs, and they expressed their hopes that the project for reform of the Directorate of Religious Affairs would not be implemented in its original form.

On 3 May the European Court of Human Rights in Strasbourg approved a "friendly settlement" reached in the case of Stefanov v. Bulgaria. The plaintiff is a Jehovah's Witness, who was sentenced (at the first level effectively, and after appeals suspended) to a year and a half in prison for his conscientious objection to perform his compulsory military service. In the agreement, the state is required to introduce a law for total amnesty for all Bulgarian citizens, who have been accused, tried, or convicted for conscientious objection. The state must also make the length of civil service equal to that for military service, take measures to protect the plaintiff from discrimination during his performance of alternative civil service, and to reimburse the plaintiff for his legal expenses related to the case. However, no legislative measures had been taken in this regard by the end of 2001. The Republic of Bulgaria had only paid the expenses stipulated in the settlement.

7. Freedom of Expression and Freedom of the Media

The year 2001 did not see any qualitative changes in the situation of the Bulgarian media. Despite the growing number of licensed cable and broadcast television operators and private radio stations, freedom of speech in Bulgaria faced the same obstacles as ever. The private media deformed information while serving various economic interests and satiating the appetites of various lobbies. Last year in the so-called public media - Bulgarian National Radio and Bulgarian National Television - citizens witnessed yet another series of unabating attempts on the part of the political authorities to control journalism. Above all, the activities of the political and economic elites were at the center of attention of both the private and the public media, who seemed unconcerned with the problems of ordinary people. Human rights were at best a marginal topic of media attention.

As early as February, a major crisis arose at the Bulgarian National Radio (BNR) station, and it continued for months. The crisis began with the decision of the National Council for Radio and Television (NCRT) to appoint Ivan Borislavov, a person directly connected with the ruling party, to the post of General Director of BNR. With this decision, the regulatory organ practically announced the end of its activities as an institution guaranteeing public interests. The decision was met with resistance and with the spontaneous protests of many radio journalists.

For several months, the format of the program "Horizont" completely diverged from its usual mission - as a forum for debate, political pluralism, and diverse opinions. Twenty radio journalists, among them qualified and popular journalists, were dismissed. New people were appointed to replace them. Many of these new people were completely unknown journalists who, together with Aleksandar Brazitsov, who was later appointed Acting Director of the radio, and the Executive Council of BNR, turned the radio station into a pro-governmental institution. Journalists who resisted the activities of the BNR leadership were not allowed into the studios. The audience of BNR shrunk dramatically in this period.
In April the Supreme Administrative Court announced that its appointment of Ivan Borislavov was void. With that announcement all the other activities of the Radio administration came to a halt. The dismissed and demonstrating journalists were returned to their old posts. Two months later the chairman of the NCRT, Aleksandar Tomov, turned in his resignation.

The situation with freedom of expression at the Bulgarian National Television (BNT) station remained unchanged during 2001. Until December, BNT was run by Lili Popova, who created an atmosphere of confrontation and political conformism. Consequently, in August the well-known reporter Elena Yoncheva was dismissed. This style of management made teamwork impossible in the BNT leadership, which in turn led to the resignation of the programming director, Svetla Petrova. The news was controlled from above and was presented in a pro-governmental light.

Throughout the year, BNT was seriously deficient in the realm of programs by and about minorities, as well as about the poor and people in difficult social positions. There were a few such programs, but they were broadcast at times when the fewest number of viewers were watching. There were almost no documentary films or works of investigative journalism. Some of the shows that were cancelled on BNT (such as the Slavi Trifonov Show and Margarita Mihneva's political program) moved to the competitive private television station bTV and gained popularity over the course of the season. Also at bTV, Svetla Petrova, who had been chased out of her job as programming director at BNT, began to produce an ambitious and high-quality political show, "Seizmograf." These changes happened simultaneously with a reduction in political programming at the National Television station. Without a doubt, bTV became more popular than BNT over the course of 2001.

Immediately after its formation, the new parliamentary majority busied itself with changing the Radio and Television Act. The changes, however, were obviously directed at supporting the new political powers through the media's regulatory organ, rather than at turning the electronic media into a real, independent voice in society. The changes and additions to the law that were passed in November created a new regulatory organ, the Council for Electronic Media (CEM). While the law was under review in Bulgaria, several non-governmental organizations solicited the Council of Europe's expertise. The Council's report gave a negative evaluation of a series of problematic regulations and approaches in the new law. The chair of the Parliamentary Media Commission, Milena Milotinova, however, never presented the report to Parliament, referring to it as an 'opinion' of a non-binding nature.

People close to the new parliamentary majority made up the majority in media's new regulatory organ, too. There was no public debate over the candidates for the positions in the CEM. Immediately after its formation, the new Council began to consolidate its power over the national media. In December Lili Popova, General Director of BNT, was illegally dismissed three months before the end of her legal contract. When she left, many members of her old management team left with her. The new leadership appointed afterwards immediately began a restructuring of the BNT programming format. The new format noticeably excised the political programs close to the old government, such as Yavor Dachkov's "Glasove." Dachkov himself was dismissed from the television station.

By November there was significant discontent over the laws governing access to public information. A draft law on classified information and one on personal information were prepared. According to the nongovernmental organization Access to Information Program, the definition of "personal information" in the draft act is unclear and has
double meanings. The Draft Act for the Protection of Classified Information defines some categories too broadly. For example, it defines budget information about resources for special and scientific projects connected with the national economy as a state secret. Access to Information Program insisted that the category of "professional secret" be eliminated, since it does not exist in democratic countries. It also insisted that the register of secret documents be public. The organizations recommended that the law stipulate control not by the National Security Service of the Interior Ministry, but by a new independent organ, so as to guarantee citizens' and legal authorities' right to information.

Criminal cases against journalists accused of insult and libel came up throughout the year. In March the BHC conducted a study of the cases against journalists as part of a special project that included several other countries of Central and Eastern Europe, as well. The study found that Bulgarian journalists are frequently the objects of criminal cases about slander and libel. Investigative journalists are particularly vulnerable to such charges. While the big newspapers and magazines in the capital provide their journalists with resources for legal assistance, reporters for provincial media have to finance their defenses themselves. Still, the number of convictions in such cases is relatively low, since the cases are usually drawn out over a long period of time and complaints are often withdrawn when the plaintiffs lose interest.10

Several times in 2001, Bulgarian citizens who identify as Macedonians complained that their right to free expression was violated by criminal investigations of their publications. At the beginning of March, the Blagoevgrad Regional Prosecutor's office opened several cases connected to Macedonian activists' distribution of leaflets calling upon Bulgarian Macedonians to identify as such in the upcoming census. These cases, which were obviously opened as a pre-emptive measure to threaten the activists, were later thrown out.

Illegal repression was used to threaten journalists who tried to write negative articles about the Prosecutor General in 2001. In February the newspaper Dnevnik published information connecting the Prosecutor General's brother to illegal trade in antiques. Immediately after the article's publication, the Prosecutor's office ordered tax audits of all the commercial associations in which the newspapers' publishers were active. When the audits did not lead to the Prosecutor's desired outcomes, investigations were opened into the two privatization deals in which the associations had participated. Finally, the Prosecutor's office was able to open a few criminal cases related to irregularities in the privatization procedures and the sale of shares in the companies.

8. The Right to Privacy in Personal and Family Life

In 2001 there were no major changes in the right to privacy in personal and family life in Bulgaria. No measures were undertaken to investigate the reasons for the massive bugging of and eavesdropping on citizens, which the Prosecutor's office had discovered at the end of 2000 and beginning of 2001.11 Various judicial organs, including the Prosecutor's office, refused the BHC access to the report on the audit, claiming that it was classified. But complaints of massive bugging and eavesdropping continued to be lodged against the Interior Ministry.12

Throughout the year the practice of arbitrarily expelling legally resident foreign citizens also continued. The state identified these people as a "threat to national security." In April the director of the National Security Service announced a list of 100 foreign citizens
whose right to reside in or visit Bulgaria was revoked. In February 2002 the Constitutional Court was not able to achieve the necessary majority to declare the Aliens Act unconstitutional. The law gives Bulgarian security organs the right to expel foreign citizens arbitrarily and without revealing their motivation, and today it is still in force. These decisions for expulsion are not subject to judicial control.

9. Freedom of Association and of Peaceful Assembly

On 2 October 2001, the European Court of Human Rights in Strasbourg announced its decision in the case of Stankov and UMO-Illinden v. Bulgaria. The Court found a violation of Article 11 of the European Convention on Human Rights in five cases in which the state violated the right of Bulgarian Macedonians to assemble. All of the cases were connected with the organization of commemorative activities at the grave of Yane Sandanski near Rozhen Monastery in April and at the Samuilova Fortress locality near Petrich on the anniversary of the Ilinden Uprising. The Court sentenced Bulgaria to pay compensation and to reimburse the plaintiffs for their legal expenses. With sharp words, the Court chastised the Bulgarian authorities for their prejudicial and repressive attitude towards Macedonians in Bulgaria.

Despite the decision, in 2001 the authorities showed contradictory behavior towards public displays of Macedonian identity and during peaceful assemblies of Bulgarian Macedonians. On 21 and 22 April two groups of Macedonian activists were allowed to commemorate the anniversary of the death of Yane Sandanski at Rozhen Monastery, although the second celebration faced the provocations of police and government agents. Angel Trenchev, a participant in the festivities, was arrested and threatened with a fine. Similarly, on 12 September in Blagoevgrad UMO-Illinden activists were allowed access to the monument to Gotse Delchev, where they observed the anniversary of the murder of 400 Macedonians by Bulgarian government agents in 1924. However, the police were there taking photographs, which they later used to threaten the participants in the celebration.

In several other cases the authorities prohibited or hampered the organization of celebrations by Bulgarian Macedonians. On 2 February the police obstructed members of UMO-Illinden - Pirin from placing flowers on the monument to Gotse Delchev in Blagoevgrad. Uniformed and plain-clothes police blocked the monument, claiming that they had an order to do so from the Blagoevgrad Regional Prosecutor's office. They threatened and provoked the activists. On 4 May UMO-Illinden - PIRIN's [PIRIN stands for the Bulgarian abbreviation of 'Party for Economic Development and Integration of the Population'] observation of the anniversary of Gotse Delchev's death was prohibited by the Blagoevgrad Regional Prosecutor's office. The order cited the possibility that the celebration would disturb the peace. The police dispersed the activists, who had gathered at the monument for the celebration. On 29 July UMO-Illinden activists were stopped on their way to the Samuilova Krepost, where they had planned to celebrate the anniversary of the Ilinden Uprising.

On 6 January, at the time of their public celebration of the anniversary of Hristo Botev's birth, activists from the Revolutionary Youth Organizations "Che Guevara" flew an anti-NATO banner with a swastika. They were detained by police, and the Sofia Regional Prosecutor's office opened a criminal case against two of the youth. In April the Sofia Regional Court declared the two defendants innocent.
10. Conditions in Places of Detention

As of 1 January 2002, 9,026 persons were detained in the 13 prisons and 23 labor camps in Bulgaria. Of these, 1,852 were awaiting trial. The number of prisoners in labor correction facilities (both indoor and outdoor) continues to be fairly low, while the population of closed prison facilities is high. The most populated prisons are those in Pleven and Pazardzhik. The building facilities in the prison system are particularly old. The Sofia prison was built between 1906 and 1911, and the prisons in Vratsa, Varna, Stara Zagora, Burgas, Lovech, and Pazardzhik were all built before 1944. The cells are not large enough to provide adequate living space. In the most populated prisons, some cells hold 30-35 prisoners, who sleep on double and triple bunk beds. Most prisons have no sanitary facilities, and there is an average of one toilet per 30-40 prisoners. The daily food allowance amount to somewhere between 0.80-1.00 Leva [app. 0.40-0.50 Euro] per detainee, but in some prisons, such as those in Sliven, Stara Zagora, Lovech and Varna, the rations are even smaller. In the Law for the Budget of 2001, the paragraph on "food" provides a total of 3,022,979 Leva [app. 1,550,000 Euro] for all prisons for the year. In 2000 this figure was 4,256,007 [app. 2,183,000 Euro]. This part of the budget decreased by 29% between 2000 and 2001. At the end of the year a legislative initiative for improvements in the conditions in places of detention was finally passed. This initiative is expected to solve the problem of prison overcrowding. Still, it will definitely be necessary to introduce a system of parole as an alternative to detention in order to solve the problem completely.

In the summer of 2001, 24 inmates demonstratively protested prison conditions by climbing onto the roof of the Sofia Central Prison and demanding an immediate meeting with the new Minister of Justice. After the Minister visited the prison and talked to the protestors in the presence of reporters and representatives of the media, the protest ended. The inmates' demands had been related to the quality and quantity of food, kitchen hygiene, hygiene in other parts of the prison, and access to toilets and running water. The prisoners also demanded that tables and chairs be provided in the cells that still lacked them. The belongings and items that inmates are allowed to possess in prison are described in a special list. The protestors demanded that the list be of objects that are prohibited, rather than of those that are allowed. They also demanded more free time outdoors, more visiting hours, and legal provisions for spousal visits in special rooms. They also wanted improved medical care, regular physical examinations by a doctor, provision of preventative medical care, and more budget resources for medicines.

Another set of demands was directed at the legislative norms that directly affect prisoners. These govern the implementation of punishments and the activities of the judicial system. The prisoners demanded the right to a quick and easy appeals process, changes in the enforcement of life sentences without parole, the use of early parole in more cases (rather than as an exception to the rule), the introduction of a mechanism for control of paroled convicts so as to facilitate this process, and finally, domestic legal guarantees that representatives of the judiciary - investigators, prosecutors, and the courts - would strictly adhere to the European Convention on Human Rights.

A few days after the protests in the Sofia prison, 31 inmates in the Varna prison went on a hunger strike. Their protest was directed at the slowness of trials, the extra burdens of punishment in the conditions of "dangerous recidivism," the lack of work for prisoners, and the fact that they were not provided enough time to eat. The prisoners in Varna demanded more time to make telephone calls and the right to receive food packages.
from home. The declarations that the protestors signed stated that the prisoners supported the protestors in Sofia. A few other prisons throughout the country experienced attempts by the prisoners to begin protests and hunger strikes. Prison staff thwarted those strikes, however.

The large number of people detained for extended periods before their trial constituted a serious problem in 2001. It is not uncommon for several years to pass between the announcement of charges and the actual sentencing in a case. At the time of the protests mentioned above, over 170 prisoners were defending themselves in trials that still had not been completed by the end of the year.

Decree No. 2 of 1982 is the normative document governing medical care in Bulgarian prisons. Along with the lack of contemporary regulations, the inadequacy of budget resources for medicine is another serious problem for prison administrators. A significant number of the complaints filed by inmates are related to the quality of medical care. The lack of registration in the Medical Establishments Act deprives prison hospitals and medical services of the possibility to be reimbursed for their expenses in cases of certain illnesses.

The legal inspections required under Article 127, paragraph 2 of the Constitution of the Republic of Bulgaria are not carried out effectively in Bulgarian prisons. The Prosecutor's budget does not provide funds for such inspections, and there is no systematic inspection to determine whether conditions in places of detention meet the standards in the relevant normative acts.

In 2001 the BHC published an updated analysis on the rights of detainees in investigation detention facilities. One of the main findings in the report was related to the inconsistencies between the acting normative regulations and the conditions in these facilities. Decree No. 2, which was passed by the Ministry of Justice in April 1999, concerns the situation of suspects and persons sentenced to detention. Not only does the Decree not solve the problems in the detention system, it provides unclear criteria, thereby creating conditions for permanent violations. The Decree guarantees to all suspects - including those detained in investigation detention centres during preliminary investigations - the same rights given to convicts. These include the rights to correspondence, to receive packages, etc. In recent years, observers have noted that the Decree is enforced only in those facilities in which charged suspects and criminals are also detained. In most pre-trial detention centers there is no room for visits, including visits from the suspects' lawyers. There are no outdoor facilities for detainees, no places for them to store food that they receive in packages from home, and no spaces in which they can listen to the radio or watch television. The use of personal items is also problematic, and acceptable living conditions are not guaranteed - lighting, windows, living space, and medical care are all inadequate.

Another serious problem exists in the border detention facilities in Slivnitsa and Svilengrad, which are overpopulated as a rule. The detention facility in Slivnitsa houses 20 people in its 4 cells. This amounts to 5 people per cell, living space of less than 6 square meters per person, and there are no direct sunlight and no windows in the facility. Even if such a facility were to be renovated, the problems stemming from the lack of living space would not be solved. The temperature in detention facilities housed on the top floors of buildings can reach 40 degrees Celsius on a summer day. The ventilation is poor and the temperature cannot be controlled. In August 2001, a lawyer announced that the temperature in the Plovdiv investigation detention facility had
reached 46 degrees Celsius. Similar temperatures were observed in the cells of the Varna facility.

Some of the cases against Bulgaria in the European Court of Human Rights in Strasbourg are related to personal damages after detention in investigation detention facilities. In two of these cases, the inhuman conditions of the facilities led to the deterioration of the detainees' health, and in one of the cases medical assistance was not provided at the time.

Excessive use of physical force is less common in investigation detention centres than in police stations. In some places, though, such as the Plovdiv facility for detention during preliminary investigations, such practices are still used. The most common reasons for conflicts between suspects and police staff arise from the impossibility of providing every detainee with access to the toilets. Therefore, most of the detention facilities provide buckets in the cells for the detainees' physiological needs.

In many investigation detention facilities, the 1995 findings of the Committee for the Prevention of Torture are still valid. The Committee found that "the conditions in the facilities we visited, almost without exception, can be described as inhuman and degrading." The BHC recommended to the Bulgarian government and responsible institutions some fundamental reforms that need to be made to the material conditions, the normative framework, and law enforcement itself.

The BHC's main activities in 2001 focused on observation of facilities in which individuals are detained for administrative and judicial procedure, rather than under criminal law. These included psychiatric hospitals and dispensaries, homes for adults with mental disabilities, homes for adults with psychiatric problems, and correctional boarding schools and social educational boarding schools for children.

The BHC's observation of establishments for inpatient psychiatric care continued throughout the year. For the first time, the rights of mentally ill individuals were the object of a detailed analysis. The procedure for admitting patients for compulsory treatment and psychiatric expertise has been examined and criticized many times, both in Bulgaria and before the European Court of Human Rights. Some of the problems presented by this procedure stem from the lack of a requirement that the Prosecutor's office consult with a psychiatrist before placing patients for compulsory treatment. A second problem has to do with the fact that the previous step - that of recommending that a patient undergo voluntary treatment - is often skipped. Not all cases require inpatient treatment for psychiatric expertise. The law stipulates the possibility for outpatient treatment, but prosecutors rarely make use of this option. The period of treatment for psychiatric expertise is usually one month. To hold individuals in an inpatient facility beyond this period constitutes illegal detention. In some cases, however, such detention continues for months until the trial for compulsory placement makes it to court. Over these months, the initial expertise often loses its validity or the patient's condition changes.

The use of electro-convulsive therapy without muscle relaxants or anesthesia - a practice that the Committee for the Prevention of Torture demanded be immediately stopped in 1995 - continues to be a serious cause for concern. The rules for immobilizing mentally ill patients and the methods used to do so also cause concern. Hospitals often use belts, chains, and handcuffs to immobilize patients for extended periods of time. Use of immobilization and isolation is not adequately documented by hospital staff.

In order to improve the situation of inpatient psychiatric care in Bulgaria and in an attempt to protect the human rights of the mentally ill, the BHC made several
recommendations to the government of the Republic of Bulgaria and to other institutions. The most important of these were the recommendations: that a program to de-institutionalize psychiatric care in Bulgaria be started immediately; that the material conditions and the quality of service in psychiatric institutions be improved significantly; that fundamental reforms in the procedures governing placement of patients for compulsory treatment be made, so as to bring Bulgaria into conformity with international standards of human rights, personal freedom and security, and fair judicial process. The placement procedures and the practice of compulsory treatment must be changed, and each must be made to guarantee human rights. Electro-convulsive therapy must be used only in its modified form, together with the use of muscle relaxants and anesthesia. The procedures for electro-convulsive therapy must be codified in a normative act and must conform to advanced therapeutic standards.

The cases in which mentally ill patients can and should be isolated or immobilized must be codified in a normative act. These methods must be used only when they are a therapeutic necessity, and they must be used only by a doctor, who must constantly monitor the patient’s condition during the treatment. Mechanical methods of immobilization must be avoided. Every case of isolation and immobilization must be registered in a special book, and the beginning and ending times, the length of treatment, the name of the person who ordered it, and the medical reasons for doing so must all be recorded.

In the last months of 2001, the BHC reached an agreement with the Ministry of Labor and Social Policy to visit homes for adults with psychological problems. BHC teams visited 26 homes for adults with mental retardation, 12 homes for adults with psychiatric problems, and 13 homes for adults with dementia. According to the specifications of these homes, people with mental disabilities should be housed separately from those suffering psychiatric problems. This is due to the specific therapies and medical needs of the two categories. In fact, the placement procedures are not consistent with the profiles of the individual establishments. As a result, there is no real differentiation between the care given to people with various degrees of mental disabilities and that given to those with psychiatric illnesses who need specialized help. The homes are often located outside population centers in the most far-away and difficult to access regions. That is a hindrance both for the socialization of the clients and for attracting qualified personnel and providing medical help. The living conditions and hygiene in the homes were appalling. In some of the homes bedridden clients were left entirely without care. In some places rowdy clients and those with acute conditions were locked in cages and isolation cells.

In some establishments there were not enough beds for all the residents. They were required to sleep two to a bed. The available furnishings for sleeping quarters and dining halls were inadequate and very old. The bedridden clients in some of the homes were bathed only with a sprinkling of water in their beds. A single glance at them was enough for the observation teams to know that they had not been bathed for months.

At the end of April 1999, a delegation from the European Committee for the Prevention of Torture paid a visit to Bulgaria and, in addition to its usual trips to prisons and pre-trial detention centres, made a trip to the Home for Mentally Ill Adults in the village of Terter. Soon after the visit, the home was shut down, and its residents were sent to various other homes throughout the country. These homes were in no better condition than the one in Terter, and they, too, would be closed if the Committee had visited them instead.
At the beginning of 2001, the BHC published a special book on social-pedagogical homes and reform schools, in which juveniles who have committed antisocial acts are placed.\textsuperscript{15} The publication included detailed reports for each of the establishments and analyses of the procedures for placement, as well as of the general conditions in the institutions. The researchers found that placement in correctional boarding schools and social educational boarding schools is conducted according to an outmoded procedure that is in conflict with international standards for human rights. The deterioration of material conditions in the special schools is one ongoing problem. State subsidies arrive at the institutions long after the date that they are promised. Consequently, even the children's most elementary needs, such as those for food, clothing, and study materials, go unsatisfied. Compliance with international standards of human rights for these children requires the creation of a new and effective mechanism in the war against antisocial behavior. This mechanism must cover both the procedures for placement and the length of stay in the juvenile reform schools, and it must also provide a system for prevention.

11. Aggressive Nationalism and Xenophobia, Protection of Minorities

For the first time since 1989 the new government's administrative program, which was published in October, included a section on the integration of minorities. In this section of its program, the government confirmed its commitment to the Framework Program for Equal Integration of Roma in Bulgarian Society, which had been passed in 1999. The Program stipulates a series of short-term, medium-term, and long-term measures, including:

- The presentation of a national report on the Framework Convention for the Protection of National Minorities;
- The creation of teams who will work with the problems of minorities in the central and local administration;
- The acceleration of work on EU-financed projects connected to the integration of minorities;
- The introduction of a law for the prevention of discrimination;
- The introduction of a state agency for minorities;
- The ratification of Protocol 12 of the European Convention on Human Rights;
- The approval of a strategy for the development of economically underdeveloped regions.

The program does not, however, specify any concrete tasks that are to be associated with the states key responsibilities resulting from the Framework Program for the Equal Integration of Roma in Bulgarian Society. Tasks such as the desegregation of Roma education, the regulation of Roma neighborhoods, and mother-tongue education are not mentioned. Thus, the new government's responsibilities in terms of these problems are still unclear. Moreover, by the end of 2001 almost none of the goals established in the project were realized in practice - not even the short-term goals were met.

In a general sense, 2001 was not a good year for Bulgarian citizens who belong to ethnic, religious, and linguistic minorities. Nothing was done to achieve their protection from discrimination or for the promotion of their cultural, religious, or linguistic identity.
During the summer months, public expressions of radical racism became more common. In July Bulgarians in Samokov organized massive protests after a crime was committed by a Roma man. On 29 July an Initiative Committee made up of members of several political parties called a meeting. Apart from the crime that had been committed, they also considered taking a series of negative measures against Roma, including the introduction of a curfew for Roma. Racist attacks reached their peak during the Committee's public rally. These attacks continued during the circulation of a petition and declaration demanding "an end to the Gypsy terror." Roma were accused of cutting down the forests, stealing potatoes from private fields, breaking into basements, and stealing handbags from elderly ladies.

On 1 August in the village of Stezherovo, near Pleven, after two Roma women committed a crime, Bulgarian residents issued an ultimatum for all Roma to leave the village. The Roma did indeed leave shortly after the ultimatum. Many of them were originally from the nearby village of Podem. In 1991 local Bulgarians had burned down the Roma houses there and the Roma were dispersed to other villages, including Stezherovo. No one from Podem was ever tried for the pogrom in the village. The incident in Stezherovo made the Roma victims of ethnic cleansing for the second time in 10 years. No action was taken by law enforcement officials to prevent this.

The "success" in Stezherovo gave courage to other Bulgarians in the surrounding villages. In the middle of August, all 1,800 residents of the village of Oryahovitsa signed a declaration against their local Roma. An initiative committee was formed, and at its village-wide meeting the members threatened to burn Roma houses and chase the Roma out of the village. In this case again, the villagers accused the Roma of thefts and robberies. Ultimately, however, Roma were not expelled.

In Sofia a more refined sort of ethnic cleansing was implemented. In January the municipality decided to tear down the dwellings of Roma in "Asanova Mahala," in the Lyulin neighborhood, so as to sell the land to the Austrian supermarket chain, Billa. However, the decision affected some Roma who were legal owners of land and structures on the property in question. Billa paid each of them 8,000 leva [4,000 Euro] compensation. The camp was destroyed in March. Some of the Roma were provided with trailers in which to live temporarily, and were promised that homes would be built for them in the future. Others were housed in the location of an old police station, on the first floor of an apartment building in the Lyulun neighborhood. These quarters were provided only after the Roma had already spent a few weeks with no roofs over their heads. From the moment they moved into Lyulin, however, regardless of the fact that they had not had time to do anything suspicious, the Bulgarians who lived on the upper floors of the building issued a petition for their immediate expulsion. Moreover, since the Roma were officially only temporarily housed in Lyulin, they were left with no permanent address registration and therefore became ineligible for unemployment benefits.

In addition to these public manifestations of racism, 2001 also saw the increased activity of criminal racist bands, such as skinheads. Rough treatment, muggings, and violence against Roma and black foreigners became more frequent in the second half of 2001. Some of the attacks ended in serious injuries and permanent crippling of the victims. On 21 August in Sofia, a 5 year-old homeless Roma girl was beaten by skinheads. As a result of the beatings, the girl's right hand was nearly cut off at the wrist and she was left with many other injuries on all parts of her body.
The discriminatory regulations regarding the study of religion in Bulgarian public schools continued to be enforced in 2001. While study of the Christian (particularly Orthodox) religion is available as an elective subject in schools and is financed from the state budget, the study of Islam is available only in places where it is funded by the Head Mufti's office. The study of Islam was available for the first time since 1989 this year. During the 2001-2 academic year, 680 students in 9 schools throughout the country studied Islam.

As in previous years, 2001 was full of demonstrations on the part of the poor, and especially Roma, protesting the non-payment of their miserably small social pensions by the municipal social services. Mass protests of poor Roma occurred in many places throughout Bulgaria and throughout the year. At the beginning of March, Roma in Kozloduy blocked the roads to the local atomic power plant for several days. In Sliven in July, tens of Roma shouting "We are hungry!" and "We want our social pensions!" tried to enter the city hall. In August, Roma from the Zavet municipality revolted and threatened to burn down the buildings of the municipal council if their pensions were not paid immediately. At the end of September, 70 Roma organizations organized a protest in the streets of Shumen. In December, protests against the unpaid social pensions were organized in Stara Zagora, Sliven, Vidin, and Smolyan. In all of these cases, the local authorities and the state passed the responsibility of solving this problem back and forth between each other. In the end, many of these pensions remained unpaid by the end of 2001.

During the summer, several hundred Roma traveled to Norway, hoping to receive refugee status there. Those who turned in applications were immediately turned down in a procedure that was so short as to cast doubt upon its fairness. Those Roma, along with the others who had not put in applications, were returned to Bulgaria. Some of them were prohibited from traveling abroad for one year, and others were punished when the municipal social services revoked their rights to receive social pensions for one year.

12. Right to Asylum

A significant increase in the number of persons seeking asylum and refuge in Bulgaria was registered in 2001. In 2000 only 1,755 persons sought refuge in Bulgaria. In the first 11 months of 2001, by comparison, 8,198 sought refuge. The number of persons who turned to the BHC for legal help also increased. In 2000 a total of 4,614 persons sought the BHC's help, while in 2001 6,118 did.

This was the first time since Bulgaria's establishment of a system for refuge and asylum that foreigners arrived wishing to stay in Bulgaria itself. This fact has led to a qualitative change in the profile of refugees and immigrants to Bulgaria, as a new category has been identified. In the past, refugees stopped over in Bulgaria only when they were detained here or when they encountered obstacles on their routes to Western Europe or North America, the historical favorite destinations for economic migrants. The reason for that was Bulgaria's inclusion in the visa "blacklist" of Schengen member countries. Now that Bulgaria has been removed from the list, however, and thanks also to the relatively stable political situation, Bulgaria has become a more attractive country to asylum seekers and immigrants.

The government refused to guarantee a system of legal aid for refugees and asylum seekers, thereby effectively obliterating the texts in the Refugee Act (in effect since 1
August 1999) that give them the right to be accompanied by a Bulgarian citizen acting as a witness at all stages of the process, including in court. This was also provided by Article 20, paragraph 2 of the Decree on Granting and Regulating Refugee Status. Bulgaria also lacks a general system for the provision of legal aid in any situations except criminal cases related to crimes of a general character.

The entire process for refugees - from the moment they cross the border until the moment they receive refugee status - is still in critical condition. "Refoulment," or the deportation of asylum seekers and their return to the country (or to the border of the country) from which they fled, is a widespread practice. This practice violates Article 22, paragraph 1 of the 1951 Convention on the Status of Refugees and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Because of the growing flow of refugees and asylum seekers in Bulgaria, and because of the pressure on the part of non-governmental organizations for the state to fulfill the international obligations that it has accepted by signing conventions, last year a new, facilitated process was established for the granting of refugee status. This process is implemented by the National Border Police Service. The Service's officers, however, have not undergone the necessary training to carry out the procedures in question. Consequently, with the exception of cases of juvenile and youth refugees, who may be admitted into Bulgaria through the normal procedures without going through the asylum process, the border police most frequently turn down applications and send asylum seekers to neighboring countries, especially Turkey. The police do not follow the regulation that requires them to find out whether the country to which they are sending the asylum seekers (which may or may not be their country of origin) presents a risk to the persons' life, liberty, and personal security. In most cases of Kurds fleeing Iraq, returning them to Turkey presents a serious flaw in Bulgarian procedure, which calls into question whether the country is really fulfilling its responsibilities according to international norms.

Another problem arises from the lack of judicial control over the decisions of the border police. The actions that the border police take vis-a-vis asylum seekers are subject only to administrative appeals before the Agency for Refugees, which generally just confirms the police's original decisions to send refugees away. At the same time, and despite the foregoing, the introduction of the facilitated procedures may be seen as a small positive step compared to the practice of previous years. This is because the applications for status are now reviewed by a legally clear procedure, which, although it is merely a formality, does more or less guarantee the rights of foreigners seeking asylum in Bulgaria.

The general procedure followed by the Agency for Refugees improved to a certain extent in 2001. Applicants are now appointed translators and are guaranteed at least two interviews during the review of their applications. Authorities still neglect to determine and record the applicants' countries of origin, however, which calls into question all conclusions that they make about the legitimacy of the applications. Decisions and enforcement of recognized standards in the review of applications are still far from the quality that they should be. Authorities completely neglect -intentionally, it would seem - to notify applicants of their rights and responsibilities during the hearings, and rarely tell them that they have the right to seek legal aid in the case.

Most of the violations are corrected, however, if the cases are appealed to the Supreme Administrative Court. This is especially the case when the violations are of a purely procedural nature. Last year, the Court showed that it seeks positive progress towards
conformity with the accepted criteria for the implementation of the refugee procedures and granting of refugee status. In these cases, precedent was established for the following juridical standards:

- The Court accepted that the use of the shortened and facilitated procedure for refusing status is not legal unless there is clear and sufficient evidence that the asylum seeker's application is not legitimate.
- The powers of the specialized administration to make decisions that by law should be made in police proceedings was determined illegal, since it violates the legal guarantees of fairness. This practice was stopped.
- The Court formally declared that there are serious grounds for repealing the Individual Administrative Act, because it hinders the protection of fundamental human rights.
- The Court required the administrative organ to obtain sufficient objective and unbiased data about political life in a refugee's country of origin before making its decision, so as to check the legitimacy of the objective and subjective aspects of the application for refugee status.
- The state organ was required to consider the provision of humanitarian asylum before completely throwing out an application for refugee status.
- A Court decision determined that the general legal principle requiring everyone to prove his allegations is not absolute in the case of refugee law. This is because of the unusual situation in which candidates for refugee status are placed. The decision constituted a major achievement in the protection of refugee rights.
- Finally, the Court indicated that the administration is responsible in every refusal of refugee status or asylum to make a pronouncement on the security of the country to which the applicant will be returned. This will help Bulgaria fulfill its responsibilities according to Article 3 of the European Convention on Human Rights and Article 3 of the Convention against Torture.

At the beginning of 2001, after active lobbying and judicial activity for the repeal of the illegal procedures used by the authorities dealing with refugees and for the repeal of illegal administrative practices, the government agreed to change the Law for Refugees. The Prime Minister appointed a working group to change and amend the law. The group included representatives of the BHC's refugee project. In this sense, it is may be said that the non-governmental human rights organization is to a large extent a co-author of the new Draft Act for Asylum and Refugees. The Draft Act, which will replace the currently enforced Refugee Act, eliminated the exclusive protection clauses that the state tried to add, which would have violated the 1951 Convention on the Status of Refugees. The law also introduces, for the first time in Bulgarian history, two-tiered judicial review of administrative decisions made through the facilitated procedure.

Another positive development was the introduction of three new forms of asylum - conventional status, humanitarian status, temporary asylum, and refugee status granted by the President. Once these texts are passed in Parliament, foreigners who need asylum (because of violations of their human rights according to Articles 2, 3, and 8 of the ECHR) but who do not fit the narrow definition of refugees will be eligible for asylum in Bulgaria.
The texts on non-refoulement (the prohibition on returning asylum seekers to countries that present a risk to their human rights) have been broadened, bringing them closer to accordance with Article 3 of the European Convention on Human Rights and Article 3 of the UN Convention Against Torture. New mechanisms are expected to ensure the rights of unaccompanied minors and juvenile refugees, as well as those of people suffering an illness that makes them unable to understand the nature and meaning of their acts.

One problem with the draft act is the fact that it shifts judicial review of refugee cases to the regional court level. This means that if the law is passed, the Supreme Administrative Court's five years of experience will have to be repeated in every single regional court, which will probably lead to a decline in the quality of judicial control to the detriment of the refugees.

13. Rights of Children in Institutions

The situation in state and municipal institutions for children did not change significantly in 2001. The Child Protection Act, passed in 2000, did not get underway this year. The foster family institution, which the act had created to reduce the number of children in institutions, was not made to work effectively. The number of children in all kinds of Bulgarian state and municipal institutions remained high - there are still more than 35,000 children in institutions. In 2001 a few private institutions sprang up, but they still make up only a tiny segment in the system of children's institutions. The lack of social programs for families and the extreme poverty in the country have worsened over the past years, especially for Roma families. This fact continues to be a driving force behind institutionalization. The old problems that institutionalized children face - the lack of individual care, the lack of social contacts, malnutrition, poor access to good education, abuse and physical mistreatment in some institutions - continued to exist in 2001. Throughout the year the BHC published some of its observations in the system of children's institutions. These observations were published in three volumes. Additional volumes will be published in 2002.

The situation of children with mental disabilities was particularly dramatic in 2001. The BHC continues to conduct monitoring in the system of their institutionalization. There are 45 establishments for these children in the system of the Ministry of Labor and Social Policy. In these institutions, the state cares for 3,400 children with mental disabilities between the ages of 3 and 18. There are 13 centers (with a total capacity of 500) for daycare of these children. The children in these centers have parents. There are also 32 year-round homes for children with no parents. Around 2,900 children live in these homes. During 2001, two of the children's social homes with the worst conditions were closed. These were the home in the village of Prekolinitsa and the one in the village of Pravda. The children from these homes were transferred to the Children's Village "Kachulka," which itself was reorganized - a social home was opened in the place of the old assisted-care school.

Some improvements were made in the system of social homes for children during 2001. These were related mainly to the improvement of the material conditions and food provision. Most of the monetary donations for these improvements came from abroad - especially from Germany, Ireland, and Great Britain. In some homes, such as the one in the village of Fakiya, additional personnel were hired to help care for the children. Despite these improvements, however, the overall situation for mentally disabled children in Bulgarian institution remained critical and constituted a violation of the
children's rights. Twenty-five of the 32 year-round homes are located in small villages in regions that are severely economically depressed. Most of the building facilities have not been renovated since the time they were built. Most of them were previously used as hospitals, schools, army barracks, mayors' offices, and even border checkpoints or train stations.

The children in homes for the mentally disabled are considered uneducable. Any education the children do receive is not integrated into the national education system, and in some of the institutions the nurturing that the children receive is limited completely to care for their physiological needs. This, in turn, worsens the children's mental conditions.

Medical care in the children's social homes is provided by general practitioners, who typically have their practices in the cities. These doctors do not visit the homes frequently enough, and the children's overall medical care is totally inadequate. In the past few years, the death rate in homes for mentally disabled children was between 5 and 18%. In 2001 the death rate declined.

No improvements were made in the quality of the personnel in the institutions this year. Staffs continued to be small, overworked, and poorly paid.

14. Women's Rights

Two major events evidenced positive development in the legislation and practice concerning women's rights in Bulgaria during 2001. The first was the Ministry of Labor and Social Policy's preparation of a draft act for equal opportunities for men and women. The second was the election of the 39th National Assembly, in which 27% of the representatives are women. There was also progress in the realm of preventing violence against women.

Unfortunately, the Bulgarian legislature stumbled over its first attempt to lay the foundations of effective anti-discrimination laws concerning women in Bulgaria. The Draft Equal Opportunity Act was approved by the Council of Ministers on 29 March 2001, but was not introduced into Parliament because there was no time left in the season. At least that was the official explanation. Despite the pressure from non-governmental organizations to introduce the Draft Act as early as the end of the 38th National Assembly, it was set aside. Representatives in the 38th Assembly promised that its introduction would be among their first tasks at the beginning of the 39th Assembly's session. The election of more women than usual in the 39th Parliament seemed like a good sign that the law would be competently considered and that positive steps would be taken. The Draft Act contains a clear prohibition against direct and indirect discrimination on the basis of sex. It highlights the cases that count as such discrimination and encourages the passage of concrete, positive measures to confirm the place of sex among the list of prohibited bases of discrimination. The Draft Act introduces the concept of sexual harassment in the workplace and in educational establishments, which has never before been considered in Bulgarian legislation. The project stipulates protections against discrimination in hiring and the workplace, in political participation, and in education. It shifts the burden of proof to the defendant in some cases of discrimination in the workplace. These are only some of the provisions of the Draft Act, which provides a good foundation for the beginning of anti-discrimination legislation in Bulgaria.
The Draft Act, which conforms to the European Union's basic principles of gender politics and politics of non-discrimination, was introduced in the 39th National Assembly by MPs from the Union of Democratic Forces, with Anastasia Mozer at their head. Upon its first consideration by the Commission for Human Rights and Religion at the end of 2001, however, the act received unfavorable reviews. It was poorly received in the Commission for Labor and Social Policy, as well. Only the Commission for European Integration wrote a positive report on the Draft Act. One of the arguments against passing the Draft Act on first reading was that the safeguards against discrimination in Article 6 of the Constitution were sufficient. Some argued that other laws, such as the latest version of the Labor Code, already provide for the prohibition against and protection from discrimination. Some argued that discrimination against women does not exist in Bulgaria. Some even argued that the positive, confirming measures in the law contradicted the Charter for Human Rights. And some warned that the passage of an Equal Opportunity Act might open the doors for other anti-discrimination laws. Indeed, if that happened it would be a logical development in Bulgarian law. As it turned out, the law proved to be too much of a challenge. Even the Ministry of Labor and Social Policy, who had originally written the draft, declined to support it in Parliament. Thus the Draft Act was not passed.

One undeniable success story in the history of women's political rights in Bulgaria is the unprecedented participation of women in the new Parliament. From less than 11% in the last Parliament, now 27% of all MPs are women. This is due as much to the campaign politics of the NMSII as to the pressure of non-governmental organizations working on sexual equality in the pre-election period. At this stage the women in Parliament do not consider themselves a unified force, but the passage of legislation guaranteeing women's rights and equality will help maintain and even strengthen the balance between the sexes in Parliament. And this is necessary, because the same balance of male to female participation in not present in the individual parliamentary commissions. Women are over-represented in the commissions dealing with social problems, education, and culture, and they are underrepresented in the commissions working on the budget, finance, the environment, and economic politics.

As in previous years, the problem of violence against women, particularly domestic violence and trafficking of women, were the major problems in the realm of women's rights. At the moment, non-governmental organizations are the only institutions providing services to victims of these crimes in Bulgaria.

Of 1,031 applications that the Animus Association received from victims of domestic violence asking for help in the period from January to October 2001, 725 were cases of women victims. During the same period, a total of 4,114 women turned to Animus' crisis center for help. Of these, 2,120 were victims of domestic violence. In other words, about 52% of the victims of domestic violence are women. During the same period, the Nadya Center gave temporary shelter to about 120 women who were victims of domestic violence.

The number of women suffering from domestic violence is high throughout the country. Animus-Plovdiv received over 400 applications for help from victims of domestic violence, 85% of which were from women. Sixty-two women and children sought assistance from Animus-Pernik between January and October of 2001. Two hundred victims of domestic violence turned to the organization "SOS - Families in Disgrace" in Varna. Of these, 85% were women who had been victims of physical violence. Data from the centers that help female victims of violence show that about 80% of the women in question need legal assistance, as well. The state does not provide such assistance. The
procedures for filing complaints with the Prosecutor's offices are completely ineffective, even in cases of Article 63 of the Ministry of Interior Act, which stipulate measures for warning offenders. The provisions for divorce in the case of domestic violence are also ineffective. They are enacted sluggishly and with reluctance, and they need to be thoroughly reformulated.

Throughout the year, lawyers from the Bulgarian Gender Project Foundation, together with representatives of state institutions, worked on preparations for a draft law that would provide shelter to victims of domestic violence. The draft stipulates the quick and effective intervention of the regional courts and judicial administration with the aim of sheltering the direct victims of domestic violence as well as their children, and of restraining abusers from entering their victim's home (or the family's home, in which the victim may continue to live). The draft law was introduced in the 39th National Assembly at the beginning of December 2001, during the course of a 16-day campaign protesting violence against women. The media, particularly in Sofia, took great interest in the law and united themselves with non-governmental organizations during this campaign.

As part of a pilot program for the protection of the rights of women who have been victims of violence, non-governmental organizations began providing legal assistance to individual rape victims in 2001. Normal criminal procedures proved ineffective in cases of rape, and the state did not provide sufficient means for the protection of victims. At the end of 2001, a group of lawyers involved in the program provided legal help to K.M., a young Roma woman who had survived a terrible gang rape, in which her boss had participated; the case involved various forms of discrimination. The case was particularly interesting for the lawyers in the program because of the incompetent intervention of the police and the concealment of evidence on the part of some state representatives. The case, which was also interesting to the press, met with contradictory points of view in the press. A leading article in the Plovdiv newspaper Maritsa on 13 November 2001 was particularly discriminatory and violated human rights. The article was entitled "Rape: Human Drama or Profitable Business?" It openly accused rape victims of profit-seeking. Moreover, the article, which was clearly paid for by the men who committed the crime, questioned whether the case of the Roma girl in question, which was under investigation at the time, had even happened. The newspaper wrote that "Roma often complain that their daughters have been raped, in order to extort money from people."

Trafficking in women continued to be a major part of trafficking in people in 2001. In April Bulgaria ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which is part of the UN Convention Against Transnational Organized Crime. In order to prepare the legislation necessary to bring Bulgaria into accordance with this protocol, the Ministry of Justice formed a Working Group for the Preparation of Legislation Prohibiting Trafficking in People. Non-governmental organizations also participated in the working group.

At present, there are no official statistics about the number of people who have been victims of trafficking. The data provided by the National Border Police Service concern two types of people: Foreign citizens expelled from the territory of Bulgaria and Deported Bulgarian Citizens. The data provided do not distinguish between channels of illegal migration and channels of trafficking. The Border Police data from 2000 show that 888 foreign citizens, mostly from Eastern European countries, were expelled from Bulgaria in 2000. In order to effectively combat organized crime, the Border Police structures include a special department for "Fight Against Trade in People." The Border Police signed an agreement for cooperation with the International Organization for
Migration and with the Animus Association to prevent the illegal trafficking in people. According to data from the International Organization for Migration, the organization helped 37 Bulgarian women who were victims of trafficking return home in the period from 2000 through September 2001. The organization helped another 37 women from other countries return home.

A new theme appeared in the realm of women's rights during 2001 - protection against discriminatory advertising. Cases were opened against advertisers and advertising agencies in 2001 for inappropriate ads. These cases appealed to the Consumer Protection and Commercial Regulations Act. In February 2001, the Bulgarian Gender Research Foundation asked the Commission for Trade and Consumer Protection to fine Radio-Telecommunications Company, Ltd., regarding the openly discriminatory advertisements for phone cards distributed by the Mobikom company. Under the heading "What size do you prefer?" the ads showed phone cards with four different values and women's breasts and bras in four different sizes. The commission did not fine the advertiser, but together with the Bulgarian Gender Research Foundation filed a complaint demanding that the indecent advertisement be stopped and that further similar advertisements be prohibited, as called for by law. Two related cases are currently before the Sofia Regional Court.

In July, a Plovdiv businesswoman opened a case against the attitude towards women taken by a television advertisement for Zagorka beer. The ad compared women to beer and cars, listing them as the most important things a "person" (understood as a man) needs. Later, several other women and organizations filed complaints against the same advertisement. Some of the plaintiffs asked not only for a finding that the ad was discriminatory, but also for financial compensation from the advertiser. The cases will be heard in 2002.

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Memorandum of the Bulgarian Helsinki Committee

The key word in Bulgaria is still "change." The new Bulgarian government came to power so as to meet Bulgarian citizens' growing expectations for fundamental changes in their way of life. At this crucial moment in our country's development, the Bulgarian Helsinki Committee turns to the government and to other institutions in the Republic of Bulgaria with anticipation and with the hope that reforms in social life will not overlook human rights. Human rights is a sphere that also needs urgent and extensive changes.

We want:

I. Accession to international agreements on human rights
The process of accession to international agreements for the protection of human rights must continue. The list of international human rights agreements that can positively influence Bulgaria's domestic and international situation is still long. The signing and ratification of some of these agreements without reservations should be a priority. Some of the most important agreements are:

- Protocol 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms
- The Optional Protocol to the UN's Convention for the Elimination of All Forms of Discrimination Against Women
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts
- The European Charter on Regional and Minority Languages
- The Statute of the International Criminal Court
- The UN Convention on the Reduction of Statelessness

II. Prevention of torture and of inhuman and degrading treatment and punishment

In order for torture to be effectively prevented, the illegal use of force and all forms of violence on the part of law enforcement authorities must stop. Bulgarian legislation must be brought into compliance with international legal standards of human rights. This will require:

- Legislative reform. This should provide the possibility of effective legal assistance from the moment of arrest or when official charges are brought. In cases of suspects who cannot afford to pay for a lawyer, one should be appointed and provided to them for free. A legislative framework for legal aid for indigent suspects and defendants must be established. This should also guarantee that family members are quickly notified about the location and conditions of a suspect's detention. The law must also guarantee access to independent medical expertise immediately after arrest. The detainee should be allowed to choose their own doctor.

- Quick and effective investigations into any complaints of physical abuse and excessive use of firearms by law enforcement authorities. These investigations should be conducted by the Prosecutor's office and other organs involved in pretrial procedures.

- The creation of an independent organ for supervision of the legal organs that accept and investigate citizens' complaints. The creation of such an organ will guarantee the speed and effectiveness of investigations into cases of illegal use of force on the part of law enforcement authorities. It will also guarantee that the
results of these investigations will be made public. Parallel to these changes, the Interior Ministry’s system of internal administrative control must be improved.

- Changes in Article 80 of the currently effective Ministry of the Interior Act. These must include prohibitions on every single use of firearms by law enforcement authorities in pursuit of any criminals, even fleeing ones.

- The abolition of cumulative sentences. At the same time, legislative reforms must be made to secure detainees’ right to work in a strict procedure that leaves no room for arbitrariness.

- Legislative provisions for adequate access to justice and rehabilitation for women who are victims of domestic violence. These should include:
  a) Changes in the Penal Code to make domestic violence a crime of general character
  b) The establishment and support of refuges and rehabilitation centers for victims of domestic violence

III. An independent judiciary, fair trial, and the protection of liberty and security of person

The problems related to fair trial and the protection of personal liberty and security in Bulgaria still exist, despite the changes in several laws.

In order to guarantee the independence of the judiciary, a new appeal must be made to the Constitutional Court. The Court must confirm the impossibility of making changes with a law of the Supreme Judicial Council’s Constitution-framing mandate.

Legislative changes to speed up the judicial procedures are needed. This is true for both civil and criminal cases, and is especially true for the latter. Changes in procedural laws are needed to overcome unnecessary delays. A whole packet of other measures is also needed to improve the organization of the judicial system and to motivate the people who work in it.

Outmoded and anachronistic acts, such as the Decree on Combating Minor Hooliganism and the Juvenile Delinquency Act (which is outmoded despite the changes made to it at the end of 1996), must be fundamentally reformed.

The 15 days of detention stipulated by the Decree on Combating Minor Hooliganism should be treated as deprivation of freedom and not as an administrative punishment, as it currently is treated. Correspondingly, legislative changes must be made to bring trial procedures into accordance with the European Convention for Human Rights and Fundamental Freedoms. This is especially true of the part of the Convention dealing with the length of time necessary for the defendant to understand the charges against him, the length of time necessary to prepare an adequate defense, and the calling of witnesses.

The placement of children in reform schools should also be treated as deprivation of freedom. Accordingly, a judicial procedure must be established for such placement, and it must expressly conform to the recommendations that the UN Committee for the Rights of the Child made to Bulgaria in January of 1997.
There is an acute need for reforms in the legislation regarding the placement of mentally ill persons for compulsory treatment. The reforms must stipulate that only the courts can require compulsory measures. This will guarantee the obligatory presence of a lawyer for the defendant during the course of the trial, and will prevent the placement of mentally ill people in any kind of establishment for any kind of treatment without preliminary medical expertise. There must be mechanisms for appeal of decisions that place people for compulsory treatment.

IV. Freedom of expression and the right to information

Freedom of expression needs additional encouragement in Bulgaria. In the sphere of the right to information, our country must introduce fundamental legislative guarantees. In this regard:

- We are still waiting for an adequate law on the national media. This law must finally end political control over these media. The law must include regulations concerning the status of the Bulgarian Telegraph Agency. The National Television, the National Radio, and BTA must be managed by independent executive councils made up of professionals recommended by educational institutions, specialized working groups, and other interested social circles.

- When executive organs are appointed, their independence and political objectivity must be guaranteed by the responsible parties.

- Employment contracts and disciplinary measures for journalists in the national media and BTA must provide security, autonomy and freedom of expression.

- At the same time, legislative guarantees must be established. The national media must allow the expression of all public interests in an unbiased and non-discriminatory manner.

- We are still waiting for additional reforms to the Penal Code concerning slander and libel. Urgent changes are necessary in the discriminatory articles about "libel" and "insult." These must be civil proceedings, not criminal ones.

- We are still waiting for reforms in the legislation concerning access to public information. These must make such access to citizens, media, and non-governmental organizations more effective.

V. Freedom of thought, conscience, religion, and belief

The freedom of thought, conscience, religion, and belief have been one of the most actively debated problems for human rights in Bulgaria during the past few years. Reforms are needed in almost all legislative spheres related to these freedoms.

Most pressing is the need for fundamental reforms in the legislation regulating relations between the state and the church. It is an embarrassment that in the years following the beginning of Bulgaria's democratic transition that relationship is still governed by the
1949 Denominations Act, which was written not to guarantee freedom of religion, but to subjugate it to totalitarian control.

The new law must provide the possibility for equality among religions, and must also make religious organizations equal to other organizations formed along lines of non-religious beliefs in all spheres of public life. Religious organizations should be allowed the same legal status granted to other organizations.

The discriminatory Article 133A in the Persons and Family Act, which was originally written with the specific goal of limiting the freedom of association and confession to minority religious communities, must also be changed. The Prosecutor's office and other organs involved in pretrial procedures should quickly and effectively investigate all signals of illegal activities aimed against believers and their houses of prayer.

The newly-passed Substitution of Military Service with Alternative Service Act must be changed to reduce the length of the alternative service (making it equal with that of military service), as well as to widen the circle of organizations that may hire conscientious objectors wishing to complete their alternative service. This circle should include non-commercial organizations. Changes should be made to allow conscientious objectors to waive their military service at any time, including after it has already begun.

VI. Freedom of association

The Bulgarian Constitution contains some decrees on freedom of association that are illogically limiting and openly discriminatory. We want to see new legislative initiatives dealing with:

- The decrees that prohibit the formation of political parties on ethnic or religious bases. In some cases Bulgarian courts - including the Constitutional Court - have interpreted these decrees too narrowly. These decrees and practices put legal pressure on self-organizing civil society, which has attracted the attention and legitimate concerns of international organizations in the past few years.

- The decrees concerning the role of the Prosecutor's office in preventing peaceful assemblies of citizens outside the framework of the Assemblies, Demonstrations, and Manifestations Act.

- The current tax regime for donations. This regime hinders the establishment of worthy civic associations in Bulgaria.

VII. Protection from discrimination on the basis of political beliefs

More than a decade after the beginning of the democratic transition, the problem of discrimination on the basis of political beliefs and political membership is just as acute as it was ten years ago. Political appointments and firings take place in Bulgaria at all levels of administrative and state services every time power changes hands. Some openly discriminatory laws were passed preventing some groups of people from holding certain positions because of their political beliefs. We desire the establishment of a mechanism
for oversight and prevention of political discrimination. It should include an effective system for reviewing individual complaints.

VIII. Protection for refugees and asylum seekers

Despite the progress that has been made in the past few years, there is still much more to be done in the sphere of refugee protection:

- We demand changes in the currently enforced Refugee Act. This law must be brought into conformity with the standards of the 1951 Convention on the Status of Refugees and the 1967 Protocol.

- We demand the establishment of services that will be in a position to solve all problems of refugees and asylum applicants that occur outside the procedures of receipt of refugee status.

- We demand that the Ministry of Justice quickly organize diverse and effective forms of judges' training in the questions of refugee law.

IX. Prohibition against discrimination on the basis of ethnicity and protections for the ethnocultural traditions of minority communities

We want to see progress towards additional protections against ethnic discrimination and towards the consolidation of ethnocultural rights for minorities. In order to achieve this, the new government must evaluate current legislation and take the appropriate measures to bring it into accordance with the Framework Convention for the Protection of National Minorities. The government must also affirm its commitment to its own Framework Program for the Equal Integration of Roma in Bulgarian Society. In many spheres of public life there are no existing anti-discrimination laws or regulations other than those in the Constitution. In other spheres, there are no established procedures for enforcing the regulations that do exist. There are no organs or institutions dedicated to dealing with the problem of ethnic discrimination. Indeed, state institutions in Bulgaria do not even recognize the existence of ethnic discrimination. Protection of ethnic, linguistic, and religious rights is at a very low level for all minorities in the country. In this regard:

- The passage of a law against ethnic discrimination is necessary. This law must secure effective protection from ethnic discrimination in all spheres of social life, and it must conform to the requirements of Directive 2000/43/EC.

- The current procedures and judicial practice for protection against ethnic discrimination must be improved.

- The state must recognize, on a non-discriminatory basis, all groups and associations of citizens. These groups and associations must be allowed to declare their ethnic identities without outside pressure, and they must be allowed to identify with minority groups if they wish.
- Further progress is necessary to guarantee the right of ethnic minorities to study their mother languages. Additional progress is especially urgent in regard to the Roma minority.

- A process of effective desegregation of Roma schools must be launched in order to improve the quality of education available to Bulgarian Roma.

- Progress must be made towards starting to solve the other problems of the Roma. These problems are highlighted in the Framework Program for the Equal Integration of Roma in Bulgarian Society, and they include: the geographic structure of Roma neighborhoods, the encouragement of employment, and the improvement of the social welfare system.

X. Inviolability of private life, the home, and correspondence

The right to privacy in one's personal life, home, and correspondence must be secure against state interference. Bulgarian security services currently operate in a manner that is non-transparent, not only to society at large, but also to the organs and institutions that, in a democratic country - should be responsible for controlling them. It is essential that new legislation be adopted to guarantee adequate judicial and parliamentary control over the activities of the secret services, and especially over those aspects of these activities that are related to eventual violations of citizens' privacy.

XI. Protection of the rights of the child

As the Committee for the Rights of the Child noted in its 1997 recommendations following Bulgaria's report on the Convention on the Rights of the Child, many more legislative measures must be passed in order to guarantee more adequate protection against violations of children's human rights. In addition to Bulgaria's previously mentioned need to ratify the Hague Convention, and in addition to a complete reform of the system for juvenile justice, it is also necessary:

- To create a national system for overseeing the status of all children in Bulgaria. Particular attention must be paid to children from high-risk groups.

- To establish special services for children. The priority should be a review of the questions related to the effective observance of children's rights.

- To prohibit and effectively prevent all forms of corporal punishment.

- To strengthen and make more effective (through the creation of special services, if necessary) the enforcement of laws against sexual exploitation and drug-use among children.

- To take legislative and other measures designed to keep children in school. These should include the stimulation of teachers in schools with high rates of truancy.

- To legally guarantee effective protection against the exploitation of child labor. Enforcement must be made more effective.
In addition to the above, urgent measures must be taken to improve the material situation in children's institutions. At a minimum these must include:

- The establishment in a normative act of fundamental parameters for the financial support of these institutions. These should include funds for food, clothing, heat, hygiene, and so on.
- The rejection of the idea that children with mental disabilities are "ineducable." Measures should be taken to adequately socialize these children.
- The introduction of a system of periodic observation of children in all homes for children with mental disabilities, as well as measures for reducing the number of children in such homes.
- The assurance of access to medical help for all children, through the passage of relevant legislative changes and through the provision of appropriate forms of medical care to children in institutions.
- The introduction of a system of periodical inspection of all children's institutions by an independent organ.

Sofia, 10 September 2001

Endnotes:


5 In fact, the survey established that the percentage of suspects who had access to a lawyer and therefore had effective and just trials had decreased since January 2000, from 53% to 45%. It must be taken into account, however, that the respondents who had been convicted before 1 January 2000 were serving longer sentences on average, since a significant number of the ones with shorter sentences were already free. Therefore, the likelihood that those convicts had had lawyers during the pretrial investigation of their cases is larger. back


7 For details see the press release of the Tolerance Foundation from 17 May 2001: "Bulgaria: The Council of Europe's Expert Opinion on the Bulgarian Draft Law for Religion is Negative." The text is available in Bulgarian and English online at: www.bghelsinki.org. back

8 For details see the Tolerance Foundation's press release from 3 August 2001 (in English): "Bulgaria: A Conference of Religious Leaders Insists on Adopting a Special Bill for Restitution of the Confiscated Church Property." The text is available online at: www.bghelsinki.org. back
9 BHC published a documentary history of the protests at BNR during April. The Radio Between Power and Professionalism, Sofia, BHC, 2001. back


12 See Trud newspaper, 26 January 2001. back

13 Investigation Detention Centres in Bulgaria, Sofia, BHC, 2001. The text is available online at: www.bghelsinki.org. back


15 Children in Institutions, volume 1: Correctional Boarding Schools and Social Educational Boarding Schools, Sofia, BHC, 2001. back

16 See Children in Institutions, volume 1: Correctional Boarding Schools and Social Educational Boarding Schools; Children in Institutions, volume 2: Homes for Medical-Social Care; and Children in Institutions, volume 3: Homes for Children Younger than School-Age, Sofia, BHC, 2001. back