HUMAN RIGHTS IN BULGARIA IN 2010

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Sofia, Bulgaria
Throughout 2010, Bulgaria was governed by the minority government of the center-right Citizens for the European Development of Bulgaria (GERB) party. It had the parliamentary support of the extreme nationalist party Ataka, known for its anti-minority, xenophobic and homophobic rhetoric.

2010 was a year of serious challenges to human rights in Bulgaria. The situation worsened considerably in many areas, especially with regard to the rights of ethnic minorities, the protection against violations of privacy by the security services’ arbitrary tapping of citizens’ electronic communications, independence of the judiciary and fair trial, and the use of force, auxiliary equipment and firearms by police officers. The only improvement was noted in the field of the protection of children’s rights.
1. Cooperation with International Organizations for the Protection of Human Rights

On November 4, 2010, the UN Human Rights Council held its universal periodic review for Bulgaria. The participating countries addressed 113 recommendations to the country, many of which were general, did not target the situation in the country and/or were formulated in extremely diplomatic language. However, some recommendations concerned serious human rights issues: discrimination against Roma and other ethnic minorities; the excessive use of force by law enforcement bodies; violence and discrimination against institutionalized children, people with psychiatric disorders and sexual minorities; racist and xenophobic hate speech; the deplorable conditions at correctional facilities; and justice for minors and juveniles. By the end of the year, the Bulgarian government had not made a statement on the recommendations indicating which ones it accepts and which it rejects.

On July 22, 2010, the European Commission published its next report within the cooperation and verification mechanism. The report had a narrow focus, restricted to combating corruption and addressing prosecution and judiciary reforms in this respect. The government’s efforts in this sphere were commended. More specifically, the report positively evaluates the changes to the Criminal Procedure Code effected in April, without recognizing the possibilities for human rights violations that they create.

In 2010, the European Court of Human Rights (henceforth referred to as “the Court”) announced a record 71 verdicts against Bulgaria. In 61 of them, it found violations of various provisions of the European Convention on Human Rights (ECHR). The Court found no violations in nine cases, and in one case the government admitted a violation and agreed to pay the plaintiff compensation in an amicable settlement.

Implementation of the Court’s decisions has continued to be a very serious problem in Bulgaria. In reality, the government has turned its back on the Concept for Overcoming the Convictions of the Court that it had adopted in March 2009. At the end of 2010, Bulgaria was among the Council of Europe member countries with the greatest number of non-implemented Court decisions per capita. During the year, the Committee of Ministers of the Council of Europe ended the monitoring of several judgments concerning mostly legislative issues which were handled during the 2000-2004 period. However, many new cases on which the Court ruled in 2010 were included in the monitoring. Throughout the year, the government did not initiate any actions to overcome or publicly condemn the failure to comply with the Court’s decisions.

On October 7, the Council of Europe’s commissioner for human rights sent the Bulgarian prime minister a letter in which he expressed his concerns with respect to the discrimination and social exclusion of the Roma, the lack of progress in implementing the Court’s decisions concerning state intervention in the internal affairs of the Muslim community, and Macedonians’ right to peaceful assembly and association. In his response in November, the prime minister essentially rejected the need for serious reforms in all three areas. He quoted several modest projects targeting the Roma community, but did not offer a vision or long-term plan to find a solution to the problems. He also stated that, in contradiction to the Court’s findings, the Religions Act of 2003 does not allow state intervention in religious affairs and is fully compliant with the ECHR. With regard to Macedonians’ right to peaceful assembly and association, the prime minister underscored – in what ranks as one of the most blatant lies to international institutions during the democratic transition – that their freedom of peaceful assembly is fully guaranteed, and that OMO Ilinden and OMO Ilinden PIRIN even receive “support from the authorities” when organizing social and cultural events.

2. Right to Life
Article 74 of the Ministry of Internal Affairs Act allows the use of deadly force during the arrest of a person who is committing or has committed even a petty crime, as well as when preventing the escape of a person who may not pose a threat to others. As pointed out by the Court in many convicting verdicts against Bulgaria, this provision is in conflict with the international legal norms that guarantee the right to life and protection against inhuman and degrading treatment. It also contradicts Article 9 of the UN Principles on the Use of Force and Firearms by Law Enforcement Officials. However, it remained unchanged in 2010 and many police officers were not punished for the use of firearms while detaining or preventing the escape of persons suspected in petty crimes who posed no threat to others.

On July 23, 2010, police officers in Pleven shot and killed Marian Ivanov in an attempt to arrest him. The manhunt for Ivanov began when the Veliko Tarnovo Appellate Court upheld his sentence to imprisonment in July. When it was established that he was at his girlfriend’s apartment, several police officers entered the apartment but did not find him there. Subsequently, most of them left but two remained at the entrance. When Ivanov appeared later, he was shot at the building’s entrance, with a single bullet to the temple. His friends claimed that “he was shot like a dog” because the police hated him. In the subsequent investigation, the prosecution accepted the argument that the officer who fired was acting in mock self-defense, since he had decided that Ivanov had pulled something that looked like a weapon out of his pants’ pocket. In fact, only a metal key was found in Ivanov’s possession. On these grounds, the Pleven District Prosecutor’s Office terminated the pre-trial proceedings on December 8 and refused to indict the police officer. On January 6, 2011, the Pleven District Court upheld that the decision by the Pleven District Prosecutor’s Office was correct and lawful.

One of the most well-known cases, the killing of Angel “Chorata” Dimitrov by police officers in November 2005, did not conclude in 2010. On November 12, the Sofia Military Appellate Court reduced by half the sentences of the five police officers involved. The head of the police operation was sentenced to nine years effective imprisonment, while the other four were sentenced to eight years each. However, the verdict was appealed in the Supreme Court of Cassation by both the defendants and the prosecution, as well as by relatives of the victim. The case is to be heard in March 2011.

The case of Bashkim Mardzhalakë (whose real name is Fatmir Mehmeti, born in 1964 in the former Yugoslavia), who was killed by police officers in 2008, ended in 2010. In December 2009, the Sofia Military District Prosecutor’s Office issued a new order to terminate the criminal proceedings against the police officers involved. The main justification was that they had acted within the limits of Art. 12a, Para. 1 of the Criminal Code, i.e. in unavoidable self-defense. In a ruling on January 22, 2010, the Sofia Military Court fully upheld the termination of the case, referring to the grounds quoted by the prosecution. Following a complaint by the victim’s relatives, in a ruling on February 22, 2010, the Military Appellate Court confirmed the case’s termination, thus ending the criminal proceedings with regard to Mardzhalakë’s death. The case continued only in the portion regarding the ownership of the evidence.

With regard to the case of Plamen Kutsarov, killed in January 2009 while being escorted after a special police operation, an indictment against the two escorting officers was submitted to the Sofia City Court in January 2011. They were indicted for involuntary manslaughter under Art. 123, Para. 1 of the Criminal Code. The date for the hearing is to be determined.

In 2010, the Court adopted a record number of decisions against Bulgaria under Article 2 of the ECHR (the right to life). In seven of them, the Court found Bulgaria guilty of violating this human right. In the case from June 10, the Court held that there was both a material and procedural violation of Art. 2 of the ECHR in a case concerning a Roma man shot by police officers who were trying to arrest him on suspicion of stealing hens. The Court ruled that the gunshot wound, which was not lethal but which was potentially lethal, was unmotivated and was not an adequate response to any threat posed by the plaintiff. It held that “in those circumstances, any resort to potentially deadly force was prohibited by Article 2, regardless of the risk that the applicant might escape.” The Court
once again underscored the inconsistency between the regulations on the use of potentially deadly weapons in the Bulgarian *MIA* Act and the provisions of the Convention.

On July 8, the Court found Bulgaria guilty of violating Art. 2 of the ECHR in the case *Vachkovi v. Bulgaria*. The plaintiffs are the parents of Gantcho “Ganetsa” Vachkov, who was shot in the head and killed after a police chase in June of 1999. The police officers were with the then-functioning Special Counter-Terrorism Unit. The Court held that the state had violated Mr. Vachkov’s right to life, both because of the wrongful use of firearms against him and because of the inadequate judiciary investigation of the incident. The Court studied the official investigation of the incident in detail and concluded that it “lacked the requisite thoroughness and objectivity and that the prosecuting authorities failed to take all steps necessary to identify the circumstances of Mr. Vachkov’s death.”

On September 2, the Court ruled against Bulgaria for a violation of the right to life in two cases: *Bekirski v. Bulgaria* and *Vlaevi v. Bulgaria*. The first case concerns Hristo Bekirski, who was arrested in May 1996 for premeditated murder and robberies. On August 30 of the same year, he made an attempt to escape from a detention facility but was caught, handcuffed and immobilized by several police officers, wounding two of them. The Court held that there are multiple pieces of evidence indicating that between August 30 and September 6, 1996, Bekirski was tortured. Driven to the hospital on September 6, he died two days later, despite efforts to save his life. The investigation against the officers who had tortured him was suspended several times; finally, it was terminated on the grounds that the officers had acted in self-defense and that the wounds on his body and head were caused by his attempted escape. The Court’s decision on *Bekirski v. Bulgaria* is the first one in which the Court, apart from finding a violation of Art. 2 of the ECHR, has ruled that Bulgaria is also guilty of torture, in violation of Art. 3 of the ECHR. The case *Vlaevi v. Bulgaria* concerns the shooting and killing of a taxi driver on the night of August 27, 1998, when his taxi passed by a police ambush on the road. The officers were conducting a hostage rescue operation. When Vlaev passed by in his car, they had just stopped a person suspected of being the kidnapper. When a police officer asked him to identify himself, Vlaev suddenly sped up. Several police officers opened fire and killed Marin Vlaev. The circumstances of this killing were investigated between September 1998 and June 2004. In the end, the investigation was terminated when the prosecution accepted the police’s version that Vlaev’s “inadequate behavior” had made him a probable accomplice of the kidnapper. The prosecution concluded that since the police officers had fired shots in a deserted, uninhabited location, they did not intend to threaten anyone’s life or kill someone. The Court pointed out that the Bulgarian authorities did not remain passive and demonstrated a willingness to establish whether the use of force was consistent with the provisions of the Bulgarian *MIA* Act. However, the Court also found that, in contradiction to the requirements of the ECHR, this act does not require that the use of force be absolutely necessary. In both the *Bekirski* and *Vlaevi* cases, the Court found that the Bulgarian state had not conducted an adequate investigation to identify the guilty parties in the two deaths, as well as those guilty of torture in the first case. Therefore, it also found procedural violations under Articles 2 and 3 of the ECHR.

In the case *Karandzha v. Bulgaria* of October 7, the Court found a violation of Art. 2 of the ECHR. The plaintiff’s son was shot and killed in 1997 by a police officer who was chasing him during an attempt to escape from a police precinct. The prosecution refused to press charges against the officer, having decided that he had used a firearm lawfully, as this was the only way to stop the fugitive. In this case the Court also found that the Bulgarian *MIA* Act does not meet the ECHR provisions on the use of firearms, as it allows police officers to use deadly firearms to detain any perpetrator, regardless of the threat that he poses. The Court also found a violation of Art. 2 of the Convention insofar as the Bulgarian authorities had not conducted a comprehensive and effective investigation.

On November 18, the Court ruled against Bulgaria in a case involving a violation of the right to life of a Roma killed by a private security guard in 2001. In the case *Sendova v.*
Bulgaria, the Court held that the country had not conducted an adequate investigation of the murder by not allowing an opportunity for effective involvement in the investigation by the victim’s next of kin. The case was filed by the wife and two sons of Selyahtin Hasanov from Yambol. On July 28, 2001, he was caught picking onions from a vegetable garden with several other Roma. The plaintiffs claimed that the guards used firearms before the conflict with the Roma began, shooting and killing Hasanov and another Roma. Preliminary proceedings were initiated by the prosecution, but were terminated on the grounds that the guards had acted in self-defense. The prosecution's conclusions were later confirmed by the Yambol District Court and the Burgas Appellate Court. The Supreme Court of Cassation returned the case for review to the Yambol District Court, which rejected the relatives’ complaint, again holding that the guards had acted in self-defense.

In its decision, the Court held that Hasanov’s relatives were not given effective access to the investigation, including the documents from the preliminary proceedings – even though they are entitled to such access under the Court’s case law – and that they were unable to participate effectively in the investigation. Under the Criminal Procedure Code (CPC) effective at the time of the incident, the relatives were allowed to act as subsidiary prosecutors only in court proceedings. Their access to the evidence collected was also restricted. In the case of termination, they had access only to a copy of the termination order (Art. 237, Para. 3 of the old PPC). Also, whether they could file a civil lawsuit depended on the existence of a defendant, which was not the case. According to the Court, the current legislation created a barrier to the relatives’ effective participation in the investigation of the causes of the death.

On December 2, the Court found a violation of Art. 2 of the ECHR in the case Zashevi v. Bulgaria. The plaintiffs were the parents of Ivaylo Zashev, who was killed during an armed robbery on February 3, 1997. The presumed perpetrators were not brought to court until October 2004, and were then acquitted. The Court, as well as the national courts, found a series of deficiencies and delays in the investigation, and therefore found a procedural violation of Art. 2 of the ECHR.

In three cases in 2010, the Court did not find a violation of the right to life. In the case Marinova v. Bulgaria of July 10, the Court refused to accept that the investigation of the murder of the plaintiff’s daughter by a private person was ineffective. In the case Pankov v. Bulgaria of October 7, the Court held that the authorities’ investigation into the incident in which the plaintiff was shot during his military service was effective. In the case Stoyanova v. Bulgaria of November 9, the Court also held that the state had done what was necessary to investigate an incident in which the plaintiff’s son died during a parachute jump.

3. Protection against Torture, Inhuman and Degrading Treatment

Despite the fact that several amendments to the Criminal Code came into effect in 2010 and that the Ministry of Justice began operating under a brand new code, the current legislation still lacked a text on torture. Thus, once again the 2004 recommendations of the UN Committee against Torture were not implemented.7

The excessive use of force, auxiliary means and firearms continued to be a serious problem in Bulgaria in 2010. In their campaign against organized crime and corruption, law enforcement bodies violated the law on many occasions by using torture, inhuman or degrading treatment against people detained on the suspicion of having committed crimes. In the first half of 2010, the MIA officers often used video cameras to document arrests of people sprawled on the ground, half-naked, handcuffed, and gave those images to the media, many of which gladly broadcast them.8

Just as every year, in October 2010 and January 2011 BHC researchers interviewed 271 inmates in eight prisons (Plovdiv, Pleven, Bobovdol, Belene, Vratsa, Pazardzhik, Lovech and Stara Zagora) about the conditions of their detention and preliminary investigations. The study covered inmates whose pre-trial proceedings were initiated
after January 1, 2009. It is representative for the eight prisons but not for the system as a whole. During the interviews, 27.7 percent of the interviewees reported that force was used against them at police precincts. As in previous years, the results indicate a high degree of the use of force and auxiliary means by the Bulgarian police. Such use of force at police precincts, which is absolutely unacceptable, is a cause for great concern. However, the results cannot be compared with similar BHC surveys in previous years due to a significant relocation of inmates after new legislation entered into force in mid-2009.

In 2010 the living conditions at many prisons and detention facilities remained inhuman and degrading. With the exception of the overhaul of the prison building in Vratsa, only partial or cosmetic repairs were conducted in the remaining correctional facilities. The living conditions in the detention facilities worsened considerably due to the sharp increase in the number of people detained there during the year.

No significant progress was made in the investigation of the massive police assault on Roma at the Bijou night club in Pleven in August of 2009. Information provided by the spokesman for the Pleven District Prosecutor’s Office in January 2011 indicates that the MIA’s internal investigation ended in one police officer from the First Precinct in Pleven being “reprimanded” for wrongful behavior against a detained person. The district prosecutor’s office has initiated pre-trial proceedings against an unknown perpetrator for the infliction of severe cranial and brain trauma; the investigation is ongoing. No other measures have been taken against police officers.

Over the year 2010, the Court convicted Bulgaria in several cases involving the excessive use of force by police officers and poor conditions at correctional facilities. In the case Sashov and others v. Bulgaria, the Court found a violation of Art. 3 of the ECHR. The case concerned the maltreatment of three Roma by police officers after they were detained on suspicion of stealing metal. The Court also found a procedural violation because the Bulgarian authorities had failed to conduct an effective investigation and punish the perpetrators of this brutal act.

In the case Petyo Petkov v. Bulgaria of January 7, the Court held that there had been a violation of Art. 3 of the ECHR. The case concerned a defendant who was forced to wear a hood every time he left his cell. The Bulgarian authorities justified this measure with security considerations, as they feared that Petkov might be attacked during the trial, which was widely covered by the media. However, the Court found that Petkov’s security, and most of all his anonymity, could have been secured just as effectively by holding the hearings via camera or by banning television or photo cameras in the courtroom.

On March 25 the Court found violations of both the substantive and the procedural aspects of Art. 3 of the ECHR in the cases Shishkovi v. Bulgaria and Angel Vaskov Angelov v. Bulgaria. The cases concern three plaintiffs who were subjected to police violence. Mr. Angelov was arrested and detained in 1998. He claimed that he confessed to the theft of which he was suspected only after being beaten by police officers. The medical examination made on the day of his release shows injuries caused by blows from a dull object, possibly within the preceding 48 hours. Mr. Angelov filed several complaints regarding the inaction of the Varna Military Prosecutor’s Office. In 2003 the prosecution refused to initiate criminal proceedings against the police officers involved, on the grounds of a police report stating that no physical force was used against the plaintiff. Mr. Angelov appealed the prosecution’s order and an additional investigation was ordered in May of 2003. The police officers claimed that they were unaware of the fact that Mr. Angelov had been beaten and that they did not notice any evidence of physical violence on his body during his stay at the police precinct. Based on these testimonies, the military prosecutor decided that there were no grounds for initiating criminal proceedings against the two police officers due to lack of evidence that a crime had been committed. In the other case, Svetlyu and Slaveyko Shishkovi, a father and son, claimed that in 1999 they were beaten by men in police uniforms who attacked them without warning and fired shots at their boat while the Shishkovi were sailing on a lake. Later it became known that the police officers were sent to guard a Ministry of Interior training facility and a forest reserve in the area. Criminal proceedings were initiated against seven police officers,
who were charged with violence against Mr. Shishkov and his son. On the grounds of a new provision in the PPC, the defendants filed a motion in 2004 to have the case reviewed by a court or terminated. The military court terminated the criminal proceedings, holding that there were procedural deficiencies. More specifically, it had not been established whether the defendants were armed with a rifle or with automatic weapons, and there were missing signatures on various documents. The Court held that in the Shishkovi case, the Bulgarian authorities did not conduct an effective and thorough investigation of the circumstances around the alleged assault against the plaintiffs. In the Angelov case, the Court conducted its own assessment of the facts, since the criminal proceedings were terminated before the case was submitted to court. Mr. Angelov’s injuries were established by a medical examiner on the day of his release and were confirmed by the medical examination ordered by the court of first instance. This evidence served to support the plaintiff’s claims that he was subjected to violence, especially given the fact that the government did not provide any plausible explanation for the origin of his traumas. The Court held that the three plaintiffs were subjected to inhuman and degrading treatment by the police, in violation of Art. 3 of the ECHR. It also ruled that none of them had been granted an effective and thorough investigation of his claims of violence, in violation of Art. 3.

On September 2, in the case Bekirski v. Bulgaria, the Court found Bulgaria guilty of torturing a detainee. The case concerns the continuous battery of a person accused of murder and robberies, following his attempt to escape from the Pleven detention facility. As a result of the beatings, the detainee died. In rulings on three cases announced in 2010, the Court did not find a violation of Art. 3 of the ECHR. In the case Stoyan Mitev v. Bulgaria of January 7, the Court held that despite the continually worsening health of the plaintiff, his lengthy detention on counts of murder did not constitute inhuman or degrading treatment. In the case Yorgov v. Bulgaria (No. 2) of September 2, the Court rejected the plaintiff’s argument that sentencing him to life without parole constitutes inhuman and degrading treatment. It held that in principle this sentence may be commuted by pardon, despite the fact that no person with such a sentence has ever been pardoned in Bulgaria. In the case Marmov v. Bulgaria of September 30, the Court held that the facts presented by the plaintiff, who claimed he had been subjected to police violence, were insufficient to establish that he really had been subjected to such treatment.

4. The Right to Personal Freedom and Security

In 2010, as in previous years, the main problems related to the right to personal freedom and security in Bulgaria included:

- the inadequate legislative framework and law enforcement practices with regard to imposing “guarded detention” in the course of the criminal process, which allow for excessive reliance on the weight of the indictment and neglect of the assessment of the suspicions that had resulted in the detention, and of the legitimacy of the purpose pursued by the detention;
- the accommodation in social homes of people with mental disabilities, which is conducted administratively and without judiciary control, allowing for significant arbitrariness in deciding on the need for such accommodation;
- the accommodation of children with deviant behavior at special schools, which is often arbitrary due to poor access to legal assistance and the inadequacy of the accommodation procedure;
- the accommodation of children at homes for the temporary accommodation of minors and juveniles, which is conducted administratively and without judiciary control;
- the accommodation of children at crisis centers under an administrative procedure that allows for an excessive duration of accommodation before a court is addressed and makes a decision;
the accommodation of foreigners subject to expulsion at the special home for the temporary accommodation of foreigners, due to inadequate judiciary control on such detention.\textsuperscript{15}

The legislative framework regulating the right to personal freedom and security in these problematic areas remained unimproved during the year. On the contrary, it worsened with the amendments to the \textit{Criminal Procedure Code} effected in April, which repealed Chapter 26 of the PPC and eliminated the defendants’ opportunity to ask the court to review their cases upon the expiration of a deadline.\textsuperscript{16}

In 2010 the Court found Bulgaria guilty of violating Art. 5 of the ECHR (the right to personal freedom and security) on several occasions. In the case \textit{Petyo Petkov v. Bulgaria}, the Court held that there was a violation of Art. 5, Para. 1 because the plaintiff was not released immediately after being acquitted. It also held that there was a violation of Art. 5, Para. 3 of the ECHR, due to the fact that two decisions to prolong his detention were made only on the basis of the severity of the accusation against him, neglecting other relevant factors. In the case \textit{Raza v. Bulgaria} of February 11, the Court found a violation of Art. 5, Para. 1 and Para. 4 of the ECHR, ruling that the plaintiff’s detention for expulsion was illegal, since he was detained for an unnecessarily long period of time while the government was trying to provide him with travel documents, and because his complaint against the lawfulness of the detention was not reviewed in a timely manner. In the case \textit{Danev v. Bulgaria} of September 2, the Court held that there was a violation of Art. 5, Para. 5 of the ECHR due to the court’s excessive formalism in proving damages arising from illegal detention. The plaintiff’s claim for compensation was rejected when a witness confirmed that he had suffered after – but not during – his detention. The Court ruled that this formalistic approach meant it was impossible to prove damages in cases of short-term illegal detention that has not resulted in a visible worsening of the detainee’s physical or mental condition. In the case \textit{Shopov v. Bulgaria} of September 2, the Court held that there was a violation of Art. 5, Para. 1 of the ECHR due to the fact that in December 2003, prior to the July 2004 reform of the compulsory psychiatric treatment procedure,\textsuperscript{17} the plaintiff was forcibly committed to a psychiatric hospital by a prosecutor’s order. In the case \textit{Yorgov v. Bulgaria (No. 2)} of September 2, the Court did not find a violation of Art. 5, Para. 4 of the ECHR. The case concerned a person sentenced to death whose sentence was later commuted to life without parole.

\textbf{5. Independence of the Judiciary and Fair Trial}

In 2010 high-ranking government officials initiated systematic attacks against the judiciary. This holds true mostly for Deputy Prime Minister and Minister of Interior Affairs Tzvetan Tzvetanov, who on many occasions blamed individual judges and the judiciary as a whole for the mishaps in the fight against organized crime and corruption. In a series of statements, Tzvetanov said that the court has been partial to the mafia killings over the years, that it serves organized crime, and that the judiciary is not cleansing itself of corruption, unlike the MIA. Although general in content, many of his statements were made on specific occasions, for example, after a court’s refusal to detain a person arrested by the police. In a statement in October, he said, “the Bulgarian judiciary is releasing detainees because of illness or other severe conditions, while in the other EU countries criminals are being handed quick and just sentences.”\textsuperscript{18} In reality, both in the past and in 2011 the Court has found Bulgaria guilty in numerous cases of unjustified detention imposed by the courts.\textsuperscript{19} In February Tzvetanov threatened the judges with police files he had in his possession, which would, in his words “make teeth fall.”\textsuperscript{20} However, by the end of the year, the MIA had not provided such files.

Minister Tzvetanov’s statements provoked several sharp public responses on behalf of the Bulgarian Judges’ Association (BJA) and other non-governmental organizations. In a letter to Prime Minister Borisov in February, the BJA expressed concern over the
violation of the presumption of innocence and the interior minister’s attacks on the judiciary. BJA pointed out specific cases in which the minister had made unacceptable statements, proclaiming the guilt or innocence of persons who had not been convicted by a final judiciary act. The Association criticized “the attempt on the part of the executive power to prevail over the judiciary by means of political advertising aimed at influencing public opinion without the use of professional arguments.” It insisted that the prime minister require that representatives of the executive branch refrain from commenting on specific cases in public. However, the prime minister did not take any action and the interior minister continued his public attacks against the judiciary. In July the BJA addressed the judges in the country to express concern over the “difficult and hostile conditions” in which they work and over the incessant attacks by representatives of the executive branch against the judiciary. It announced its readiness to address the Council of Europe and ask that it conduct “an in-depth study and assessment of the state of judiciary independence in Bulgaria.” In mid-October, the BJA published an open letter to the public and the media, as well as a letter to the European Association of Judges. In these letters the Association once again expressed concern over the threats against judges made in Minister Tzvetanov’s public statements, the violation of the presumption of innocence, and attempts to discredit the judiciary, violate its independence and undermine the rule of law in Bulgaria. In an October 19 letter sent to the Supreme Judicial Council, to the chairs of several courts, to the prosecutor general and to the ombudsman, the BHC expressed its concern over attacks against the independence of the judiciary and called for the judiciary leadership to oppose them.

The lack of trust in the judiciary and the acrimonious relations between the executive and the judiciary powers pushed the government towards the creation of a special penal court. Its competence covers organized crime and corruption. The bill for the creation of this court was amended several times over the course of the year, as the initial draft contradicted the principles of fair hearing and equal protection under the law. There were some comments to the effect that by establishing the specialized court, the government wanted to have a timid court that would do the government’s bidding, regardless of the fitness of the evidence presented. Upon coordination with the European Commission for Democracy through Law, the significantly amended bill was adopted at the end of 2010, and the specialized court is expected to become operational in the second half of 2011.

At the end of 2010, the National Assembly adopted amendments to the Judiciary Act. They included provisions which were supposed to improve the management of the judiciary, but also texts that infringe upon the independence of the judiciary. The amendments strengthened the role of the Supreme Judicial Council (SJC) as a managing body for the judiciary and made its activities more transparent. When creating courts and appointing magistrates and judicial staff, the SJC should take into account their workload, which is subject to periodic analyses. The law obliges the SJC to adopt a special ordinance on the methodology for assessing magistrates and administrative managers of the respective judiciary bodies. The SJC must also compile, maintain and keep staff records for every judge, prosecutor and investigator. The law introduces more precise procedures for declaring conflicts of interest for SJC members, as well as mechanisms for the investigation of ethical violations and corruption.

On the other hand, the new Article 26a of the Judiciary Act requires SJC members to initiate appropriate actions in order to be granted access to classified information. Such access is granted by the executive power. Should a SJC member be refused access to classified information, (s)he cannot take part in meetings involving discussions of classified documents. Thus, in reality the executive has the decisive voice in exercising some of the powers of the supreme management body of the judiciary.

In an attempt to get the judiciary under control, in mid-November the government reached an agreement with the SJC on the election of the former chair of the Sofia City Court, Georgi Kolev, as chair of the Supreme Administrative Court. Kolev is a former prosecutor and penal judge and has no experience in either administrative or civil law. He
was chair of the Sofia City Court for a little over a year. He has no academic publications. Observers have noted that his election is due only to his close ties with the government.\textsuperscript{26}

In line with the government's main priority – the fight against organized crime and corruption – in April parliament adopted several amendments to the Criminal Procedure Code that mark a step backwards in guaranteeing a fair hearing. Chapter 26 of the PPC, which contained two provisions allowing the defendants to request that the court review their case upon the expiration of a certain deadline, was repealed. This provision was added to the new PPC in 2005 in order to provide a reasonable timeframe for criminal proceedings and preliminary detention, in accordance with Art. 6, Para. 1 and Art. 5, Para. 3 of the ECHR. The purpose of this legislative reform was to overcome one of the most serious deficiencies of Bulgarian criminal law, the excessive duration of the procedure in the pre-trial phase, as well as to provide affected defendants with an effective domestic legal means of protection against such violations, in line with Art. 13 of the ECHR. This continued to be an unresolved issue in 2010. At the time the amendments to the PPC were adopted, the Committee of Ministers of the Council of Europe was monitoring the implementation of individual and/or general measures from more than 40 decisions of the Court against Bulgaria concerning the excessive duration of criminal proceedings in violation of Art. 6, Para. 1 of the ECHR and/or the excessive duration of detention in violation of Art. 5, Para. 3 of the ECHR.\textsuperscript{27} Most of these cases are from the period prior to the PPC reform in 1999. However, over the past several years the Court also announced decisions concerning the excessive duration of criminal proceedings after 2000.\textsuperscript{28} The number of Court decisions whose implementation is being monitored by the Committee of Ministers and which are related to excessive duration of criminal proceedings is the greatest in comparison to all other cases currently being monitored.

The figure of the reserve defense counsel was created with another amendment to the PPC. The reserve defense counsel takes part in the proceedings from the moment the defendant authorizes a defense counsel. This change was justified by the necessity to prevent trial delays caused by lawyers.\textsuperscript{29} The reserve defense counsel is appointed by the prosecutor or by the court, under the procedures of the Legal Assistance Act. The reserve defense counsel continues his participation in the criminal proceedings when the defendant authorizes another defense counsel or gives one up. In cases when defense is compulsory and the authorized defense counsel, despite being summoned regularly, fails to appear in court without a valid excuse, the reserve defense counsel may exercise all rights of counsel even without the approval of the defendant. The appointment of a reserve defense counsel in the trial phase does not contradict the Court's case law on the interpretation of the European Convention on Human Rights. However, the amendments to the PPC provide for such an opportunity in the pre-trial phase as well. In this case, a reserve defense counsel may be appointed by the prosecutor, who himself decides on the necessity of such an appointment and chooses the time for appointing the reserve defense counsel. Given that the prosecutor is one of the competing parties in the trial, in essence he defines the rules under which his opponent is to compete. This would inevitably create situations in which the defense of the defendant in the pre-trial phase would be seriously compromised.

The third novelty in the PPC that was introduced with the April amendments is also the most problematic in terms of consistency with international human rights protection standards. It concerns the possibility of handing down a guilty verdict solely on the basis of data collected by special reconnaissance means and a witness with a secret identity. This amendment makes it possible to hand down a conviction based on a decisive degree on anonymous statements. According to the Court's case law, this is a violation of Art. 6 of the ECHR.\textsuperscript{30}

The April amendments to the PPC were challenged before the Constitutional Court by the president and a group of members of parliament. In a surprising decision of September 28, 2010, the Constitutional Court found no contradiction with the Constitution and international treaties related to human rights.\textsuperscript{31}
In 2010 the Court convicted Bulgaria of violations of Art. 6 of the ECHR in several cases. In the case Mincheva v. Bulgaria of September 2, the Court found a violation of Art. 6 and Art. 13 of the ECHR due to the excessive duration of civil proceedings for custody of a child and the lack of effective domestic legal means of protection against this violation. In the case Petyo Petkov v. Bulgaria of January 7, the Court held that there had been a violation of the presumption of the plaintiff's innocence due to a statement made by a prosecutor after the acquittal of the plaintiff in 2003 to the effect that no court could convince him that the plaintiff is innocent. In the case Penev v. Bulgaria of January 7, the Court held that there had been a violation of Art. 6, Para. 3 and Art. 6, Para. 1 of the ECHR. The plaintiff was convicted by the Supreme Court of Cassation on charges that had been amended and against which he did not have the opportunity to defend himself. In the case Tsonyo Tsonev v. Bulgaria (No. 2), the Court held a violation of Art. 6, Para. 1 and 3, as well as of Art. 4 of Protocol No. 7 to ECHR. In this case, the mayor imposed an administrative fine on the plaintiff, who was later convicted in a criminal procedure for the same violation. In the case Patrikova v. Bulgaria of March 4, the Court found a violation of Art. 6, Para. 1 due to the excessive duration (seven years and four months) of civil proceedings for damages to the plaintiff resulting from the illegal confiscation of commodities. In the case Popnikolov v. Bulgaria of March 25, the Court held that there was a violation of Art. 6, Para. 1 because the plaintiff was hindered in implementing a court decision to his benefit. In the case Deyanov v. Bulgaria of September 30, the Court found a violation of Art. 6, Para. 1 due to the excessive duration of civil proceedings for damages. In the case Hovanesyan v. Bulgaria of December 21, the Court held that there had been a violation of Art. 6, Para. 3f, because the plaintiff was forced to pay for interpretation costs during the criminal proceedings against him.

6. Respect for Private and Family Life, Home and Correspondence

In 2010 the right to respect for private and family life in Bulgaria was one of the areas in which serious deterioration occurred due to increased frequency and arbitrariness in the use of special reconnaissance means (SRM) by the security services. The Special Reconnaissance Means Act (SRMA) and the Criminal Procedure Code (PPC) do not provide adequate guarantees against arbitrariness in phone tapping and secret surveillance of other communications by citizens. SRMA is unclear in defining the types of violations and the categories of persons against whom such measures may be imposed in the section that provides for the use of SRM with regard to "persons and sites related to national security" (Art. 12, item 3). The term national security is not defined clearly in the Bulgarian legislation and allows for a very wide interpretation. The use of SRM to protect national security is not related to the committing of a crime. The amendments to the SRMA in November 2009 significantly relaxed external control over the use of SRM. The National Bureau for Control on SRM was eliminated and replaced by a parliamentary committee comprised of representatives from the major political parties. Its controlling powers were reduced: now it may not issue compulsory instructions on the improvement of SRM use, but only proposals to improve the procedure. The new committee has five members and does not have the capacity to exercise effective control over the use of SRM. SRMA stipulates that a person against whom SRM have already been used is not to be notified unconditionally if the notification would not hinder the purposes of the use of SRM. The control committee notifies the person only when it has decided that the use of SRM was wrongful, on the condition that this would not create a risk of exposing the operative methods or technical means for surveillance, or constitute a risk to the life and health of the officers or their relatives.

The deficiencies in SRM regulations resulted in mass abuse of phone tapping. In early February 2011, at a national meeting of the chairs of the district and appellate courts, the deputy chair of the Supreme Court of Cassation, Georgi Iliev, presented astounding data on the use of SRM between 2008 and 2010. The data indicate that in two years, the
number of permissions for the use of SRM had increased threefold. While in 2008 they numbered 5,988, in 2010 they had increased to 15,496. In 2008 the chairs of the district and appellate courts in the Sofia and Plovdiv appellate districts granted 4,512 permissions. In 2010, 11,561 permissions were granted in the same districts. A total of 908 pieces of material evidence were generated in 2008, or from 15.16 percent of all SRM permissions requested. A total of 1,918 pieces of material evidence were generated in 2010, or from 12 percent of all SRM permissions granted. In 2010, there were only 125 refusals to allow SRM use. According to Iliev, the effectiveness of SRM is negligible and the more they are used, the poorer the results. In 2008, 15 percent of the tapped phone conversations were transformed into evidence in investigations, while in 2010 this rate had dropped to 12 percent. During the same meeting, the prosecutor general announced that 99.1 percent of the prosecution’s requests for the use of SRM were approved by the courts.

At the end of January 2011, a former officer of the State Agency for National Security (SANS) claimed that Deputy Prime Minister and Minister of Interior Affairs Tzvetanov was using the services “to ruin people who inconvenience the government.” He also reported that it is a normal practice at the services “to fabricate delations and use them as a basis for ordering phone tapping on a specific person. The ‘creation’ of such delations is often assigned to operatives close to the SANS or MIA leadership.” These statements were widely publicized but did not result in an investigation.

New amendments to the Electronic Communications Act (ECA) entered into force in May 2010. They introduced new provisions (Articles 250a through 250f) to replace Article 5 of Ordinance No. 40 of January 7, 2008, regarding the categories of data and the procedures for their maintenance and submission by companies providing public electronic communication networks and/or services for the purposes of national security and crime solving, which was repealed by the Supreme Administrative Court in 2008. The new regulations under ECA left in place the requirement that access to so-called traffic data—i.e. who a subscriber or an internet user has been communicating with, where he was located and for how long, and the type of device used—be provided following the permission of a judge for the purposes of operative and search activities (in solving serious or computer-based crimes). However, with regard to the investigation of such crimes, the new ECA texts allow for an interpretation under which the bodies involved in the pre-trial proceedings may directly require every supplier of public electronic communication networks or services to provide access to traffic data. This is so because under Art. 250c, Para. 4 in such cases traffic data are requested under the PPC. On the other hand, Art. 159 of the PPC creates an obligation to provide involved bodies in the pre-trial phase or the court with computer data, including data on traffic, which may be relevant to the case.

When the amendments to ECA entered into force in May 2010, the provisions resulted in contradictory practices. Some prosecutors decided that they did not need to ask the court’s permission to track internet or phone connections, since pre-trial proceedings had been initiated; others asked for the permission from the court. To eliminate such contradictory practices, the prosecutor general issued instructions. A copy of these instructions was obtained by Dnevnik newspaper under the Access to Public Information Act. The document contains compulsory instructions for prosecutors on the application of Art. 250c, Para. 4, in relation to Art. 159 of PPC. It states that when an investigation of a serious or computer crime has begun, the prosecutors do not have to ask permission from a judge but can demand traffic data directly from the mobile and internet service suppliers. Under the instructions, the Communications Regulation Commission must be informed about every case of refusal by an electronic services supplier to provide information about the traffic data of a specific user.

Dnevnik conducted a study using requests for access to public information and found out that over a period of seven months, the services had requested that 7,214 mobile phone and internet subscribers be tracked, according to official information provided by the eight largest district courts in the country.
In 2010 the Court ruled on several Bulgarian cases concerning the right to respect of personal and family life, home and correspondence. In two of these cases, the Court once again noted the inconsistency of Bulgaria’s procedure for the expulsion of foreigners on national security grounds with the provisions of the ECHR. In the case Raza v. Bulgaria of February 11, the Court held that there had been a violation of Art. 8 of the ECHR in the case of a Pakistani citizen married to a Bulgarian, who was detained for expulsion, as he was deemed to be a threat to national security. The Court ruled that such an infringement on his right to personal and family life was arbitrary, since the Supreme Administrative Court that judged the lawfulness of the expulsion order did not have full access to the file and did not conduct an adequate assessment as to whether the plaintiff really posed a threat to national security. In a similar case, Kaushal et al v. Bulgaria of September 2, the Court once again held that the right to respect of personal and family life of the plaintiffs (an Indian husband, Bulgarian wife and their two children) was arbitrarily violated with the expulsion of the husband as a threat to national security. The Court noted the extremely formalistic approach of the Bulgarian courts in their review of the expulsion orders and their excessive reliance on information provided by the Ministry of Interior Affairs and not confirmed by other sources.

In 2010 the Court established violations of Art. 8 of the ECHR in three other cases. In the case Mincheva v. Bulgaria of September 2, the Court decided that the Bulgarian authorities had not guaranteed the implementation of a final court decision that provided access to the child after a divorce. In the case Shopov v. Bulgaria of September 2, the Court held that the involuntary psychiatric treatment of the plaintiff, which went on for more than five years without periodic judiciary review of its necessity, constituted a violation of his right to personal life. In the case Mileva et al v. Bulgaria of November 25, the Court held that the noise from a private computer club close to the plaintiffs’ home, which the authorities failed to deal with adequately, was a violation of their right to respect of personal and family life.

In the case Chavdarov v. Bulgaria of December 21, the Court did not find a violation of Art. 8 of the ECHR. The case concerned an unsuccessful attempt by a father to challenge the presumption of fatherhood of his children, who were born while he lived with his partner but were given the name of her husband to whom she was formally married while she was living with the plaintiff.

7. Freedom of Conscience and Religion

The year 2010 saw significant regression in the sphere of freedom of conscience and religion in Bulgaria. The restrictive and discriminating Religions Act of 2002 remained in force. As in previous years, in 2010 its implementation resulted in violations of the religious rights of large groups of people. The government did nothing to bring the act into compliance with international human rights law and to rectify its deficiencies as established by the European Court of Human Rights in Strasbourg. On September 16, the Court announced its final decision on the case The Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentii) et al v. Bulgaria. It was a continuation of the decision on the case with the same name of January 22, 2009, in regard to which the Court found a violation of Art. 9 of the ECHR (freedom of religion) due to the fact that by expelling the so-called “alternative synod” from the churches in 2004, the state had wrongfully forced Orthodox believers in Bulgaria to follow a single leadership. In its first decision, the Court gave the parties a deadline by which to agree on compensation; since such an agreement was not reached, the Court ruled that Bulgaria pay Metropolitan Inokentii’s “alternative synod” the sum of 50,000 euro as compensation for non-material damages. With this final decision, the Court once again confirmed that Bulgaria should change the Religions Act, so as not to force the believers of any religion to accept an undesired leadership. According to the Court, those Orthodox believers who do not support Patriarch Maxim’s synod should have the opportunity to register separately and settle their property relations with the mediation of a civil court.
The implementation of the law and the arbitrariness of judiciary authorities throughout the year resulted in serious violations of the religious rights of Bulgaria’s Muslims. They were subjected to repression that varied in scope and form, some unprecedented since the beginning of the democratic changes in late 1989. On May 12, 2010, the Supreme Court of Cassation rejected a complaint filed by Mustafa Hadzhi – elected chief mufti by the conference of the Muslim religion in Bulgaria on October 31, 2009 – against the decision in which the conference was declared illegitimate and its decisions void. At the same time, the court recognized the Supreme Muslim Council chaired by Nedzhim Gendzhev as the legitimate representative of the Muslim religion in the country, on the grounds of its registration in 1996, which was not challenged. The decision caused turmoil among the Bulgarian Muslim population, the majority of whom support Mustafa Hadzhi and the Supreme Muslim Council elected at the October 2009 conference. Muslims rallied in many places to protest the confirmation of Gendzhev – a former chief mufti from the time of the communist regime and an officer in the communist secret services – as the legitimate representative of their religion.

The rights protection issues in this long-standing and complex litigation over legitimacy are twofold. Firstly, there is the blatant inconsistency between the wishes of the believers and the decision of the court, which legitimized a person whom the vast majority of Muslims obviously do not trust as the leader of the religion. Secondly, there are the deficiencies in the Religious Act, which creates conditions for incessant internal squabbling as long as there are people vying to become leaders of a religion, as it requires a religion to have only one leadership.

Over the year there were a series of cases in which Bulgarian citizens’ religious rights were violated: the burning and confiscation of religious literature, attacks on and defilement of religious buildings, police repression against religious activists and discriminatory statements. As in previous years, many of these were targeted at Islam and individual Muslims, as well as at Jehovah’s Witnesses. There were also individual cases of religious rights violations against the Israelite religion and the Church of Scientology.

At the end of June, following requests by many Muslim women, the Smolyan-area mufti, Nedzhmi Dabov, supported by other Muslim leaders, sent a request to the MIA asking that Muslim women be allowed to be photographed with headscarves for the new identity documents. The Ataka and VMRO parties began a campaign against this request, which was denied. An internal MIA ordinance requires that the photograph show the ears and one centimeter of the individual’s hair. The argument that in many European countries Muslim women are allowed to be photographed with headscarves for their identity documents was not accepted by the leadership of MIA.

On October 6 and 7, with the permission of the Prosecutor’s Office, SANS conducted a large-scale operation in many villages and towns in the Western Rhodopes, as well as in the Gotse Delchev, Smolyan and Pazardzhik regions. SANS agents stormed private homes and offices of persons suspected of cooperating with the Bulgarian branch of the Al Waqf Al Islami Islamist organization. They made searches and confiscated large quantities of Muslim literature. The police’s actions caused a great deal of tension. Many religious publications in Arabic, as well as tapes, discs, a computer and a magazine published by the Chief Mufti’s Office were confiscated from the homes and offices that were searched. The media quoted police sources as saying that “Al Qaeda sleeper cells” had been destroyed and that there were “pockets of radical Islam in Bulgaria,” etc. The Muslim population of the affected villages met the operation with indignation. In the village of Luzhnitsa, the people held SANS agents under siege for nine hours in the house they had entered to search, saying they would not let them go unless they returned the confiscated religious literature. A total of 30 sacks of books, brochures, tapes and CDs were confiscated in the operation. It was announced that the Pazardzhik prosecutor’s office was pressing charges against three persons associated with the Bulgarian branch of Al Waqf Al Islami. The operation also caused a strong political reaction. The Movement for Rights and Freedoms issued a special declaration, asked for a meetings with SANS leadership and insisted that MIA, SANS and the prosecution
apologize to the affected people. As of the beginning of 2011, there was no official information about the course of the pre-trial proceedings against the accused.

The BHC has information provided by Muslims and verified through independent sources that in 2010 there were at least six acts of vandalism against the religion’s prayer homes and offices. The windows of the Blagoevgrad Mosque were broken in early April. The ancient building of the Yali Mosque in Karlovo was burned down by arsonists on April 17. The windows of the Blagoevgrad Mosque were also broken again on April 17. On April 21, the walls of the same mosque were painted with swastikas. The glass pane on the door of the Muslim board of trustees in Ruse was broken on August 23. The walls of the Ahmed Bey Mosque in Razgrad were painted with insults on November 14. The windows of the Dobrich Region multi’s office were broken on December 31, minutes before the start of the new year. Staff on duty went out to check what was going on and were mistreated by the assailants. An imam had his hand broken. The staff called the police, who caught the assailants but released them immediately, saying that it was “a drunken event.” The police did not even write up a report on the incident. By the end of January 2011, Muslim representatives were unaware of whether the police had caught any of the perpetrators of such vandalism or whether anything was being done to investigate the incidents.

Representatives of the Muslim religion also informed the BHC that in the fall of 2010 some 700 imams, chairs and members of Muslim boards of trustees were summoned to police precincts to be questioned on their participation in the conference of the Muslim religion on October 31, 2009. The official purpose was to clarify whether their powers were legitimate and whether they were pressured on how to vote during the conference, in order to establish whether the conference was legitimate or not. But many of these people were elder citizens in poor health who were frightened and depressed by these interrogations. They suspect that the real purpose was to force them to say that they had voted for the Supreme Muslim Council and Mustafa Hadzhi under pressure, thus making the October 31 conference illegitimate. In early January 2011, the Muslim community disseminated a declaration against the "special operation conducted on December 30, 2010," in which a senior Muslim activist was arrested in the middle of a road, transported to a police precinct in Sofia and held for several hours without an arrest warrant. In the end, he was given an interrogation summons, although he had already been summoned for questioning on the same issue – namely his participation in the October 31 conference – in April of 2010. While he had presented himself on the specified date, the investigator did not show up for hours and the questioning did not take place. The explanation for the arrest was that he had not turned up for questioning, although the individual was domiciled in Sofia and had not received another summons. The Muslim community has also reported another similar case.

According to the Muslim community, the issue with the building permit for the Muslim center in the Malinova Dolina region in Sofia is still pending. The site was bought two years ago, but the construction could not start because the issuance of a construction permit is being delayed. During the same year the Muslim community wanted to build a cemetery in the Suhodol neighborhood on land purchased for this purpose. Following a protest by the VMRO, it was not given a permit and city hall officials claim that the whole file has been lost.

In early July, the media published a series of announcements that many cultural centers and educational institutions had received shipments of books sent by the Church of Scientology. Most of them, frightened by the media attacks against this organization and attempting to avoid getting in trouble with the authorities, returned the parcels to the sender. The books from the religious organization that were confiscated from the cultural center libraries in the Dobrich region were destroyed on July 28, on orders from Dobrich Regional Governor Zhelyazko Zhelyazkov. With regard to this unprecedented event, the BHC sent an open letter of protest to Prime Minister Boyko Borisov. In its letter, the BHC called the burning of books "a means of imposing 'correct' views used by the Inquisition in the Dark Ages, by the Nazi regime in 1933-1945 as a first step to the physical annihilation of the political opposition, and by the communist regimes as a way of
silencing people with different opinions.” The prime minister was asked what the legal grounds for this were and whether he supports such actions.

On March 21, the International Day for the Elimination of Racial Discrimination, unknown persons painted swastikas and wrote “Israel – fascists” on the wall of the Secondary School 134 in Sofia (known as “the Jewish school”).

As in previous years, Jehovah’s Witnesses informed the BHC of various cases of discrimination, abuse and violation of religious rights. The construction of the Kingdom Hall in Varna was again prevented from continuing in 2010. For nine years in a row, city hall has been using different legal means to hinder the construction of this prayer home. In 2010 the Municipality of Ruse did not allow the construction of a Kingdom Hall in that city, regardless of the fact that Jehovah’s Witnesses had purchased a lot for this purpose in 2006.

On November 14, the Kingdom Hall in Stamboliski was attacked with stones during the night. A window was broken.

The restrictions on public religious activities included in ordinances on public order in Burgas, Gabrovo, Dobrich, Haskovo, Pleven and Plovdiv, which BHC has reported on many occasions, are still in effect and the discriminating clauses have not been eliminated.

In 2010, nationalist groups led mainly by the VMRO made several attempts to prevent religious services or public events by Jehovah’s Witnesses in various places. These occurred on September 4 in Sofia and on March 30 in Vratsa and Varna.

There were still cases of the detention or fining of Jehovah’s Witness preachers and missionaries. On September 30, the police in Ruse issued a written warning to two visiting German preachers for exercising a public religious activity without prior permission from the municipality. On September 22, unknown persons attacked a young preacher, Hristo Radev, in a Gabrovo street where he was talking with a group of people about his faith. On August 14, police in Chirpan stopped two members of the Jehovah’s Witnesses and fined them for “illegal commercial activity,” namely the dissemination of The Watchtower, a free magazine. On July 11, two members of the Jehovah’s Witnesses, a man and a woman preaching door-to-door, were stopped and questioned by the police, who threatened them with a fine if they continued. Similar things took place on June 1 in Sofia, on May 1 in Dobrich, and on March 30, again in Dobrich. In the latter case, the police not only stopped and threatened two missionaries, but also took them to a police precinct for questioning. The woman in this missionary couple was insulted. The two were issued a protocol for an administrative violation, which was cancelled when they filed a complaint. Cases of holding Jehovah’s Witnesses preachers, having them questioned by the police and fining them were also observed in Haskovo on March 23 and in Varna on March 16. On November 16, the police in Simitli stopped two French preachers from preaching door-to-door. A similar incident occurred on December 27 in Montana.

Some media published articles containing insults and slander about Jehovah’s Witnesses, while nationalist organizations organized public events against them. A slanderous article was published in January by Lechitel newspaper. On January 22, the Varna municipal TV channel aired a blatantly slanderous broadcast against Jehovah’s Witnesses. A slanderous article against the organization was published on March 18 by a popular Plovdiv newspaper, Maritsa. The VMRO’s local branch in Ruse organized a press conference on March 29 entitled “The Danger of Cults” and announced that it would disseminate tens of thousands of leaflets containing slanderous statements against Jehovah’s Witnesses. On June 18, a Varna publication, Chance, also published slanderous statements about them.

8. Freedom of Expression and Access to Information
The situation with regard to freedom of expression in Bulgaria worsened in 2010. Within a year, the country dropped two positions in Reporters Without Borders’ traditional ranking, falling from the 68th to 70th place. According to the survey, which was published in Bulgaria in October 2010, Bulgaria and Greece are the EU countries where the media have the least freedom. In Freedom House’s key report on freedom of the press around the world, Bulgaria remained in the 76th place, ranking together with Namibia as among the countries with “partly free media.” Bulgaria and Romania are the only EU countries in this category. Freedom House noted that reporters in Bulgaria “continue to face pressure and intimidation aimed at protecting economic, political, and criminal interests. The perpetrators often operate with impunity, leading to some self-censorship among journalists.”

There is also impunity in Bulgaria in the cases of physical attacks against reporters and writers. The investigation of writer Gerogi Stoev’s murder in April 2008 continued in 2010 without any progress. The same holds true for the attack with metal rods and hammers against reporter Ognyan Stefanov in September 2008; the threat in 2007 that reporter Maria Nikolova would be attacked by acid; the assault against reporter Asen Yordanov in 2007; and the bombing of reporter Vasil Ivanov’s home in 2006. Bobi Tsankov, who had just published a book and series of materials on organized crime in Bulgaria, including its ties with high-ranking politicians and magistrates, was shot to death on January 5, 2010, in Sofia. The perpetrators have not been found.

The situation with regard to insult and slander, which are subject to criminal prosecution in Bulgaria, did not improve in 2010. The beginning of 2011 marked an alarming development in this respect. Over the past years many European countries have decriminalized insult and slander, leaving an opportunity for redress only within civil law proceedings. In 2007 the Council of Europe’s Parliamentary Assembly called for member states to decriminalize insult and slander. The OECD representative on freedom of the media did the same in 2006. Instead of reforming the law towards fewer restrictions on the right to freedom of expression, in early 2011 the ruling party announced its intention to develop a special act against slander. Such an act would steer democratic development in Bulgaria in the wrong direction and would introduce standards contradicting international provisions on human rights.

The yellow press continued its rise. Newspapers such as Weekend, Shock, and Galeria, as well as the newly created Tornado are off the scale in terms of their lack of journalistic ethics and morals. These publications have not signed the Code of Ethics of the Bulgarian Media and often publish unconfirmed information, hearsay and slander, do not provide the affected parties with the opportunity to comment and some of the information they publish clearly serves political and economic interests. At the same time, readers do not punish these publications by not buying them; on the contrary, they are becoming more dominant on the newspaper market. This creates a false sense among the media that the principles of journalistic ethics are a barrier to increasing circulation.

In 2010 the media environment as a whole witnessed a significant drop in investigations, studies and analyses, as well as a withdrawal from the purposes and functions of traditional journalism. No strong media with public orientation stepped up to replace the closed RE:TV and Radio France Internationale. In the pursuit of ratings and subscriptions, television and radio stations as well as the press ever more often decided to bet on the commercial, the entertaining, the gossip, at the expense of publicistics and serious journalism.

Journalists and analysts comment that trading in influence is a basic motive behind investments in the media business. Owners establish or acquire media in order to use them in support of their parallel business, which is dependent on the state. The media become more and more a tool to pressure or support politicians. Here we may point out, on the one hand, Galeria newspaper, which is connected to the former police special operations officer Aleksey Petrov and, on the other hand, the media controlled by Irena Krasteva and the new player on the market, Tornado. The rise of yellow and commercial media continues because investors are interested in a wider audience, in order to sell influence. The presidential and local elections will play a key role in 2011. The long-term
effect of such influence trading on the sector is disastrous, as the media loses its main purpose and trust in itself.

In this context, the continuing lack of clarity about the real situation in many media is becoming a pressing issue. There were some developments in this respect in 2010. At the end of May, Krasimir Gergov, who until then had only been suspected of being a partner in the bTV private TV channel, admitted that he had and still has a share in this media. In an interview on bTV, he was presented as a partner of the former majority shareholder, News Corporation, and of the new owner, Central European Media Enterprises (CME). Gergov went public because of the elimination from the media law of a phrase that prohibited the owners of advertising agencies from owning radio and television channels. The change was effected in early 2010, at the express insistence of GERB’s parliamentary group. Gergov’s public confession that he has been breaking the law for ten years had no consequences. In should be noted in this respect that amendments to the Compulsory Deposition of Printed and Other Works Act effected in the fall of last year were a half-way measure that does not meet the need for transparency and does not change the fact that nominated directors and offshore companies are being used.

In December 2010, the Bulgarian state, represented by the Commission on the Protection of Competition, imposed a BGN 32,000 fine on Economedia AD, the publisher of Capital and Dnevnik newspapers, for investigations into the links between government, money and media. The CPC’s decision sets a dangerous precedent. The case against Economedia was filed in May 2009 after Capital revealed that 50 percent of the cash of the largest state-owned companies was deposited in a single private bank, the Corporate Commercial Bank. The bank is connected to New Bulgaria Media Group, which is managed by Irena Krasteva and her son, Delyan Peevski, a member of parliament from the Movement for Rights and Freedoms. The bank provided the loans which Krasteva used some years ago to buy her first media and then became their major advertiser. These media in turn backed up GERB immediately after the elections, despite the fact that before that they had unconditionally supported the previous government of the tripartite coalition.

In the spring of 2010, an offshore company, Mancelord Limited, acquired 50 percent of the Radio and Television Stations National Directorate (NURTS) from the Bulgarian Telecommunications Company. The buyer, registered in Cyprus, is represented by Tsvetan Vasilev, a majority stakeholder in the Corporate Commercial Bank. The NURTS deal is important because no national TV or radio station can broadcast without its network. The company will have a leading role in the digitalization process, which was postponed to 2015 instead of 2012.

The sale of the WAZ Holdings in Bulgaria was a key event during the year. The buyer, a consortium in which the leading investor is the Austrian company BG Privatinvest, acquired 100 percent of the assets, which include the newspapers 24 Hours, Trud, and 168 Hours, among others. The Bulgarian partners include Sopharma’s majority stakeholder, Ognyan Donev, and Lyubomir Pavlov. The main question is whether the sale will result in the improved quality of two of the leading dailies in Bulgaria. The names of the new editors-in-chief give reason for hope.

Journalists and editors are adamant that there is censorship and self-censorship in the Bulgarian media. This is due to the tangle of political and economic interests in the sector. Studies indicate the prevailing uncritical, sometimes excessively positive, attitude within the Bulgarian media towards the government and especially towards the prime minister. At the same time, Boyko Borisov sent an open letter to all media in May, asking whether he has ever exercised pressure on them. Observers believe that the purposes of this act were to humiliate the media and to produce a collective lie. There is a risk that the problems will become greater in 2011, given the continuing sharp drop in media revenues and because the financial crisis and the shrunken advertising market have transformed the state into a major advertiser through the so-called information and advertising activities financed under various operational programs.
New general directors of the Bulgarian National Television and the Bulgarian National Radio were appointed in the summer of 2010. The new managers have been burdened with great expectations: for outstanding reporting, objective views and critical outlooks on the government, strong journalistic investigations and better representation of minorities.

Over the past year, hate speech against ethnic, religious and sexual minorities continued to dominate in some media. These were mostly the SKAT television channel, more specifically its Paralax show, as well as Ataka newspaper, a publication of the extreme nationalist party of the same name. Of course, hate speech was manifested in many other places, including in media which have signed the Code of Ethics of the Bulgarian Media. The ethics committees in the press and in the electronic media, as well as the Electronic Media Council, failed to oppose hate speech. Functioning media self-regulation is one of the key factors in the freedom of expression. Therefore, the committees should perform their duties in a responsible manner and initiate a self-referral in any case of mass violation of the Code of Ethics, not only with regard to hate speech and discrimination but also with regard to precision, the presumption of innocence, and mixing editorial and paid content.

A surprising and alarming debate on restricting public access to the commercial registry began in 2010. In early summer, business organizations submitted to parliament proposals to amend the legislation regulating commercial registration, maintenance of the commercial registry and access thereto. The proposals were justified by the necessity to protect traders’ personal data. According to the authors of the proposal, there was a contradiction between the Commercial Registry Act (CRA) and the Protection of Personal Data Act. In November 2010, the government submitted a bill to the National Assembly that would amend and complement the CRA and which entails a restriction on public access to the commercial registry. The Access to Information Program (AIP) presented a critical opinion on the bill first to the Ministry of Justice and then to the National Assembly. The opinion states that the proposed amendments and complements to the CRA are in contradiction with basic acts of national and European law, that they create a risk of a lack of transparency and that they hinder the public’s right to access information about traders and public actors’ business activities. As an EU member state, Bulgaria must comply with the requirements of the Community legislation. The CRA adopted in 2006 is fully consistent with the EU legislation. Public access to the data in the commercial registry helps guarantee the stability of economic turnover, the protection of citizens and traders against fraud, and fosters a secure and transparent business environment. Full public access to the data in the commercial registry is the only way in which citizens and traders can know whom they are giving their money to in a deal, whom they are getting property rights from and whom they are investing in. Such standards on the publicity and transparency of commercial registries exist in all democratic states.

Alarming cases appeared in 2010 with regard to the application of the Access to Public Information Act (APIA). Citizens who asked Varna Mayor Kiril Yordanov to provide access to public information were investigated by the Varna Regional Directorate of the Ministry of Interior Affairs. As part of a civic campaign, more than 20 citizens filed requests for access to information on forms with the same content. They asked the mayor to provide “the minutes from all public discussions held with regard to the preliminary draft master plan for the municipality of Varna, as well as the sound recordings of the discussions.” On December 1, 2010, some of these citizens were summoned to the MIA Regional Directorate as witnesses in a pre-trial proceeding against an unknown perpetrator. They were denied information about the grounds on which the case was initiated. The citizens were asked who had developed the form for their requests, whether they had been aided in doing this, where the form had been produced and printed, and how it was disseminated.

Several major lawsuits related to access to information were resolved in 2010 and must be mentioned. In November, the Sofia City Administrative Court (SCAC) repealed the refusal by the chief secretary of the president to provide access to minutes from the meetings of the heads of state of Bulgaria and Russia held in Sofia in 2008.
information was requested in the spring of 2010 by Lachezar Lisitsov, a journalist for a Burgas newspaper, Desant. The court did not accept the defendant’s arguments that such information was never created. The court also rejected the presidency’s argument that sufficient information was provided to the public through the comments on the meeting published in the media. According to the court, the purpose of the APIA is to allow the citizens to form their own opinions on the activities of the bodies subject to the law, which is only possible by receiving the public information in its authentic form. As a result, the presidential administration published the minutes of the talks between the two state delegations on its website, as well as a memo about the one-on-one meeting.

There was also a development in the litigation against refusals on behalf of commercial monopolies, in order to prove that they, in their capacity as organizations governed by public law, are obligated to provide information on bodies subject to APIA. The chair of the Public Barometer Association in Sliven, Yuri Ivanov, was successful in this respect. He appealed a refusal by the Sliven Water and Sewer Company to provide access to its 2003-2008 staff charts by position. The refusal was motivated by the statement that the Water and Sewer Company is not subject to the APIA. The refusal was repealed by the Sliven Administrative Court, which held that the company is subject to the APIA, as it is an organization governed by public law. The company contested the first instance decision before the Supreme Administrative Court (SAC). On October 21, the SAC scheduled the hearing for June 2011.

The issue of recognizing that certain categories of commercial companies are subject to the APIA in their capacity as an organization governed by public law was also raised in lawsuits filed by the director of the Institute for Green Policy, Petko Kovachev, and supported by the Access to Information Program (AIP). In March 2010, Mr. Kovachev filed six requests with the Ministry of Energy, Economy and Tourism, asking for information on the Bulgarian-Russian cooperation in the field of energy and the proposed construction of the Belene nuclear power plant. The ministry partially refused to provide information on one of the requests, and referred the rest to the Bulgarian Energy Holding (BEH) and the National Electric Company (NEC), as it did not have the requested information. In May 2010, BEH and NEC refused to provide the requested information on the grounds that they were commercial companies and thus not subject to the APIA, regardless of the fact that they are completely owned by the Bulgarian government. Seven lawsuits were filed with regard to this case and are still pending.

As a result of the lawsuit filed with AIP support by a journalist at Duma newspaper, Veselka Venkova, the Council of Ministers provided information about the official trips the prime minister has taken since he assumed office through October 2009. Thanks to the lawsuit, the prime minister’s chief of cabinet began performing his duties in compiling memos for each official trip made by the prime minister and providing access to them upon request. Getting information about the travel expenses incurred by the prime minister during his trips within the country remains a problem, as it turns out that this information is no longer being administrated by the Council of Ministers but by the National Protection Service (NPS) with regard to ground transportation costs and by the Aviation Unit 28 for air transportation costs. They refused to provide such information on the grounds that it is classified. The refusal was appealed in court and is pending review by the SCAC.

9. Freedom of Association and Peaceful Assembly

As in previous years, in 2010 the authorities violated unpopular ethnic and religious minorities’ right to freedom of peaceful assembly and association. Macedonian organizations had the opportunity to celebrate anniversaries of important historic events in April and August without interference, held in unpopulated areas. On September 12, the mayor of the municipality of Blagoevgrad allowed several Macedonian organizations to organize a celebration in the city commemorating the anniversary of the killings of Macedonians in 1924, which the Macedonian organizations call “Genocide Day.” The
police provided security for the event, prohibiting the use of flags, posters or any other demonstration of Macedonian symbols. However, during the celebration several participants were subjected to abuse by the police. One of the organizers was fined BGN 100 for not complying with a police order. The fine was imposed because he held the celebration at 11:00 a.m. and not between 1:00 and 2:00 p.m. According to the police, the municipality had defined in a letter a time slot for the event which was different from the one requested by the organizers. The organizers claimed that they were not informed about the change of time and that they had not received said letter. The fine was confirmed by the Blagoevgrad Area Court on September 23, but was repealed on February 7, 2011, by the Blagoevgrad Administrative Court, which held the municipality’s letter was indeed not received by the organizers. After a wreath was placed at the monument to Gotse Delchev, unknown persons stripped off the band bearing the name of one of the organizations (OMO Ilinden). Later on the same day, a SANS officer insulted two of the participants and threatened that they would be arrested and “beaten black and blue.”

In 2010, as in previous years, the courts continued to violate the right of association of the Macedonian organizations in Bulgaria. In a decision of February 19, the Blagoevgrad District Court refused to register the Association of Repressed Macedonians in Bulgaria, a Macedonian organization whose purpose is to collect memorabilia and materials on repressed Macedonians and Macedonian heritage, as well as to provide legal assistance to the victims of repression. The court held that the association’s activity “will affect the integrity of the Bulgarian nation,” and that its name is misleading as “it contains political, ethnic and implied nationalist meaning.”

This decision of the Blagoevgrad District Court was confirmed during the appeal to the Sofia Appellate Court in a July 14 decision unprecedented in its arbitrariness. The court ruled that the goals and means in the association’s by-laws contradict Art. 6, Para. 2 of the Constitution, which bans privileges on the basis of nationality, ethnicity and origin. It also held that in Bulgaria “there is no separate Macedonian ethnic group, while some of the goals of the association’s by-laws inspire the existence of such an ethnic group, constituting a minority.” Both courts decided, on the basis of completely arbitrary and discriminatory assumptions typical for hearings on the registration of Macedonian associations, that the association has goals intrinsic to a political party and should be registered under another law.

In one of the most drastic violations of the right of association, two persons were convicted in September for the formation of a political party on a religious basis for the first time since the start of the democratic changes. On September 26, 2009, Rosen and Atanas Yordanovi, better known as “the Yuzeirov brothers,” established a political party named the Muslim Democratic Union (MDU) at an open-air meeting in the village of Slavyanovo. The party was based on the moral and ethical norms of Islam and modern democracy. The party’s by-laws, copied to a great extent from the by-laws of a registered Christian democratic party, define as its goals the strengthening of Muslim virtues, the guaranteeing of personal freedoms, the economic and political stability of the country, Bulgaria’s democratic development, the recognition of existing ethnic, religious and national minorities, and the affirmation of international norms on ensuring their rights and freedoms. The by-laws explicitly stipulate that the party shall perform its activities in line with the Constitution and the effective legislation. Membership in the party is open to all Bulgarian citizens, including those of a religion different from Islam.

This event created a political and media frenzy. Two days after the constituent meeting, Prime Minister Boyko Borisov said that the party was unconstitutional and that he had ordered the security services to conduct the necessary checks. Similar statements challenging the lawfulness of the party’s formation were made by representatives of other parliamentary parties of the then-pro-government majority. In October 2009, President Georgi Parvanov said on the popular Nova television station that the formation of Yuzeirov brothers’ Muslim party is “a challenge to ethnic peace” that “puts the Constitution and the legal order in the country to the test.”
Four days after the party was established, pre-trial proceedings were initiated against the Yuzeirov brothers under different articles of the Criminal Code. In a verdict of September 1, 2009, the Popovo Area Court found them guilty of establishing a political party on a religious basis, which is a crime under Art. 166 of the Criminal Code; one of them was also found guilty of holding a meeting to establish a political party, even though the meeting was banned by the mayor of the municipality of Popovo. The court handed one of the brothers a suspended sentence of one year imprisonment with three years of probation on both charges. The second brother was released from criminal liability and was fined BGN 4,000. The sentence was confirmed by the Targovishte District Court in October. In their explanations, the two courts held that the party is closed “from the point of view of the required values that its members and voters as a whole must accept.” According to the Targovishte District Court, by establishing the party and by their behavior, the plaintiffs juxtapose the rights of ethnic and religious minorities against the principle of unity of the Bulgarian state. In January 2011, the Yuzeirov brothers filed a complaint with the European Court of Human Rights in Strasbourg.

In the early fall of 2010, several persons who had gathered in December 2009 to establish an association of pomaks (ethnic Bulgarians who converted to Islam under Ottoman rule) in the village of Trigrad in the municipality of Devin were summoned by the prosecution in the city of Smolyan and questioned about their intentions. They complained to the BHC about the investigators’ rude demeanor, the excessively long interrogation and the provocative questions that were asked. They described this as abuse by the state bodies against the pomak community.

10. Conditions in Places of Detention

Prisons

As of December 31, 2010, a total of 9,379 inmates were accommodated in Bulgaria’s twelve prisons and the correctional facility for juveniles in Boychinovtsi. Figure 1 below shows the dynamics of the inmates in the prisons and the inmate dormitories over the last eleven years.

*Figure 1 – Number of inmates by December 31, by year*
The trend towards a reduction in the total number of inmates that was observed over the past four years has reversed and in 2010 their number began to increase. The number of those accused in prison is also growing. Figure 2 below shows the number of accused and defendants in prison over the past seven years.

**Figure 2 - Number of accused and defendants in prison by December 31, by year**

For the first time since 2006, there is a trend towards an increase in the number of convicts in prison. Figure 3 below shows the number of convicts over the past years.

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*Source: DG Enforcement of Sentences*
With the entry into force of the new Enforcement of Sentences and Guarded Detention Act on June 1, 2009, the transitory dormitories were eliminated. Only dormitories of open and closed types remained functional at the prisons. The number of inmates housed in them decreased from 1,853 to 1,653 in the dormitories of the open type, and from 905 to 835 in the dormitories of closed type (by December 31, 2010). This, together with yet another division for sentence enforcement, was the reason behind the uneven distribution of the inmate population in the prisons. The prisons in Varna, Stara Zagora and Burgas were the most overpopulated.

The Bulgarian prison system has not been a focus of attention for any of the governments in the last few decades. As a result, the buildings continue to be in a deplorable state and the living and sanitary conditions in the prisons where the cells are without sanitary facilities are unspeakable. A new Ordinance on the Setting of Annual Budget Standards per Inmate entered into force at the beginning of 2010. While demonstrating the authorities’ concern for observing inmate treatment standards, the ordinance does not contain quantitative or qualitative values for the individual indicators. The Program for the Improvement of Conditions at the Penitentiary Facilities is another initiative for the prisons that was adopted on September 8, 2010. It demonstrates an intent to implement a consistent and comprehensive policy in the field of sentence enforcement. The program takes into account the fact that overcrowding at prisons of the closed type is two to three times higher than the European requirements. Therefore, the adoption of the program was for the first time tied to an obligation that within three years of the adoption of the ordinance, the Bulgarian government comply with the provisions of Art. 43, Para. 3 of the new Enforcement of Sentences and Guarded Detention Act, which requires that the minimum living area per inmate be four square meters. The program contains specific measures for the improvement of living conditions and the reduction of overcrowding. Together with the program, the government also adopted a 2011-2013 Action Plan, which specifies the deadlines, responsible institutions and expected results. The first result of these initiatives is that in December 2010 the Sofia Municipal Council gave the Ministry of Justice a 500-decare lot in the village of Voluyak. The lot is to be used for the
construction of a new prison for 2,000 convicts, where inmates from the prison building and the dormitories of the Sofia prison will be moved.

Medical services in the prisons were a great problem in 2010 and the number of inmate complaints related to the quality and quantity of medical treatment increased. This is due to several factors: insufficient funding, lack of sufficient medical staff and, last but not least, isolation of prison medical services from the national healthcare system in terms of facility standards, administration, number of medical check-ups, reporting, statistics, prophylactics and prevention. Although the Ministry of Justice is aware of this problem, it has not initiated any steps to deal with prison medical centers that do not comply with the requirements of the *Medical Institutions Act*. Apart from these problems, there is a lack of independent control over medical activities and over the sanitary and hygienic conditions which directly affect inmates’ health status. The prison administration’s obvious inability to put an end to the access to drugs behind bars has led to the use of one syringe by several inmates, and therefore to a constant increase in the number of HIV-positive inmates. In different media events in 2010, the prison administration reported that the prisons are a conducive environment for the spread of HIV and hepatitis, but did not take any action to study the issue or to try to prevent an epidemic.

Inmates with higher social status (so-called VIP prisoners), who were released for medical reasons while serving their sentences, were one of the main media topics associated with penitentiary facilities in 2010. In such cases, public attention focuses on facts that may not be a violation of material law but which do not fall within the public understanding of the institutions’ proper behavior. In some prisons, the inequality between this inmate category and the rest of the prison population, as well as VIP prisoners’ privileged status, is so obvious that it provides grounds to assume the existence of corruption.

Unlike the penitentiary systems in most European countries, Bulgaria still imposes life sentences without parole. In reality, such a sentence cannot be commuted in any way except by pardon. However, no one sentenced to life without parole has ever been pardoned to date. This sentence leaves the convict no hope for a free life and exceeds the admissible limits of suffering and humiliation.

In August the prison workers’ union called for an increase in security personnel, arguing that prison security is “practically minimal.” The insufficiency of security personnel is a systemic problem in the prisons, and both staff and inmates suffer from this. This insufficiency encourages arbitrariness and attempts to use prisoners to control other prisoners. It also results in the unhindered dissemination of drugs, irregular contact, violence between inmates and tension between prisoners and guards.

In the beginning of September, the government signed the *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*. The signatories to the protocol assume the obligation to create a mechanism for regular visits to the penitentiary facilities by an independent international body (a subcommittee of the UN Committee against Torture) and national prevention bodies. The purpose is to eliminate torture and cruel, inhuman or degrading treatment or punishment.

**Investigative Detention Centers**

In 2010 the investigative detention centers in Bulgaria were much more populated than in previous years. A total of 1,283 accused individuals were detained at the 43 investigative detention centers by December 31, 2010.

*Figure 4 – Number of accused at the investigative detention centers by December 31, by year*
In 2010 the number of detainees again exceeded the capacity of the cells. This resulted in a severe worsening of the living conditions in the investigative detention centers. This was typical of the facilities in the larger cities: Varna, Ruse, Stara Zagora, Plovdiv, Shumen, etc. The detention centers in border communities (Svilengrad, Petrich and Slivnitsa) were also very populated. The overpopulation of the larger detention centers increased further due to detainees transferred “by delegation” for trial or pre-trial proceedings. In some cells, two detainees had to share one bed for a long period of time or to sleep on the floor; they had to meet their physiological needs by using buckets in front of the other inhabitants of the cell, as security staff could not provide access to the sanitary facilities to all detainees. The detention centers in Gabrovo, Petrich, Slivnitsa and Pazardzhik are located underground. The cells in most of them have no windows and therefore no ventilation, while all the lighting is artificial. Cell area in some detention centers is extremely small. The uncovered area for each detainee is less than one square meter. In addition, most detention centers lack open-air walking facilities. Such facilities exist only at 16 detention centers. Another ten detention centers have indoor premises for physical exercise, while in another 18 there are neither open-air nor indoor premises for physical exercise. Only nine detention centers have in-cell sanitary facilities. The reason for this is that the buildings cannot be reconstructed to meet detainee treatment standards. For example, in most of centers there is no possibility to provide direct sunlight; in two-thirds of the detention centers there is no space where open-air walking or visitation facilities could be provided. Only one solution remains: the construction of new detention centers, which at this stage is not foreseen, or the accommodation of the accused in prisons, which would further worsen the existing overcrowding.

The government’s measures aimed at solving the issues at the detention centers are just statements. Upon the completion of the former government’s term, the Ministry of Justice reported that projects for the construction of new detention centers in Petrich, Gabrovo, Lovech, Plovdiv and Shumen, as well as for the improvement of the conditions in the existing detention centers in Vidin, Ruse, Haskovo and Razgrad, had been
developed by mid-2009. None of these projects were implemented in 2010. The *Program for the Improvement of the Conditions at Penitentiary Facilities* adopted on September 8, 2010, states that the former hospital in the Lovech prison will be reconstructed into an investigative detention center, a new detention center will be built in a traffic police building in Gabrovo and another one in a former military building in Shumen.

So far the deplorable conditions in the detention centers have given the European Court of Human Rights in Strasbourg reason to rule against Bulgarian in a significant number of cases. However, even this has not encouraged the government to initiate measures to make these conditions more humane.

_Correctional and Educational Facilities for Minors and Juveniles (CBS and SBS) and Homes for the Temporary Accommodation of Minors and Juveniles_

The reform of the system of correctional and educational facilities, the correctional boarding schools (CBS) and the social educational boarding schools (SBS) has been under discussion for a decade and still has not materialized. The long-awaited reforms in the field of justice for minors and juveniles are also not on the agenda. Over the past twelve years, the number of boarding schools was reduced from thirty-three to nine, as law enforcement bodies realized the placement of children in CBS and SBS has no educational effect. This reduction was also a result of the legislative changes which restricted the arbitrariness of such placements. However, this measure could not completely guarantee the respect for the rights of children at risk. The placement procedure is inconsistent with fair trial standards. The grounds for placement in the case of “anti-social acts” discriminate against the children, as they allow for the deprivation of liberty for acts which are not deemed crimes if performed by adults. Children who have been placed in CBS and SBS on purely social grounds are still mixed with children who have committed crimes. The remoteness of the boarding schools from large cities is a serious problem, as it hinders opportunities for the children’s social adaptation, quality medical services, fundraising, transport, the hiring of skilled teaching staff, etc. In the end, all this has an effect on the education process, which cannot be maintained at the same level as in mainstream schools. It is therefore necessary to review the existence of SBS and CBS in their current form. It is also necessary to seek alternatives for correctional influence on children who are in conflict with the law. This is the spirit of the recommendations by the UN Committee on the Rights of the Child to Bulgaria of June 23, 2008, which state that it is necessary:

- to establish a special system of courts for children in conflict with law;
- to eliminate the term “anti-social act”;
- to abstain from punishing deviant behavior of children under penal age and to define “social and protective measures” instead;
- to establish a system of social and educational measures as an alternative to the deprivation of liberty, and to ensure their effective application;
- to use deprivation of liberty, including at involuntary education institutions, only as a last resort;
- to provide children in conflict with the law opportunities for contact with their families and with civil society organizations.

The institutions for the temporary placement of minors and juveniles (ITPMJ) in Sofia, Plovdiv, Varna, Burgas and Gorna Oryahovitsa accommodate children who have committed anti-social acts, children without a domicile, vagrant or beggar children, as well as children who have left compulsory education or involuntary treatment facilities without permission. These institutions report directly to the Ministry of Interior Affairs. Accommodation at these homes has a penal function and the conditions have all the features of detention on remand. According to a MIA ordinance, the stay cannot exceed 15 days and the placement must be ordered by a prosecutor. In exceptional cases, the
stay may be prolonged to two months. The placement of children in these homes cannot be appealed in court. There is a contradiction with domestic and international legislation also with regard to the children’s right to a lawyer from the time of detention, during the stay or after the measure has been imposed, as well as with regard to the impossibility for children placed in ITPMJ to attend school.

**Crisis Centers for Children**

In 2010 the BHC monitored the system of crisis centers for children in Bulgaria. Twelve such institutions with a total capacity of 123 beds functioned over the year. They are targeted at children who are victims of violence and trafficking and are created by the municipalities. Albeit defined as a residential social service in Art. 36 of the Regulation on the Enforcement of the Social Assistance Act, the placement of children in a crisis center is in fact placement in a specialized institution and has all the features of the deprivation of liberty. The children are kept locked up and are not allowed to go out unaccompanied. In the case of an escape, the MIA is notified immediately and an APB is issued for the child. According to Item 25 of the additional provisions to the Regulation on the Enforcement of the Social Assistance Act, the crisis centers provide service for a period of up to six months.

Placement in children’s crisis centers is regulated under the Child Protection Act and allows for an initial administrative placement by the directors of the Social Assistance regional directorates. Within a month of the date of the placement order, the directors must file a request with the regional court, which in turn needs to rule on the lawfulness of the placement within one month. The procedure therefore does not meet the requirement for trial within a reasonable time, as stipulated in Art. 5, Para. 5 of the ECHR.

The case law was quite varied in 2010. Some courts defined the initial date of administrative placement as the date of the actual placement. In other cases, however, the initial date was deemed to be the date the court decision took effect, which could be two or three months after the actual placement. In reality this leads to stays exceeding six months, which again results in the institutionalization of children. In one such case, a child was placed in a crisis center for nine months on the basis of an administrative order only, without the initiation of a judicial procedure for his placement. This and other violations of the rights of children are due both to the lack of knowledge and experience by the responsible state employees and to the new and vague legislation governing the procedure and children’s stays at crisis centers.

Data provided by the Social Assistance Agency indicate that in 2010, Social Assistance directors issued 259 orders for the placement of children in crisis centers. As a new social service, the placement in crisis centers provides the necessary degree of protection to children who are victims of violence and trafficking. At the same time, it should be a reasonable alternative to the placement of children in correctional and educational institutions. In reality, however, the Social Assistance directorates and, at a later stage, the courts do not take into consideration the specifics of these centers and place in them both children who are victims of domestic violence and children who have been stealing, leaving their homes or school – actions interpreted as “anti-social acts.” In individual cases, the homes have been used to accommodate children who are victims of international trafficking, while those who have been forced into prostitution or stealing are treated as child victims of domestic trafficking. In 2010 several children with psychiatric disorders were placed in crisis centers despite the impossibility of providing them adequate care there.

**11. Protection against Discrimination**

On April 28, 2010, the Council of Ministers (CoM) made a decision to reduce the number of members on the Commission for Protection against Discrimination (CPD) from
nine to five. The decision was justified by financial savings. On March 30, 2010, the BHC, supported by ten other non-governmental organizations, sent an open letter to the prime minister, parliament and the president in which it insisted that the membership of the CPD not be reduced. Nevertheless, on April 30, 2010, the CoM submitted to parliament a bill to reduce CPD membership. On May 13, 2010, the BHC sent another open letter to the National Assembly (NA) with an appeal that it reject the bill. The letter was supported by 26 civic organizations. As a result, on May 21, 2010, the CoM submitted a new bill, this time for the reduction of CPD membership to seven members. Meanwhile, the chair of the Council of Europe European Commission against Racism and Intolerance, Nils Muiznieks, and the Council of Europe commissioner for human rights, Thomas Hammarberg, also criticized the attack against the CPD. The Dutch Helsinki Committee sent open letters to the European Union Agency for Fundamental Rights and the Dutch Foreign Ministry, appealing that they defend the CPD before the Bulgarian government. Ignoring the widespread criticism and protests, on July 28, 2010, the National Assembly adopted at first reading the bill on the amendment of the Protection against Discrimination Act, reducing the commission’s membership to seven members. Currently, the bill is still in parliament and has not been voted on at second reading.

The term of the current CPD expired in 2010: in April for the parliamentary quota and in May for the presidential quota. In their open letter to the president, to parliament and to the prime minister, the BHC and another ten organizations asked that the new members be nominated using a transparent procedure allowing for civic nominations and presenting a clear justification for the selection of the individual members. The authorities completely ignored these requests. Currently, the commission has continued working with its previous members, despite the fact that its term has expired, which creates insecurity in its work. It is unclear why the president and the National Assembly are not doing anything to elect new CPD members.

In 2010, the CPD continued its positive case law in the application of the Protection against Discrimination Act. Some of it was related to discrimination against people with disabilities. In December the CPD ruled against the Directorate General Enforcement of Sentences (DG EoS) of the Ministry of Justice (MoJ) for not ensuring an accessible architectural environment at the Pazardzhik investigative detention center. The complaint was filed by a person with a disability (a wheelchair user) who was detained at the detention center. The CPD mandated that DG EoS accommodate people with disabilities only at detention centers where an accessible architectural environment has been provided. In November the CPD convicted the abbot of the Troyan Monastery for abuse of people with disabilities and for lack of an accessible architectural environment in the monastery. The complaint was filed by a wheelchair user who together with other people with disabilities tried to visit the monastery but was thrown out by the abbot who showered him with insults with regard to his disability. The CPD fined the abbot and obligated him to provide an accessible architectural environment in the monastery. In several decisions throughout the year, the CPD convicted a series of service suppliers (banks, insurance companies) and the Executive Agency on Fisheries and Aquaculture for the lack of an accessible architectural environment in their buildings in Vidin. In similar cases, the plaintiff reached agreement with four banks and the Vidin water-supply company to make their buildings accessible.

In June a five-member panel of the Supreme Administrative Court (SAC) repealed the decision by a three-member panel of the same court overturning a conviction by the CPD. The commission convicted the minister of education, the Burgas Regional Education Inspectorate, the director of a secondary school in Burgas and a teacher because their failure to provide a supporting educational environment for a first-grader with a hyperkinetic disorder constituted discrimination against him on the basis of disability. SAC ruled that school authorities have the obligation to provide a supporting environment for the child, as it is a mandatory condition for effective integrated education. The court held that this includes psychological and teaching support for effective education of the child within mainstream classes.
In June, the CPD convicted the mayor of Plovdiv on a complaint by a group of people with disabilities for the lack of an accessible architectural environment in the city, despite the fact that the mayor had initiated partial actions in this respect. In May the commission convicted the mayor of Gabrovo for the lack of an accessible architectural environment at the Etara ethnographic complex; the commission imposed a fine and obligated the mayor to put an end to the violation. The complaint was filed by a woman in a wheelchair who could not enter the complex because of the cobblestone streets. In April the CPD convicted the Municipality of Sofia and Sofia Automobile Transport AD for not providing a sufficient number of buses adapted for use by people in wheelchairs, for not training and instructing the drivers on how to use the moving bus ramps, for the inadequate marking of the vehicles and for not providing personal information about the drivers in case someone wanted to file a complaint. The commission obligated the mayor and the company to eliminate these deficiencies and fined them. After a complaint by people with impaired vision, the CPD convicted the Municipality of Sofia in September for not providing accessible transport and obligated it to provide vision-impaired people with access to these services. In November the CPD convicted the principal of an auxiliary school in Sofia and the minister of education for abuse of students with disabilities and their parents. The children were moved to an auxiliary school without an accessible architectural environment. The principal was fined and the minister of education was ordered to provide an accessible environment.

In February and October, SAC confirmed in two instances CPD orders to a higher educational institution not to put an age restriction on competitions for academic titles (assistant, scientific researcher and lecturer), as well as to organize a new competition for the title “assistant,” this time without age restrictions. The court pointed out that such age requirements, albeit stipulated by law, constitute discrimination and contradict EU legislation, and therefore should not be applied. In another case in June, the CPD convicted a university for direct discrimination due to age restrictions in a competition for the position of “assistant” under the Scientific Degrees and Titles Act (repealed). The commission obligated the university not to restrict positions on the basis of age in the future.

In July the CPD issued compulsory instructions to the Electronic Media Council (EMC) to penalize a national television channel for airing a sexist commercial that defiled women’s dignity and constituted sexual harassment. The case was brought to the CPD by the EMC, which received a complaint from an association, the Bulgarian Fund for Women. The CPD returned the case to the EMC for ruling.

The CPD also ruled on several cases of hate speech. In May and July it twice convicted a newspaper for abuse of the homosexual community by creating a negative stereotype of non-heterosexuals for its readers. In a similar case in July, the CPD convicted another print media not only for abuse of homosexuals but also for direct discrimination and persecution of the plaintiffs, since after the complaint was filed the newspaper published an article in which it insulted the plaintiffs. In this case the CPD obligated the publisher to introduce self-control rules and imposed a steep fine. In November the CPD fined the owner of an internet media outlet for allowing abuse on ethnic grounds: racist comments calling for violence posted by readers of the website. The commission obligated the website owner not to allow such acts of discrimination in the future. In September the CPD convicted a member of parliament, Yane Yanev, for abuse on the basis of religion, public status and political affiliation of a mayor of a municipality. The member of parliament had publicly compared the mayor to Osama bin Laden. The commission fined Yanev and obligated him to abstain from such abuse in the future. In December the CPD convicted the extremist Boyan Rasate of the Bulgarian National Union for abuse and instigation of racial discrimination. In a radio and television broadcast on the topic of admitting African refugees into Bulgaria, Rasate on many occasions called African people “unevolved creatures” and “criminals” and told the audience that migrants were a threat to Bulgarian society. The commission imposed a steep fine and obligated him to put an end to the abuse and the instigation of racial discrimination.
In May a man who hit and threatened with racist insults a person who identified himself as a Turk was fined by the CPD for abuse on ethnic grounds. The prosecution refused to investigate the case. In August the CPD convicted the owner of a confectionery who banned Roma from entering of direct discrimination (two Roma women had been thrown out). During the CPD proceedings, the defendant tried to convince one of his workers to testify in his support; when she refused, he fired her. The owner was also convicted of refusing to provide documents requested by the CPD. The CPD imposed large fines and obligated him in the future not to allow discrimination by his employees, as well as to post in visible places in his establishment provisions of the Protection against Discrimination Act explaining what discrimination is and which body the victims should address. In the same case, the CPD convicted the mayor of the municipality where the confectionery is located because he did not take any action, despite multiple complaints from people subjected to ethnic discrimination. Apart from fining the mayor, the CPD instructed him to propose to the municipal council legislative amendments banning ethnic discrimination in the access to goods and services, and to provide a system for effective monitoring and prosecution of acts of discrimination. The CPD also instructed the Commission for Consumer Protection to periodically verify whether the ban on discrimination established with the Tourism Act is being observed within the municipality.

On September 1, the CPD convicted the Migration Directorate of the Ministry of Interior Affairs for its refusal to issue a travel document to a Palestinian with permanent residency in Bulgaria who had turned out to be ipso facto without citizenship. The CPD held that such treatment constitutes discrimination on the basis of nationality and citizenship and is a violation of the plaintiff’s right to free movement within the European Union (because he is married to a Bulgarian citizen). The CPD also found a violation of the plaintiff’s right to protection, as the ban on him leaving the country was not imposed as a statutory involuntary administrative measure but was in fact a refusal due to a “lack of legal possibility” in the applicable legislation, which cannot be appealed in court or before another body. The commission recommended that the minister of interior affairs initiate actions for the harmonization of the national legislation with that of the EU and disallow measures limiting the legal status of foreigners without citizenship living in Bulgaria. The CPD also recommended that the minister initiate actions towards the ratification of the 1954 Convention Relating to the Status of Stateless Persons.

In April the CPD convicted an electricity distribution company of discrimination on the basis of nationality against a woman who owned a shop in neighborhood populated mostly by Roma. Her electric meter was installed at a height that restricted her access to the device. The CPD instructed the company to eliminate the violation and to abstain from similar actions in the future. In September the CPD convicted three experts for direct discrimination on the basis of ethnic origin, property status and education against witnesses in a criminal process. The experts developed an accounting examination for the court, according to which the witnesses were not able to generate the relevant commercial turnover due to their minority origin, low income and illiteracy. The CPD fined the experts.

In September the CPD recommended that the prime minister and the minister of justice take measures to criminalize violations against persons committed for racial reasons, in line with the International Convention on the Elimination of All Forms of Racial Discrimination. The procedure began after a complaint by a person of African origin who was attacked by a skinhead in 2007. Later, the skinhead was convicted of attempted murder on grounds of hooliganism. The victim claimed that he was not protected against the act of racism against him since the Criminal Code lacked a specific text on attempted murder on racial grounds.

In July the CPD convicted the minister of health for direct discrimination on the basis of age against 43-year-old women. According to the medical standards on assisted reproduction, women of this age were not allowed to go through sterility treatment by the extraction of oocytes through ovary puncture. Several months later the minister was convicted again, this time for two age restrictions in medical standards: one for women
over 43 and one for women over 45. In both cases the commission obligated the minister to repeal the discriminating provisions.

In May the CPD convicted the Pazardzhik Municipal Council for direct discrimination on the basis of sexual orientation. The municipal council had adopted an ordinance banning citizens from publicly demonstrating their sexual orientation. The CPD obligated the municipal council to repeal the restrictive ordinance and to abstain from adopting similar acts in the future.

In November the commission convicted the National Health Insurance Fund (NHIF) for direct discrimination on the basis of age and for abuse on the basis of wealth against patients suffering from phenylketonuria who have turned or are about to turn 18. The patients need special life-supporting food throughout their lives, however the NHIF provides it free of charge only to persons under the age of 18. The CPD obligated the NHIF to put an end to this violation and recommended that the minister of health change the respective legislative basis. It also recommended that the prime minister ensure that healthcare legislation guarantees the equal treatment of patients suffering from rare diseases as a whole. In another case in July, the CPD found that the NHIF is directly discriminating on the basis of age and wealth against patients with hyperammoniemia who are about to turn 18, as it does not provide them with the necessary food and food supplements free of charge after this age. The commission recommended that the NHIF provide the necessary food free of charge to everyone suffering from this disease, regardless of their age. In the same case the CPD recommended that the NHIF and the Ministry of Health verify whether a medicine is available on the world market that is an analogue to a medicine provided by the NHIF but is for use by children only and, should that be the case, to introduce it on the Bulgarian market. It also recommended that the minister of health provide devices for daily measurement of ammonia levels in normal living conditions, in the same way that such devices are provided to measure diabetics' blood sugar and also that the minister provide an adequate legislative basis that clearly regulates how to treat adults suffering from hyperammoniemia.

In June the CPD convicted the minister of health for direct discrimination on the basis of disability and human genomes because people suffering from Wilson's Disease were not provided with life-supporting medicines for almost a year. The commission obligated the minister to provide the patients with the necessary medicine without stoppage and not to allow actions that could threaten their life and health. In July the minister of health was convicted for discrimination on the basis of disability for not ensuring free medicines for Alzheimer's Disease. The CPD obligated him to include this disease in the list of medicines paid for by the NHIF.

On March 25 the European Court of Human Rights found Bulgarian guilty of violating Article 14 (the ban on discrimination) in relation to Article 6 of the European Convention on Human Rights in the case Paraskeva Todorova v. Bulgaria. The plaintiff was a Roma woman who was sentenced to effective imprisonment for embezzlement. In 2005 the Plovdiv Area Prosecutor's Office charged the plaintiff with embezzling BGN 2,600 and jewelry by fraud. In court the plaintiff maintained that on that date she was having a medical examination some 100 kilometers away from the crime scene and presented a document from the examination. During the trial her defense counsel admitted that she had been convicted of theft in the past but that her last sentence dated from 20 years ago. In his charge, the prosecutor proposed a suspended sentence due to mitigating circumstances and given the plaintiff's health. Nevertheless, the Plovdiv Area Court sentenced her to three years effective imprisonment. Apart from all the other data about the plaintiff, the sentence mentions her Roma origin. Justifying its refusal to hand down a conditional sentence, the area court states “the existing feeling of impunity, especially among minority representatives, for whom a conditional sentence is not a sentence.” The upper instances confirmed the sentence without discussing the plaintiff's arguments concerning the ethnic prejudice of the court of first instance. According to the European Court of Human Rights, the mention of ethnic origins and the explicitly stated opinion on minorities create the feeling that the punishment was imposed in order to serve as an example for the whole Roma community. The Court held that the plaintiff was deprived of
her right to a fair hearing because of her ethnic origin. It underlined the extreme severity of this violation, pointing out that the elimination of racism in modern multicultural European societies is a priority goal of all member states, and that the Bulgarian courts must comply with the constitutional principle of citizens’ equality before law.

12. Right to Asylum, Freedom of Movement

The right to asylum and international protection is enshrined in the Bulgarian Constitution, the United Nations Convention Relating to the Status of Refugees of 1951 and the 1967 UN Protocol Relating to the Status of Refugees, as well as in the special national Asylum and Refugees Act of 2002. Under the national regulations, Bulgaria provides four forms of protection to foreigners who have fallen victim to persecution and violations of their fundamental rights: asylum, refugee status, humanitarian status and temporary protection.

In 2010 the legal guarantees and the practical possibilities for exercising the right to asylum and international protection in Bulgaria experienced a significant regress in comparison to previous years. The government utterly failed to achieve its declared goals of reforming and restructuring the legal and institutional setting and of improving the situation of asylum seekers, refugees and foreigners who have been granted humanitarian status in Bulgaria. In many aspects, access by foreigners in need of international protection to a series of fundamental procedural and social rights recognized by the law worsened instead of improving. This includes the right to legal assistance during the administrative proceedings on status granting, the right to immediate accommodation in a registration and admission center, social assistance and health insurance after the registration of the application for protection, etc.

The opening of the State Agency for Refugees (SAR) transit center in the village of Pastrogor, in the vicinity of Bulgarian-Turkish-Greek border, has been delayed for ten years. 2010 was not an exception in this respect, but this time the delay was indefinite. By law, transit centers are created for registration, for carrying out proceedings to identify the responsible member state and for accelerated proceedings on protection applications filed at the state border. The lack of a SAR territorial unit at Bulgaria’s most important border through which the major immigration flow passes has led to a lack of any organizational possibility for registering foreigners who lawfully declare their request for international protection at the border before the Border Police. On the other hand, the Border Police Directorate General continued to perform its functions without allocating in its budget funds for interpretation and communication for the foreigners detained at the border. Without translation, and especially interpretation, the Border Police were unable to duly ensure registration of protection seekers and their applications, as required by Art. 58, Para. 4 of the Asylum and Refugees Act (ARA), because it was incapable of conducting even basic communication with them. There were some disturbing cases in 2010, in which the Border Police and investigative bodies required that the foreigners themselves pay for interpretation and translation services, sometimes even for the purposes of criminal proceedings and indictment under Art. 279 of the Criminal Code. Thus, the foreigners seeking protection in 2010 had the opportunity to exercise their right and obligation to apply for protection at the border only with the assistance of lawyers and interpreters provided by the BHC.

Nevertheless, even the foreigners who managed to register their protection application at the border could not make use of their rights to accommodation, social assistance and health insurance, as most of them were transferred to the special home for the temporary accommodation of foreigners (SHTAF) in Sofia’s Busmantsi neighborhood, instead of to a SAR transit or registration and admission center. This practice dates back to 2007 and was continued on the basis of Art. 16, Para. 1, Item 3 of the Ordinance on the Responsibility and the Coordination between the State Agency for Refugees, Directorate General Border Police and the Migration Directorate of the Ministry of Interior of 2008. The ordinance contradicts
Art. 29, Para. 1, Item 2 in conjunction with Art. 20 of ARA, a higher-ranking legislative act, and violates the commonly accepted European standards on admission, more specifically Art. 18, Para. 1 of Directive 2005/85/EC on minimum standards for procedures in Member States for granting and withdrawing refugee status. In 2010 the State Agency for Refugees continued to justify this unlawful practice with the insufficient capacity of its registration and admission centers, but did nothing to amend the situation. As a result of this illegal practice, the protection seekers held at SHTAF upon filing a protection application at the border and having it registered, would spend between two and five weeks in detention until their release by SAR for identification, registration and accommodation. Although the average period of detention of protection seekers at SHTAF was reduced significantly in comparison to 2009 (to between three weeks and six months), they still would not be provided with direct and unhindered access to a refugee procedure.

In 2010 the regional prosecutor’s offices in the border areas with Turkey and Greece initiated a campaign for criminal proceedings on the grounds of illegal entry against foreigners seeking protection, even in cases in which their applications were filed and registered. This policy and practice constitutes a direct violation of Art. 279, Para. 5 of the Criminal Code and Art. 31 of the Convention Relating to the Status of Refugees. Given the requirement that refugees not be penalized for their illegal entry when its purpose is to exercise the right to asylum and international protection, the obvious goal of this practice is to artificially increase the effectiveness of the respective prosecutor’s offices, as illegal entry may be proven relatively easily. As a result of this abuse, the penal divisions of the local courts handed down convictions against 74 protection seekers, or 25 percent of the 296 foreigners who had filed protection applications at the border.

A total of 1,089 protection seekers were registered in Bulgaria in 2010. Two-hundred and ninety-six of them were registered at the border and 183 (61 percent) of these 296 were detained at SHTAF in Busmantsi. Only 113 (39 percent) of these 296 protection seekers were granted direct access to a procedure for accommodation at the SAR registration and admission centers. A total of 580 protection seekers were detained in 2010. Three-hundred and eighty (65 percent) were released within one month.

Throughout 2010, the protection seekers were not provided with access to legal assistance during the proceedings on granting status. The State Agency for Refugees cancelled the legal assistance funded by the European Refugee Fund which was to be provided to the protection seekers without any reasonable explanation. All proceedings under the ARA were held in a total lack of legal protection and representation. This affected the effectiveness and the lawfulness of the administrative procedures and led to an inevitable plunge in the rate of recognition, awarding status and protection in Bulgaria. The protection seekers regularly reported prejudiced procedural interviews, incorrect minutes, refusals to collect evidence, incorrect description of evidence presented, etc. This formalistic approach demotivated a significant portion of the protection seekers to stay in Bulgaria and wait for the results from the protection proceedings. It also resulted in the suspension of seven percent and the termination of 19 percent of the proceedings before the State Agency for Refugees.

The freedom of movement is enshrined in Art. 13 of the Universal Declaration of Human Rights, Art. 12 of the International Covenant on Civil and Political Rights and Art. 35 in conjunction with Art. 27, Para. 1 and Art. 26, Para. 2 of the Bulgarian Constitution. The progress achieved in 2009 with regard to the protection of the right to free movement of citizens of third countries by the transposition of Directive 2008/115/EC was not extended in 2010. The maximum duration introduced in the national legislation with regard to the detention of foreigners at SHTAF continued to be applied as a rule and not as an exception with regard to foreigners subject to deportation. The deviation from European standards which occurred during the transposition of the directive was not corrected in any legislative or practical manner. More specifically, it concerns the extended possibility for the court to prolong the detention beyond the maximum period (Art. 46a, Para. 4 in conjunction with Art. 44, Para. 8 of the Foreigners in the Republic of Bulgaria Act). Also, the law states that judicial control over administrative detention for the purposes of
deportation or expulsion is compulsory only after the expiration of the deadlines under the directive. Thus, judicial control over the deprivation of liberty by an administrative measure imposed by a police order is not automatic and immediate, but is delayed in time by six months. This is a violation of the provision of Article 5, item 4 of the European Convention on Human Rights on judicial control over detention. This approach to third country nationals is completely discriminatory and inconsistent with both the applicable human rights protection standards and the mechanisms for identical protection of defendants in criminal proceedings adopted in national legislation and practice (Articles 63-65 of the Criminal Procedure Code).

In December 2010, the BHC published a national report, Detained Instead of Being Protected, on the detention of vulnerable protection seekers and illegal migrants in Bulgaria, as a part of a European report, Detention of Vulnerable Asylum Seekers (DEVAS). The purpose of the DEVAS project was to study and analyze the vulnerability of protection seekers and illegal immigrants: both the way persons who were previously vulnerable cope with detention and the way in which detention could result in the vulnerability of persons who have not demonstrated officially recognized signs of vulnerability and special needs. The analysis of the collected data outlined several factors that define vulnerability: social, personal and environmental factors. The extensive analysis of these factors from the point of view of the detained migrants, the NGOs and the civic organizations that provide assistance in the detention centers, and the staff of the detention centers resulted in the identification of several problematic areas in which BHC recommended immediate action. The most pressing issues are related to the general lack of information, the duration of detention and its impact on the detainees’ physical and mental health, the poor living conditions and food, especially with regard to protection seekers whose deportation was suspended by law (Art. 67, Para. 1 of ARA). From a human rights point of view, the most critical problem is that of the lack of automatic judicial control and of a case-by-case judicial review of the legal grounds for detention and the actual need thereof, so as to have an independent judicial body establish whether the common standards on the protection of the individual against violations of the right to freedom and security as per Art. 5 of the European Convention on Human Rights and Art. 15, Para. 2a of Directive 2008/115/EC on returning illegally staying third-country nationals have been respected. Also, the deadline for contesting a detention order under Art. 46a of the Foreigners Act is unjustly short and should be extended in order to avoid and discrimination of foreigner detainees. The detained illegal immigrants do not receive legal assistance nor adequate protection and legal advice. Finally, the issue of medical treatment of chronic diseases should be legislatively regulated immediately by using the approach applied to prisoners, i.e. the state should cover the medical insurance costs of the detainees from its budget in order to provide the access to healthcare for migrants with chronic diseases which is currently lacking.

### 13. Rights of People with Mental Disabilities

Today the issue of people with mental disabilities in institutions is inseparable from the issue of developing a community-based social services network that would allow them to get the necessary support and resources in order to regain their lives and return to their communities. The inaction in providing community-based social support in sufficient quantity and quality to effectively achieve the purpose of deinstitutionalization, together with the physical mechanisms of isolation of the users of social services outside the community, ranks among the factors leading to the violation of the right to freedom and security and the right to personal life.

Some small steps were made in 2010 towards taking people out of institutions in Bulgaria, but, in fact, these actions did not change the overall situation. They were not part of a targeted, comprehensive, well-thought-out and resource-backed process, but rather isolated physical transfers of people from institutions to other services, often in
inadequate locations with respect to the staff’s ability to deliver good care and adequate infrastructure. None of the recommendations addressed to the EU member states in the European Commission’s 2009 Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care were implemented. In May 2010, the Ministry of Labor and Social Policy developed a draft political document entitled Vision on the Deinstitutionalization of Senior Citizens with Mental Disorders, Mental Retardation and Dementia. This draft, which could be a step towards the implementation of some of the EC recommendations, was not adopted by the end of the year. It contains findings that once again confirm the poor conditions and the unclear future of people with mental problems accommodated in institutions. The draft recognizes that the existing social services system in Bulgaria is unable to meet the real needs of people with mental disabilities. It recognizes the need for “transforming the institutional model into stationary and mobile community-based services.” Despite this recognition and the declared intentions, the results are highly unsatisfactory. Data provided by the Agency for Social Assistance (ASA) show that as of December 31, 2010, there were 3,498 persons in institutions for people with mental disabilities. Of them, 1,169 were in homes for adults with psychiatric disorders (HAPD) and 2,329 in homes for adults with mental retardation (HAMR). The total number of the institutions remained unchanged: 15 institutions for adults with psychiatric disorders and 28 for adults with mental retardation. No institutions have been closed, nor has any institution been relocated to a community with better infrastructure.

The obstacles to the deinstitutionalization process remained in 2010. There was no change with regard to the assessment of the needs of community-based social services. The draft vision on deinstitutionalization contains an estimate of the number of people who are likely to need social services due to a psychiatric disorder. According to the document, “persons suffering from a psychiatric disorder at some time in their life account for 25 percent of the world’s population.” It also states that this number needs to be increased by 409, the number of people who had come of age by December 31, 2010, and who were located in specialized institutions for children with disabilities. This estimate, based on general information, is not statistically accurate. It does not result in conclusions on the number of services needed, their territorial distribution and type. The draft vision fails to consider the fact that the people who are currently in institutions are those who need support the most in order to have a life in the community again. There is no data on the number and the needs of people who are permanently living in psychiatric hospitals. The lack of information about their needs inevitably leads to supply deficit. Even the known, incomplete and sparse information makes it clear that the existing services are highly insufficient.

This leads us to another obstacle that was not overcome in 2010: the lack of community-based services. ASA data show that since January 31, 2011, there were 18 protected homes for people with psychiatric disorders, with a total capacity of 183 people, as well as 63 protected homes with a total capacity of 533 people, five transition homes for people with mental retardation with a total capacity of 55 people, and two transition homes for people with psychiatric disorders with a total capacity of nine people. Again by ASA data, as of December 31, 2010, there were a total of 50 daycare centers for the social integration and rehabilitation of disabled persons; it is not clear how many of these admit people with mental disabilities. The draft vision on deinstitutionalization recognizes the lack of community-based social services as one of the main risks to the process. The uneven distribution of services by territory and type is another risk in this category that is recognized in the document.

The lack of programs aimed at building or rebuilding skills was another barrier to deinstitutionalization, which remained unresolved in 2010. This deficiency is especially damaging to people in institutions due to their isolated lifestyle, the lack of access to information and the lack of meaningful activities. As a result they gradually develop the institutionalism syndrome, which in many cases is more damaging than the actual mental disorder. The depersonalization of people accommodated in institutions may be overcome simply by providing and guaranteeing personal possessions and guaranteeing
the preservation of items of emotional significance for the individuals. There is rarely an understanding of this need and satisfying it happens rather by exception. There is also no program that could account for this need in a constructive and involving manner. Even when they are not under interdiction, people in institutions are deprived of the liberty to choose activities and daily agendas corresponding to their personality, which leads to the development of severe dependency on the staff and the loss of the ability to make choices and defend decisions. In addition, staff in the institutions is unskilled. The institutions are in remote locations, isolated not only from the large populated centers but often also from the small villages in which they are formally located. Nothing was done in 2010 to overcome these severe deficiencies.

For example, in the HAMR in Podgumer, which is inhabited by both people with mental disabilities and people with psychiatric disorders, there were some positive changes with regard to the improvement of the facilities, staff motivation, the personal hygiene of the users and the understanding of the need to repeal the interdiction of some patients. Nevertheless, an overall policy for the improvement of the services in the field of building and rebuilding skills for independent living does not exist. A program for acquiring cooking and other basic self-reliance skills has been introduced and some of the people have begun attending a community-based daycare center. However, the programs do not meet the need of developing skills for independent living. The staff has no clear idea about the purpose of the programs and regard, for example, playing with a child’s construction toy or coloring books as “labor therapy,” but cannot explain why. None of the therapists demonstrate an understanding of the purpose of the programs beyond a purely mechanical pastime. In addition, despite the relative proximity of the institution to the capital – only 24 kilometers – hiring staff is very difficult due to the low wages. There is no opportunity to hire students with appropriate majors due to the infrequent and inconvenient public transportation. The protected homes in Sofia are full and cannot be used to accommodate people from Podgumer.67

The legislation in the field of interdiction remained unchanged. Guardians often resist the deinstitutionalization process. This lack of change exists despite the recommendation in the EC report,68 according to which EU member states must review and amend their legislation and existing administrative rules so as to guarantee the effective inclusion of service users in the decision-making that affects them, as well as in the identification of services. The system of legal provisions regulating interdiction in Bulgaria, combined with the fact that many people with mental disabilities in the institutions are under interdiction, excludes them from active participation in the decisions that affect their own lives. The recommendation in the EC report on the identification of legislative and administrative acts that directly or indirectly maintain institutionalization or hinder the transition to community-based services, and on changing such acts so as to strengthen the delivery of quality community-based services, was not implemented.

There is no dialogue with the service users. Although the draft vision states that "respecting the rights of people with disabilities is guaranteed through their involvement and that of their representatives in the national and regional boards which have advisory functions in the development of policies on their integration, such as the National Board on Mental Health, the National Board on the Integration of People with Disabilities, the regional boards on mental health," not a single person in the institutions is aware of the existence of these boards. Not a single person with a psychiatric disease or mental disability has been invited to sit on these boards, nor has any organization. Only one organization of users of psychiatric healthcare services exists in Bulgaria: the National Organization of the Users of Psychiatric Healthcare Services. However, it has never been recognized as a partner in the development of policies for users or in making other important decisions.69

A small step was made in 2010 towards citizen participation and towards the transparency of the activities of the psychiatric hospitals for active treatment. The Medical Institutions Act was amended in July. The amendment to Art. 82 eliminated the obstacle to creating hospital boards of trustees at medical institutions for stationary psychiatric care. The amendment allowed the minister of health the opportunity to initiate the creation of
such boards at the state psychiatric hospitals. However, the provision remains precatory, while the bureaucratic process of the formation of the boards and legislator’s failure to empower the real stakeholders, i.e. patients, relatives and NGOs, made this opportunity unusable in practice or at least usable only in conditions of strong dependency on the state administration. Thus, the legislative possibility to involve the users in a dialogue on the quality of the care in these medical institutions remains untapped.

No service outside the community changed its location in 2010. Relocation was theoretically possible for at least one of them: the home for adults with psychiatric disorders in the village of Pastra could have been relocated to the town of Rila. This would have been an important step forward, given the fact that the number of community-based social services is negligible, while for years the situation at this institution has been deemed unacceptable and the conditions inhuman by the European Committee for the Prevention of Torture, among others. Instead, a major overhaul of the institution was effected. The repairs improved the living conditions of the users. In the long run, however, this was a short-sighted investment, as it was an investment that keeps people in this institution outside the community instead of taking decisive actions for their deinstitutionalization. Despite the improved living conditions, the quality of the human resources in this institution is still very low. The institution lacks adequate social and health care for the users. In the past two years, despite the existence of open positions, the institution has not hired a doctor, a psychologist and a rehabilitator, which exacerbates the low quality of care in the institution.70 The users’ general practitioner does not visit the home.71 The individual plans for social work with the users were not prepared in line with the requirements of the Regulation on the Enforcement of the Social Assistance Act (RESAA) and include no activities to meet health needs and to plan for long-term needs.72 Today, the institution still has no modern means of communication which the users can rely on. They have no free access to the telephone or Internet and there is no computer equipment whatsoever. Phone conversations are controlled and a notebook keeps track of who has talked with whom. The users are deprived of access to information, as there is only one TV set in the entire institution.73 The personal funds of the users are transferred to a savings account belonging to the Municipality of Rila and not to patient accounts.74

Another institution, the HAPD at the village of Pravda, municipality of Dulovo, Silistra Region, had its capacity reduced in 2010. In decision 460/2010, the Dulovo Municipal Council75 reduced the institution’s capacity from 70 to 34 beds. Thirty-five people were relocated to protected homes and a daycare center in Dulovo, created by the same decision. The fact that the newly created social services are located on the fourth floor of the Dulovo Multiprofile Hospital for Active Treatment76 is a cause for concern, as there is the risk that the institutional model will be transferred to the new location and hence will become a prerequisite for stigmatization of the users of this service.

Five women from the HAPD in the village of Razdol were transferred to a protected home established in the same community. Other institutions, such as the HAPD in the villages of Borilovets and Petkovo (municipality of Vidin), the village of Lyaskovo (municipality of Stara Zagora), and the town of Tvarditsa (municipality of Siliven) did nothing in terms of deinstitutionalization.77 The admission of users at the HAMR in Podgumer was stopped but there was no progress towards deinstitutionalization.78

The above examples paint a picture of inconsistency and formality of the deinstitutionalization process. The fact that the protected homes to which people from institutions are being relocated are mostly located in either medical institutions or in the same communities where the institution was causes great concern. Some are even located in the institution’s courtyard. This creates a serious risk of a formalistic deinstitutionalization process in which people with mental problems will be mechanically relocated from a larger to a smaller institution and the essence of the model of care will remain unchanged, i.e. the institutional model will not be abolished. The amendment of the Medical Institutions Act by the introduction of a new Paragraph 4 in Article 5 to allow medical institutions for stationary psychiatric care the opportunity to create social services under the Social Assistance Act involves the risk of creating “protected homes"
within the psychiatric hospital or within a ward in a multiprofile hospital. The lack of strict control on this could easily transform these homes into places for the detention of people with mental problems. There are still no studies that could show whether the services created so far are based on the individual needs and preferences of the users, and whether the users and their relatives are sufficiently involved in planning, managing and evaluating the services. There is no assessment of the risk of the institutional model being recreated in the alternative services. There are no mechanisms that would guarantee the prevention of such a trend.

The EC report quoted above contains a serious warning about the risk of relocating people in new services located in the proximity of the old institutions or in their buildings. The data collected on the creation of new services replacing institutional care show that there is a great probability that this risk will materialize.

14. Women’s Rights

The year 2010 was marked by both progress and a series of challenges and problems in the field of women’s rights. As usual, progress was due to pressure from civil society and non-governmental organizations. The problems became greater due to the economic crisis and fiscal restrictions.

Protection against Sex-Based Violence

An undisputed success in the field of violence against women was the adoption in June of the Regulation on the Enforcement of the Protection against Domestic Violence Act. It specifies the application of measures for protection against domestic violence, the interaction between the state bodies and non-governmental organizations working in the field of protection against domestic violence, as well as the annual funding from the budget of the Ministry of Justice for NGO programs for prevention and protection against domestic violence and for assistance to victims. The Regulation was developed by cooperation between institutions and non-governmental organizations, more specifically by the Alliance for Protection against Domestic Violence (henceforth “the Alliance”). The Alliance also contributed to a change in the Regulation on the Enforcement of the Social Assistance Act, which regulates the possibility for the urgent placement of women who have been victims of violence in crisis centers and shelters.

Despite the legislative basis created by the Protection against Domestic Violence Act (PADVA) and the accompanying regulations, no call for projects was announced in 2010. The planned BGN 500,000 in the Ministry of Justice budget were not allocated. Following active lobbying by the Alliance, in January 2011 the ministry announced the first competition for projects to be funded by the 2011 budget.

The inclusion of a special provision in the new Weapons, Munitions, Explosive Substances and Pyrotechnical Products Act restricting the rights of perpetrators of domestic violence was another success on the part of the Alliance. Under Art. 58, Para. 1, Item 8 of this act, permits for the acquisition, keeping and/or carrying and use of firearms and munitions must not issued to a person who has been subject to measures under PADVA in the past three years.

In 2010 the organizations that are members of the Alliance provided assistance and services to more than 5,000 victims of domestic violence. More than 500 lawsuits under PADVA were filed with the assistance of these organizations. This number covers only the cases sent to NGOs by the Alliance and is not representative of all lawsuits filed, given the hidden nature of domestic violence. In 2010, the total number of newly filed cases under this act at the Sofia Area Court exceeded 600. More than 400 victims of violence were accommodated at the Alliance organizations’ six crisis centers in Sofia, Varna, Burgas, Pleven, Silistra and Pernik.

The movement of a group of women against violence and discrimination against women exercising their reproductive rights has strengthened its activities.
Combating Human Trafficking

An undisputed achievement in the field of combating human trafficking was the National Mechanism for Referral of Victims of Trafficking, which was adopted by the National Committee to Combat Human Trafficking at the end of 2010. The mechanism is the result of two years of work by the Association Animus Foundation in cooperation with the National Committee to Combat Human Trafficking. The successful implementation of the mechanism will provide trafficking victims with real and comprehensive protection. It will guide them and support them in their choice of an organization or institution to provide them with social services, legal and psychological advice and counsel during the criminal process. For the mechanism to work, it needs to be funded by the state. The adoption of the mechanism does not eliminate the necessity of legislative changes (the Combating Human Trafficking Act, the Legal Assistance Act and the Support and Financial Compensation for Victims of Crimes Act) in order to provide the victims of human trafficking access to justice and real compensations, nor does it eliminate the necessity of providing financial resources for legal assistance in the criminal process as soon as individuals are identified as victims of trafficking. Information provided by the minister of interior affairs in November 2010 shows that the total number of trafficking victims identified in Bulgaria by November 2010 was 561, of whom 523 were women and 79 were children. At that time, the prosecution was involved in 261 pre-trial proceedings, of which 108 were newly initiated. Eighty-seven people were convicted of human trafficking over the same period, 72 of whom received enforced sentences.

Gender Equality

2010 was another year during which nothing was done to establish a state body on gender equality and to coordinate the activities of state bodies in this field. The work of several employees of a unit within the Ministry of Labor and Social Policy to prepare annual equality plans and organize several meetings of the National Council on Equality between Women and Men is not sufficient by far. There is no legislative basis for the establishment of such a body and the clear identification of its competences. Without legislation and an equality body, the annual plans on equality between women and men will not be implemented and will not be provided with resources and funds. This is why the National Action Plan on Encouraging Equality between Women and Men (2010) was in large part not implemented. In December 2010, the Council of Ministers adopted the 2011 National Plan on Equality. Several topics that were raised over the course of 2010 were included in a more extended manner in the plan: the need to combat sex-based violence; the fight against media stereotypes; and guarantees for equality between men and women in the field of defense. For the first time there is better coordination with the plans and programs related to domestic violence and human trafficking.

Problems of gender equality and women’s rights were presented by NGOs during the UN Universal Periodic Review of Bulgaria’s compliance with the major UN instruments. At the meeting in Geneva in early November 2010, more than 15 member states asked Bulgaria questions related to equality.

The case law and the practices of state and municipal regulatory bodies with respect to combating gender stereotypes were contradictory. An example of a positive practice is a decision by the Sofia City Administrative Court in July 2010. The lawsuit was filed by a woman who was refused in vitro procedure because she was more than 43 years old. The court ruled that the conditions for assisting the plaintiff should depend on her objective medical condition, and that the age restriction for in vitro procedures defined in an ordinance is discriminatory and contradicts the Constitution of the Republic of Bulgaria and the Protection against Discrimination Act. The court repealed the order issued by the Assisted Reproduction Fund. The decision is based on the judicial medical examination of the case, according to which the woman’s tests were within the reference values for
the in vitro procedure, despite her age. This decision clears the way for changes in the legislative regulation of in vitro procedures.

In April 2010, a Sofia District Court judge ruled on a sexual harassment case, demonstrating a complete lack of understanding and disrespect of the right to freedom from sexual discrimination. The plaintiff claimed that she was subjected to serious and continuous sexual harassment at her workplace by the principal of the school where she was working. The judge held that there was no harassment. He interpreted the defendant’s sexual insinuations — for example, when the plaintiff bent over to write in the registry in the staff room she was told “to watch out or something might happen to her,” — as “expression of concern about the plaintiff’s health.” If the meaning of the comments was different, then the judge held that “for a woman over 42 this is equal to a compliment.” In the end, although the judge did not find sexual harassment in the defendant’s overall behavior, he forbade him from exercising harassment in the future.

The case law of the Commission for Protection against Discrimination was also problematic with regard to several decisions in the field of sexual discrimination. Two years after they filed a complaint with the CPD about the discriminatory advertising of “Mastika Peshtera”, thirteen women did not get justice through the CPD. Unlike the CPD, the Ethics Committee of the National Council on Self-Regulation (NCSR), an independent body for self-regulation in advertising and commercial communications, announced in a decision from August 2010 that the television advertising of “Mastika Peshtera” violated the National Ethical Rules on Advertising and Commercial Communications. In its complaint, the Horizons 21 Foundation refers to the Ethical Rules, according to which “the human body may be shown only with respect for the person and human dignity.” The Ethics Committee’s decision is a serious step towards respecting the opinion and the desires of civil society in Bulgaria, which is in fact comprised of the viewers, listeners and readers of the media, and the consumers of the products represented by the advertising industry. The decision states that “the literal association of female breasts with melons [in the advertising of “Mastika Peshtera”] is vulgar and demonstrates a lack of respect for the female personality and human dignity. Associating the woman with an item and representing her as a sexual object should not be tolerated. This practice has been rejected long ago on advertising markets with developed (self)regulation.” NCSR ruled that the advertising of mastika Peshtera “contradicts morals and definitely violates good advertising practices and the reputation of the industry as a whole. In spirit and letter, the advertising is unfair and immoral because it captures the attention of the consumers in a scandalous way.” This is how a self-regulatory body initiated the first steps against Peshtera’s sexist advertisements.

15. Children’s Rights

The protection of children’s rights in 2010 was the only area in which the dynamics were positive. Over the course of the year, the dialogue between the non-governmental organizations and the state institutions involved in child protection was more lively and open compared to previous years. In 2010 the National Child Protection Program was widely discussed by the State Agency for Child Protection and NGOs. Despite the fact that the program includes for the first time specific measures and a budget for some activities, it still suffers from the deficiencies of previous programs: lack of specific responsible persons and directorates in the various ministries and agencies, lack of specific deadlines and funds for the implementation of all activities.

The National Strategy “Vision on the Deinstitutionalization of Children in the Republic of Bulgaria” adopted by the Council of Ministers on February 24, 2010, was an important step forward in the delivery of better quality care to children in Bulgaria. The action plan for the strategy was adopted on November 24, 2010. The action plan includes the development and implementation of five projects: for deinstitutionalization of children in homes for children with disabilities; for deinstitutionalization of children in homes for medical and social care; for
deinstitutionalization of children in homes for children deprived of parental care; for the development of foster care; and for career development for social workers. According to information provided by the Council of Ministers, the purpose of the plan is to develop a system of community-based social services throughout the country which are to replace institutional care for children. As a result, the traditional specialized institutions will be closed and the reintegration or the placement of every child in a family environment or in a social service of a residential type will be guaranteed. The development of the legal and regulatory framework necessary to support the deinstitutionalization process and to improve the effectiveness of the care system for vulnerable children and their families has been foreseen. The projects will be implemented with financing from the EU structural funds. The BHC will follow the implementation of this plan in 2011 with special interest.

The legislative change to the Family Code, which allows children placed in homes and unsought within six months of placement to be registered for adoption, was another positive development. The application of this provision demonstrated that more children will find new families than in the past.

In 2010 the BHC studied legislation, policies and practices with regard to the continuing institutionalization of Roma children and found some worrying trends. The BHC visited and interviewed children’s institutions, child protection departments, Social Assistance directorates, non-governmental organizations, social service suppliers, Roma organizations, Roma families in the ghettos and Roma children in institutions in five regions (Sofia, Plovdiv, Pazardzhik, Varna and Sliven). The BHC found that legislative or political documents still fail to consider the fact that Roma children are the majority among the children at risk and the children in institutions in Bulgaria. Also, the child protection system still cannot identify and effectively protect the interests of children at risk as a whole. This is due to the fact that the alternative systems and the institutional care systems for children continue to function in parallel. Nevertheless, more financial and human resources are concentrated in the specialized institutions. Over the past five years, the annual expenditures per child have increased significantly, reaching BGN 78 million for all children’s institutions in 2009. The institutions are staffed by 6,000 employees who take care of some 7,500 children. The number of children placed in institutions is approximately the same as the number of children leaving the institutions: on average about 2,700 children every year between 2006 and 2009. The children adopted every year represent a quarter of all children who leave the institutions. The reasons for slow adoption have not yet been analyzed, given the fact that the number of adoption applications and that of the children registered for adoption is roughly the same. Reintegration in the biological family is possible in fewer than 1,500 cases every year. In another 1,300 to 1,400 cases per year, the children are accommodated in families of relatives and friends. Foster care has been applied in a total of 300 cases in the last four years. Over the last four years, fewer than 450 social workers have worked on reintegration, accommodation in families of relatives and foster families; they have dealt with about 3,500 cases of children at risk per year.

Although it has been a main goal of many plans, strategies and programs since 2003, deinstitutionalization is not happening with the necessary speed and funding. Thus, placement in an institution still remains the only long-term measure for the protection of children. Preventive measures, such as financial assistance for newly born children and the delivery of advisory social services, do not help prevent the institutionalization of children. Accommodation in families of relatives or foster families is not promoted actively and is not applied with the necessary speed and effectiveness in order to be a real alternative to institutionalization. All these measures are applied in a relatively small number of cases and their effect on deinstitutionalization is questionable because the entrance to the institutions is still wide open. The data indicate that the child protection departments manage to successfully apply these measures in less than 50 percent of all cases of children at risk with whom they work. Out of all cases of prevention of abandonment between 2006 and 2009, the Social Assistance Agency evaluates 35 percent as successful, while of all cases of reintegration over the same period only 50.3 percent have been considered successful.
The main reasons for the institutionalization of Roma children are: poor families, lack of permanent and sufficient income, low levels of education, the migration of parents in search of employment and income, dangerous living conditions, the lack of social services for Roma children and families consistent with their needs, and the lack of effective mechanisms for the prevention of pregnancy and abandonment of children by Roma women. During its visits to Roma ghettos in 2010, the BHC saw many cases of children at risk who were not identified as such by the child protection system. In such cases, the risk factors included domestic violence, criminal behavior of the parents, a disability which was not officially documented, the presence of other children in the family who had been institutionalized, and dropping out of school. Some social workers admitted that they did not have the necessary capacity and resources to work with all Roma children at risk. These findings were not denied by the state institutions in the field of child protection. They pointed out the deinstitutionalization vision mentioned above and the action plan for its implementation as the key to solving the problem of the institutionalization of children.

Over the year there were some serious developments in the field of the protection of the rights of children in institutions for children with mental disabilities operated by the Ministry of Labor and Social Policy. In early 2010 the prosecutor general, Boris Velchev, met with BHC representatives on his initiative. The BHC was represented by its vice chair, Margarita Ilieva, and the lawyer Aneta Genova. The occasion was the 2009 discrimination lawsuit filed by the BHC against the prosecutor's office for its refusal to investigate 75 deaths at homes for children and juveniles with mental retardation (HCJMR). At the meeting, the prosecutor general and the BHC agreed to have all such institutions visited again by joint teams made up of the BHC and the prosecution, in order to verify whether there is any evidence of crimes against the health or life of children between 2000 and 2010. The prosecutor general's initiative and the subsequent joint cooperation between the prosecution and the BHC were unprecedented in both the activities of the judiciary and those of non-governmental organizations. The prosecution actively used the BHC's experience and expertise in monitoring the institutions for children and provided the BHC representatives with full access to the children and documents located in the institutions. The result was the collection of plentiful evidence for multiple potential crimes against children. The unprecedented cooperation between the non-governmental sector and the prosecution was also noted by Council of Europe Commissioner for Human Rights Thomas Hammamberg, who pointed out Boris Velchev’s initiative as a good example that his European colleagues should follow in their work with children placed in institutions.

Between March and June 2010, teams made up of the BHC and the prosecution, together with independent experts (pediatricians, psychologists and psychiatrists) and representatives of the State Agency for Child Protection (SACP), the Regional Inspectorate on the Preservation and Control of Public Health (RIPCPH) and other state and municipal bodies checked all 24 HCJMR functioning at that time. The closed HCJMR in Mogilino was also checked, by documents and visits to the homes where some of the children were relocated. The BHC formulated critical reports and special opinions on the joint checks with the prosecution for the following institutions, ranked by the severity of the problems identified: Mogilino, Medven, Krushari, Petrovo (Blagoevgrad), Rudnik, Petrovo (Stara Zagora), Sladak Kladenets, Gomotartsi, Kula, Berkovitsa, Iskra, Gorna Koznitsa, Kermen, Vasil Drumev and Kosharitsa. The BHC also formulated two special opinions on the basis of the prosecutors’ findings with regard to the institutions in Sofia and Strazha.

The monitors found 238 cases of deaths in all HC(J)MR between 2000 and June 2010. At least three-quarters of these could have been prevented: 31 cases of death from starvation (systematic undernourishment), 84 from general feebleness, 15 without an established reason, 13 from contagious diseases (poor hygiene), six from incidents (frostbite, cranial trauma, drowning or suffocation), 36 from pneumonia, i.e. cold or immobility, and two from violence. In many cases (more than 90), no autopsy was performed. In almost half of the cases (149), the children died at the home, i.e. they were
The checks also established many cases of a lack of basic attention and care for the children and juveniles. For example, R.D.’s right thumb had to be amputated due to necrosis because the boy, a resident at the HCJMR in Mogilino, kept sucking on his thumb. When staff paid attention, the child stopped sucking his thumb. At the HCJMR in Gomotartsi there were eight cases of children who had spent days with broken bones without a medical examination and medical care. For example, V.O. had three traumas between 2007 and 2009: in the first case, assistance was provided at least six days after the trauma had occurred, in the second case – at least four days later, and in third case – at least nine days later. In the latter two cases, the girl’s leg was not immobilized at all.

The check in the already closed home in Mogilino found amazing progress in the condition of the children who were taken out of the home and placed in the Nadezhda Home for Children Deprived of Parental Care in Ruse (HCDPC Nadezhda). For example, during her stay at the HCJMR in Mogilino D.N.S. could not talk, did not control her aggression. Two years after her transfer to HCDPC Nadezhda she is meeting her needs alone, feeding herself, does not show self-aggression, can pronounce individual vowels, studies the Braille alphabet and has been deemed suitable for education at an auxiliary school.

The prosecutor general promised the BHC that the local prosecutor’s offices will investigate and initiate criminal proceedings for all cases of potential crimes in the BHC’s reports. By the end of January 2011, the prosecution notified the BHC that it had initiated 55 pre-trial proceedings. Of these, 25 were initiated by the Vidin Area Prosecutor’s Office for potential crimes at the HCJMR in Gomotartsi: eight under Art. 122, Para. 1 of the Criminal Code (PC) – involuntary manslaughter; four under Art. 137 PC – discreditation; nine under Art. 134, Para. 1, items 1 and 2 PC – great or moderate bodily harm caused by ignorance/negligent performance of duties (use of tranquilizers); one under Art. 182, Para. 1 PC – for 12 underfed children; two under Art. 142a, Para. 1 PC – illegal
deprivation of liberty in cases of illegal placement in a psychiatric hospital; and one under Art. 311, Para. 1 PC – documentary crime. The Kula Area Prosecutor’s Office initiated 20 pre-trial proceedings for the HCJMR in Kula: two for light bodily harm caused by an official (physical abuse of a child by an orderly and battery of a boy by the home’s driver); one under Art. 294, Para. 1 PC against the director of the home for covering up for the driver; seven under Art. 122, Para. 1 PC for involuntary manslaughter; and ten under Art. 128 and Art. 129, Para. 1 in conjunction with Art. 26 PC – premeditated great or moderate bodily harm caused to the children on tranquilizers. The Kula Area Prosecutor’s Office referred one possible rape case to the Byala Slatina Area Prosecutor’s Office, which was the competent jurisdiction for this case. The BHC has no information on what the latter has done. The Targovishte Area Prosecutor’s Office initiated three pre-trial proceedings for possible crimes at the home in Strazha under Art. 123, Para. 1 PC – causing death due to ignorance or negligent performance of duties. The Mezdra Area Prosecutor’s Office initiated eight pre-trial proceedings for the institution in Mezdra, for involuntary manslaughter under Art. 122, Para. 2 PC. In another seven cases the prosecution initiated preliminary verifications; by the end of January 2011 the results were unknown. The Kyustendil Area Prosecutor’s Office initiated a verification of one case of death and two cases of injuries at the HCJMR in Gorna Koznitsa, while the Kotel Area Prosecutor’s Office initiated verifications of four cases of bodily harm at the institution in Medven.

Upon the completion of the joint checks, the BHC was contacted by citizens living close to the Daga HCJMR in Sofia’s Gorna Banya neighborhood. The citizens described cases of violence by the staff against the inhabitants. On request by the BHC, the Sofia City Prosecutor’s Office instructed the Sofia Area Prosecutor’s Office to initiate a preliminary verification. The results are still unknown.

The Supreme Cassation Prosecutor’s Office repealed an order by the Veliko Tarnovo Prosecutor’s Office confirming the 2008 refusal of the Ruse Area Prosecutor’s Office to initiate investigations into possible crimes at the home in Mogilino.

Despite the BHC’s findings in the reports, the prosecution refused to investigate three cases. The Stara Zagora Area Prosecutor’s Office refused to investigate possible abuse of a child at the HCJMR in Sladak Kladenets who suffered tooth abscess due to a lack of dental care. The refusal was confirmed by the Stara Zagora District Prosecutor’s Office and the Plovdiv Appellate Prosecutor’s Office. The Stara Zagora Area Prosecutor’s Office also refused to investigate possible carnal abuse of a child at the HCJMR in Petrovo, supposedly conducted by the child’s father, as the crime was not committed in Stara Zagora but in another city. The Stara Zagora District Prosecutor’s Office confirmed the refusal. The BHC appealed the Stara Zagora District Prosecutor’s Office order before the Plovdiv Appellate Prosecutor’s Office. The Plovdiv Appellate Prosecutor’s Office referred the case to the Plovdiv Area Prosecutor’s Office on grounds of competence, instructing it to conduct a verification and take statements from the person who established the violation and other persons if necessary. The Sliven Area Prosecutor’s Office refused to investigate any possible crimes at the HCJMR in Kermen. On November 11, 2010, the Sofia Appellate Prosecutor’s Office confirmed the refusal of the Sofia City Prosecutor’s Office to investigate three death cases at the Daga HCJMR in Sofia. The Mezdra Area Prosecutor’s Office terminated one of the eight investigations of deaths at the institution in Mezdra. The BHC contested the termination before the Mezdra Area Court. The decision is pending.

The checks and the BHC reports generated wide public response and support. They contributed to the activity of the state and municipal child protection services. As part of a SACP project, evaluations of the institutionalized children were conducted in the fall of 2010 together with the Ministry of Labor and Social Policy, the Social Assistance Agency and the Ministry of Health. The multidisciplinary teams established that there are 265 children and juveniles with disabilities who are “in critical health and need urgent measures and fast follow-up actions.”
16. Rights of People with Different Sexual Orientation

In 2010 the problems with regard to the rights of people with different sexual orientation continued to be serious. Since the beginning of 2004 the Protection against Discrimination Act covers discrimination on the basis of sexual orientation in all fields. At the same time, despite the fact that Articles 162 and 164 of the Criminal Code stipulate penalties in cases of instigation of animosity or hatred on the basis of race, nationality, ethnicity and religion, the instigation of hatred and violence against LGBT (lesbians, gays, bisexuals and transsexuals) is not explicitly included in the Criminal Code provisions. As a result, hate crimes motivated by the sexual orientation or the sexual identity of a person are not considered a criminal act.

Bulgarian is still one of the countries which does not recognize any form of cohabitation between people of the same sex. Civil marriage remains the only legally recognized union between two persons, explicitly defined in law as “a voluntary union between a man and a woman.” The lack of recognition of same-sex couples automatically places them at a disadvantage, depriving them of the civic, social and economic rights awarded to heterosexual couples.

In 2009 the Pazardzhik Municipal Council adopted an Ordinance on Public Order. Its Article 14 prohibits “the public demonstration and expression of sexual and other orientation in public places.” When activists contested this article, the Commission for Protection against Discrimination ruled at a meeting on May 11, 2010, that the municipal council had committed direct discrimination on the basis of sexual orientation and instructed the council to repeal the ordinance. The ordinance was repealed at first instance by the Pazardzhik Administrative Court. The decision is currently being contested in the Supreme Administrative Court.

In March, the LGBT Action youth organization organized a protest against the discriminatory ordinance in downtown Pazardzhik. The organization’s representatives were attacked by nationalists who had come from Sofia and Plovdiv to oppose the protest. Two police officers were wounded and eight nationalists were arrested for hooliganism.

The third pride parade (Sofia Pride) took place in Sofia on June 26, 2010. A record 800 participants took part in the parade, which this year took place under the motto Love Equality, Embrace Variety. There were no major incidents and the police reacted adequately to provocation attempts by nationalists. At the same time, the fact that the organizers were forced to pay the Sofia Directorate of Interior Affairs BGN 4,158 for protection (a huge portion of the event’s budget) is totally unacceptable, given that securing and preserving public order is an intrinsic obligation of the police and is paid for by taxpayers’ money.

In June two young people were arrested and left in detention by the appellate court for the extremely cruel murder of Mihail Stoyanov (26) in the Borisova Gradina park in 2008. They were indicted for attacking and killing the medical student motivated by homophobia. The case is still pending. About ten similar cases of robberies and attacks committed by unknown perpetrators against young people with possible homosexual orientation are under investigation.

Over the year, the Commission for Protection against Discrimination found discrimination with regard to three complaints filed against Weekend and Galeria newspapers. The first of the three procedures initiated by Radoslav Stoyanov, Veni Markovski and Dobromir Dobrev was completed in May 2010. The complaints are related to an article entitled “Shame! Gay Scandal at CSKA” published by Weekend on September 26, 2009. The newspaper, which is owned by New Media Group AD, published personal photos of CSKA’s goalkeeper Ivan Karadzhov copied from Facebook. The commission found discrimination and required that the paper’s management develop and implement self-control rules and mechanisms in order not to allow discrimination.

In June 2010, Galeria, its editor-in-chief and its publisher were convicted for direct discrimination, abuse and persecution and were fined BGN 2,500 and BGN 2,000, respectively. Apart from the fine, the CPD imposed involuntary administrative measures
on the publisher, Kroz AD, and again required that the management develop and implement self-control rules and mechanisms in order not to allow discrimination. The decision was logical given the three consecutive publications in the first, second and third issue of the newspaper, with the third one – entitled “Faggots Rally against Galeria” – published as a response to the complaint filed with the CPD after the first two publications.

In October 2010, the CPD fined the editor-in-chief and publisher of Weekend, Martin Radoslavov, BGN 800 and advised the journalist who had prepared the article to abstain from “presenting unconfirmed and unproven facts and circumstances as factual truth,” as well as “not to try to create stereotypes and negative attitudes towards the people with non-heterosexual and homosexual orientation led only by her aspiration for the sensational.” The publication that caused this was entitled “Sensation! The Belneyskis’ Killer Is Homosexual” and was published on November 3, 2009.

Despite the fact that the decisions on these three cases are a positive example, a series of other statements and publications remain without consequences. The Commission for Protection against Discrimination, the ethics committees in the press and the electronic media, as well as the Electronic Media Council are not very proactive in cases of hate speech on the basis of sexual orientation. Many Bulgarian politicians and public actors, including the prime minister and leader of the GERB political party, Boyko Borisov, continue to publicly make biased and homophobic statements with impunity.

The following employees of the Bulgarian Helsinki Committee contributed to the drafting of this report: Aneta Genova, Georgi Voynov, Daniela Fartunova, Desislava Petrova, Elena Krasteva, Emil Cohen, Iliana Savova, Kaloyan Stanev, Krasimir Kanev, Margarita Ilieva, Slavka Kukova, Stanimir Petrov, Stefan Angelov, Yuliana Metodieva, Yana Buhrer Tavanier, Aleksandar Kashamov (Access to Information Program) contributed to Chapter 8 of the report, and Genoveva Tisheva (Bulgarian Center for Gender Research) contributed to Chapter 15.

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1 See Judiciary Independence and Fair Hearing below.
8 See Obektiv, No. 183, December 2010.
10 See Conditions in Detention Places below.
11 For more details, see Protection against Torture, Inhuman and Degrading Treatment.
12 See Rights of the People with Mental Disabilities in Institutions below.
13 See Conditions in Detention Places below.
14 See Conditions in Detention Places below.
15 See Right to Asylum, Freedom of Movement below.
16 See Judiciary Independence and Fair Hearing below.
18 See “Tzvetanov: The Court Serves the Criminals” available at http://dnes.dir.bg/news/tzvetan-tzvetanov-alexey-petrov-operatzia-oktopod-7261630. According to data provided by the Bulgarian Judges Association in July 2010, the Bulgarian penal courts have found guilty and convicted 90 percent of defendants.
19 See Right to Personal Freedom and Security above.
21 For a copy of the letter, see http://www.lex.bg/bg/news/view/35366.
23 The letter is available on the BJA website http://www.judgesbg.org/?m=10&id2=76.
29 See, for example, the opinion of Prosecutor Kokinov from the Sofia City Prosecutor’s Office, available at http://www.prb.bg/php/publication.php?news=%20%20%20%20201401.
31 Constitutional Court, Decision No. 10 on constitutional case No. 10 of 2010, September 28, 2010.
32 The State Agency for National Security Act defines national security as “a dynamic state of society in which the territorial integrity, the sovereignty and the constitutionally established order of the country are protected, when the democratic functioning of the institutions, the fundamental rights and freedoms of the citizens, the sustainable economic development and the wealth of the population are guaranteed, as well as when the country is successfully defending its national interests and is achieving its national priorities.”
36 SAC, Decision No. 13627 of November 12, 2008 on complaint by the Access to Information Program.
37 Available at http://www.dnevnik.bg/bulgaria/2011/01/20/1028582_sledeneto_na_telefoni_i_internet_bez_sudeben_kontrol_e/
38 The media report that Muslim demonstrations against this decision of the SCC were held in May and June in Aytos, Ruse, Dobrich, Veliko Tarnovo, Varna, Haskovo, Shumen, Omurtag, Smolyan, Gotse Delchev, Velingrad, Targovishte, Silistra, Sliven and many other communities. On January 20, 2010, Mustafa Hadzhi’s chief mufii’s office announced that more than 250,000 signatures were collected in support of a petition against Nedim Gendzhev. See http://www.gennuftbg.net/tr/analiz-ve-yorumlar/1324-2011-01-20-12-08-07.html
39 This was also found by ECHR in one of the conclusions on the case Supreme Holy Council of the Muslim Community v. Bulgaria of 2005: “It is highly significant that the relevant law as applied in practice required – and still requires – all believers belonging to a particular religion and willing to participate in the community’s organization to form a single structure, headed by a single leadership even if the community is divided, without the possibility for those supporting other leaders to have an independent organizational life and control over part of the community’s assets. The law thus left no choice to the religious leaders but to compete in seeking the recognition of the government of the day, each leader proposing to ‘unite’ the believers under his guidance”. (See § 81 of the decision. The full text is available on the website of the Ministry of Justice at https://docs.google.com/viewer?url=http://www.justice.government.bg/new/Documents/Verdicts/d_vdsno.doc).
41 For more details, see the electronic edition of Dnevnik from 06.10.2010 at http://www.dnevnik.bg/bulgaria/2010/10/06/972584_mvr_i_dans_pretursiha_rodopski_sela_v_akciia_sreshhtu.
42 For more details, see the electronic edition of Dnevnik from 12.10.2010 at http://www.dnevnik.bg/bulgaria/2010/10/12/975641_dps_poiska_sreshta_s_dans_zaradi_alkiite_v_rodopite
43 The information about these incidents was provided to BHC by the Chief Mufti’s Office in an interview with its secretary general, Mr. Husein Hafazov, on January 19, 2011.
45 Information provided by Mr. Husein Hafazov, secretary general of the Muslim religion, in an interview on January 19, 2011.
46 The full text of the letter is available at http://www.bghelsinki.org/index.php?module=news&lg =bg&id=3500
47 All data quoted below have been provided by the head of the legal department, Mr. Hristo Nikolov, in an interview with BHC in January 2011.

52 Through the co-chair of the GERB parliamentary group, Mr. Krasimir Velchev, and the prime minister, Mr. Boyko Borisov.
53 BHC focus group of January 2011 with the participation of reporters, editors, media managers, media experts and members of ethics committees in the press and the electronic media.
54 Owner of Monitor, Telegraph, Politika, Meridian Match, Zasada, Borba, BBT television and of a share in Weekend.
55 See http://www.capital.bg/biznes/media_i_reklama/2010/04/09/885095_anonimni_investitori_vlizat_v_tv_razprostran_enieto/
56 BHC focus group of January 2011.
59 Decision No. 3593 of 11.11.2010 of the Sofia City Appellate Court.
60 A category of obligated subjects introduced in APIA by an amendment in December 2008.
61 Decision No. 102 of 13.07.2010 of the Sliven Appellate Court on appellate case No. 54/2010
62 The report was developed by a group of independent experts formed by Vladimir Špidla, EU commissioner for employment, social affairs and equal opportunities, and is available for download in Bulgarian at www.osmhi.org/.../2009-09-21%20Expert%20Group%20Report%20Final%20draft_BG.doc
64 Information available on the SAA website http://www.asp.government.bg/ASP_Client/ClientServlet?cmd=add_content&lng=1&sectid=24&ks=1=22&selid=22, visited on 01.02.2011 and on 18.02.2011. On 18.02.2011 the data were as of 31.01.2011 but there was no change in the numbers.
65 Written reference received on 22.02.2011.
67 Data based on discussion with institution’s staff and Aneta Gegova’s observations during her visit on 13.01.2011.
69 Data provided by the chair of the organization, Krasimir Gegov.
70 Findings from a check at the HAMD in the village of Pastra conducted on the grounds of order RD01-588/14.05.2010 of the executive director of SAA.
71 Idem.
72 Idem.
73 Idem.
74 Idem.
75 The order is available on Municipality of Dulovo’s website: http://www.dulovo.info/articles.special.1.373.htm
76 Data from the quoted order and from a phone interview by Blagovesta Lamberva with the director of the HAMD in the village of Pravda, Beyti Husein, and the director of the protected home, Mrs. Dimitrova, on 22.02.2011.
77 Data collected in a phone interview by Denitsa Lyubenova on 23 and 24.02.2011. It was not possible to collect data about all institutions, as the phone numbers of the institutions published on the SAA website were not current.
78 Data collected by Aneta Genova during a visit of the institution on 13.01.2011.
79 The plan is available on the MLSP website www.mlsp.government.bg/equal/publ.asp?id=52.
80 See Protection against Discrimination above.
81 NCSR is a non-profit association for the public good. It was established by the Bulgarian Association of Advertisers, the Association of the Advertising Agencies – Bulgaria and the Association of the Bulgarian Radio and Television Operators. NCSR reviews complaints within the scope of the Code against every participant in the advertising industry in Bulgaria involved in advertising and commercial communication in violation of the ethical rules.
82 All BHC reports and special opinions are available at http://forsakenchildren.bghelsinki.org
83 See for example http://www.youtube.com/watch?v= uMRuKRS AZjY