Bulgarian Helsinki Committee

2008 Activity Report

March 2009

(Abridged version in English)
The Bulgarian Helsinki Committee (BHC) is an independent non-governmental organisation for the protection of human rights - political, civil, cultural, social. It was established on 14 July 1992. The goal of the BHC is to promote respect and protection for the human rights of every individual, to lobby for legislative change to bring Bulgarian legislation in line with international standards, to encourage public debate on human rights issues, and to popularise and make widely human rights instruments. The BHC is engaged in human rights monitoring, strategic litigation, advocacy, research, and human rights education. In its work the BHC places special emphasis on the rights of ethnic and religious minorities, rights of the child, mental disability rights, conditions in places of detention, refugee rights, freedom of expression, access to information, problems of the criminal justice system. More information about the organisation and its publication are available online at http://www.bghelsinki.org.

BHC members


Alfred Krispin (1926-2006)

The BHC is an independent non-governmental organisation for the protection of human rights. It is registered an a non-profit organisation in the public benefit (Ministry of Justice certificate no. 001/12.07.2001).
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ACTIVITIES IMPLEMENTED IN 2008

INSTITUTIONAL SUPPORT AND MEDIA ADVOCACY PROGRAMME

The Institutional Support and Media Advocacy Program provides overall coordination and management of the BHC activities. The staff of this programme have the main responsibility for fundraising for new projects.

The program publishes the Obektiv magazine, an electronic human rights bulletin, a web page, it carries out media human rights monitoring. The program coordinates the writing of the staple written output of the BHC – the Annual Human Rights Report, and organizes its launch every year. The program also organizes the other public events of the committee. It staff also assists the implementation of some of the other program’s short-term projects and initiatives.

Obektiv Magazine

In 2008, the BHC published 10 issues of the human rights magazine Obektiv in Bulgarian and two in English (the English version is available only online on the BHC website).

The magazine is distributed among the printed and electronic media, state institutions, international organizations and foreign embassies, NGOs, and individuals interested in human rights. The magazine’s circulation in Bulgarian varied between 500 and 800 copies.

In 2008, the Obektiv Discussion Club featured materials on a number of key human rights topics – child abuse, the problems of children with autism and other mental disabilities, the situation of refugees, the opening of the files of the former State Security, environmental protests. During the last months of 2008, Obektiv in collaboration with the Literary Newspaper ran unpublished documents connected with the so called ‘Revival Process’ from the 1980s (the forceful name-change and assimilation of the Bulgarian Turkish population).

www.bghelsinki.org

In 2008, the BHC continued to maintain its website www.bghelsinki.org and to update it daily. The site is a rich resource of human rights information. The visits to the site in 2008 marked a 25% increase in comparison to 2007 and totaled almost 81,000. The largest increase comes from the News section, which marked a three-fold increase in comparison to 2007.

In 2008, over 2000 news items were published on the site on human rights violations domestically and abroad.

Human Rights in Focus electronic human rights bulletin

At the end of the year, the new electronic publication of the BHC Human Rights in Focus started being published on the site at http://www.bghelsinki.org/bulletin

Three issues were published by the end of the year, and a further three until mid-March 2009. The bulletin contains theoretical and publicistic texts on human rights issues. In 2009 the bulletin will also make analytical commentaries on important human rights events and topics, including from the international scene.
Advocacy activities

In August 2008, the State Agency on National Security started an unprecedented attack against certain media. In connection with stopping of the internet site *The Dangerous News*, the BHC organized a press conference and initiated a series of participations in the print and electronic media on this serious violation of free speech. International organizations published interviews with BHC experts on the topic.

In December 2008, the BHC was invited to a meeting with a delegation of the European Committee for the Prevention of Torture to discuss the situation in Bulgaria’s closed institutions. The CPT was in Bulgaria on an ad hoc mission. The BHC representatives voiced their concern about the situation of detainees in police detention facilities, prisons and investigation detention facilities and shared their findings about the current state of the closed institutions system.

Public events

On 31 March 2008 the BHC represented its *Annual Report of Human Rights in Bulgaria* in 2007. At a special press conference the BHC presented the key human rights problems in the country during the first year of EU membership.

In September 2008 the BHC organized a *Round table on equal access of Roma to quality education*. The round table was attended by senior public officials from the Ministry of Education and the Ministry of Finance. The participants at the round table discussed the changes in the system of education connected with the introduction of delegated budgets, future legislative amendments in the organization of education.

On December 10 2008, the BHC organized an official ceremony for the presentation of its first *Annual Award for Outstanding Contribution to Human Rights*. The ceremony was held on 10 December – Human Rights Day and also the 60th anniversary from the adoption of the Universal Declaration of Human Rights.

The BHC presented its award to a panel of judges from the Supreme Court of Cassation, who in June 2008 had handed down a landmark judgment affirming the rights of people with disabilities which by its decisiveness and degree of protection of the human rights of people with disabilities has no precedent in the domestic court practice.

The judges from the Supreme Court of Cassation Mimi Furnadjieva, Kostadinka Arsova and Albena Boneva received the award from Krassmir Kanev (centre) and in the presence of former President Zhelev (right). Photo: Kremena Kruova, Epoch Times internet publication

The ceremony was attended by Dr. Zhelyo Zhelev, Bulgaria’s first democratically elected president, and the chairs of the Supreme Court of Cassation and the Anti-Discrimination Commission.

Acknowledgements

The BHC would like to thank the Ivan Vasov National Theater for hosting the Annual Human Rights Award ceremony.
LEGAL DEFENSE PROGRAMME

In 2008 the activities of the Legal Defense Program were implemented in the framework of the main program for legal advocacy and litigation and two specialized legal projects: Project for Litigation and Legal Aid on Behalf of People with Mental Disabilities, carried out in cooperation with the Mental Disability Advocacy Center, Budapest, and the Initiative Equal Rights for Women. Now!. The organization’s lawyers offered representation before the domestic courts and the European Court of Human Rights, filed collective complaints before the European Committee of Social Rights. The Internship Program continued to develop the capacity of young legal professionals to work in the human rights sphere.

The program activities in their entirety were carried out with the support of the Open Society Institute – Budapest, the Mental Disability Advocacy Centre, the Leon Levy Foundation and the Democracy Commission at the United States Embassy in Sofia.

Domestic litigation

In 2008 the Legal Defense Program (LDP) continued representation on lawsuits filed during previous years, undertook some new cases and achieved the following results:

On cases on behalf of people with mental disabilities

- The Supreme Court of Cassation delivered a judgment that the mental problem can not in itself be a reason to put a person under guardianship and lifted the guardianship of a client; the court thus acknowledged the capacity of the person to take decisions on his own in spite of this mental disability.

- In another case from early 2009, the Supreme Cassation Prosecutor’s office ordered the re-examination of the guardianship of a man with a mental illness from a social care institution with the motive that access to the court of people under guardianship could not be restricted solely on their relatives’ assessment that there is no change in their mental state.

The LDP also continued representation on cases of discriminatory refusal to allow a man with a mental illness placed in a psychiatric institution to vote; as well as a case of property fraud of a man with mental illness which lead to him being institutionalised in a state-run social care institution (such establishments are notorious for their grave conditions, domestic and international human rights groups have claimed that life in them constitutes inhuman and degrading treatment). The program also assisted a woman with physical disabilities to challenge the institutionalization attempts by her relatives aimed at gaining access to her property. The BHC also intervened in many other cases of defense of the rights of people with mental disabilities, including concerning domestic violence. The program drafted a position in support of lifting of guardianship of a man with a physical disability imposed solely on those grounds.

The program filed new cases on behalf of people with mental disabilities, one of which ended with an unprecedented decision in favour of the BHC client. The Sofia Administrative Court repealed the unlawful refusal of a state psychiatric hospital to hand over a patient’s medical documents. The program filed a lawsuit against the unlawful detention in a psychiatric institution of a man without mental problems, as well as lawsuits against the police, the Ministry of Healthcare
and mental health dispensary which had confined the client.

**On antidiscrimination cases on the grounds of gender, ethnicity, sexual orientation and religion**

- The LDP was successful in the lawsuits against Volen Siderov, leader of the extremist Ataka party, who had engaged in hate speech targeting various minorities in his public speeches. The lawsuits were filed on behalf of the Citizens Against Hatred Coalition, a wide coalition formed on the initiative of the BHC, comprising of dozens of NGOs and individuals of minority belonging. The initially filed lawsuit was split by the court into eight different lawsuits in accordance with the different grounds of discrimination. The BHC Legal Program director Margarita Ilieva is representing the coalition before the courts. The Sofia City Court convicted Siderov for his hate speech which incites hatred against Bulgaria’s ethnic Turks. The case on hate speech against the Armenian minority was won at the district court. This decision was partially upheld by the Sofia City Court. On the case against Siderov’s hate speech against the Roma, the Sofia district court turned down the plaintiff’s complaints and stated for a fact that „certain ethnic minority groups carry out crimes ... and fail to execute their duty ... not to violate the public order and to pay their taxes.” The decision was appealed;

- In another case of public significance and interest, the Antidiscrimination Commission found the mayor of Sofia Ovcha Kupel municipality guilty of anti-Roma hate speech. On 14 November 2006 the mayor had commented in an interview on Darik Radio the proposal of Sofia’s chief architect to accommodate 150 Roma families in the Ovcha Kupel district thus: "I am categorically against the placement of 150 Roma families in the neighbourhood... I’ve nothing against the Roma... They should gradually become more sophisticated, and acquire the normal living habits of citizens, but until that happens they can’t live among citizens. They will destroy our neighbourhood." The mayor publicly apologized;

- In a decision from the beginning of 2009, the Sofia City Court convicted the Prosecutor’s Office for discriminating a bisexual female inmate. The inmate’s application for preliminary release had been turned down solely on the basis of her sexual orientation. This is the second successful case of the BHC in which the courts find a prosecutor’s order discriminatory.

The program was also engaged in other antidiscrimination lawsuits, including on refusal of access of Roma to goods and services, cases of taken away custody from a father with sexist motives, and others.

The program also filed a number of new lawsuits in connection with incitement to discrimination. A complaint was filed on behalf of families of children with mental disabilities before the Antidiscrimination Commission asking for the equality body to establish discrimination owing to lack of equal education opportunities and a supportive environment. The program is also representing the interests of a large number of people with mental disabilities in another case regarding a TV program on the national bTV television station which created a hostile environment for them.

- The program sent a complaint to the Antidiscrimination Commission in connection with gender quotas in education, where universities apply
gender quotas for admission; thus candidates from one sex with low GPA are admitted because the university has provided a higher quota for candidates of this sex, while candidates with high GPA from the other sex, with lower quotas, are not. The commission failed to recognize discrimination in this case. The BHC appealed before the Supreme Administrative Court and filed a request for a preliminary referral to the European Court of Justice – the first referral on such an issue in a Bulgarian court;

- On the basis of the Access to Information Act the LDP received information from a number of state organs on judgments and decisions issued under the Antidiscrimination Act. The initial refusal of the Sofia City Court to supply copies of the decisions was later repealed by the Sofia Administrative Court.

Cases against the police for causing death, inhuman and degrading treatment and unlawful detention

- For the seventh consecutive time the Sofia Military Court repealed the unlawful termination of the investigation into the killing of a Romani man by police. The prosecutor's office appealed the decision before the Military Court of Appeal;

- Another successful case was that in which the Sofia Administrative Court convicted the Interior Ministry for unlawful detention in a police precinct. In a decision from the beginning of 2009, the court concluded that detention could not be carried out without reason as a measure of repression;

- The LDP continued litigation in a lawsuit in connection with a case of killing a Roma by police as a result of excessive use of force, and several cases of degrading treatment by police (transportation in the trunk of a police car).

Other cases

The LDP undertook proceedings in several other cases on behalf of environmentalists detained during protests; a civil lawsuit for caused death against the Ministry of Healthcare and against the Sofia Cancer Dispensary; appeal of expulsion orders, etc.

International litigation

The LDP was also involved in strategic litigation before the European Court of Human Rights addressing violations of the European Convention on Human Rights.

The program achieved an unprecedented success for interim relief in a case before the European Court concerning the forceful eviction of Roma from their homes in the Batalova Vodenitsa neighbourhood in Sofia. This was a major achievement for the BHC and an unprecedented judgment in the whole jurisprudence of the European Court, when the Court ordered the authorities to stop the eviction of the Roma from their homes.

The Court also gave priority to a BHC case on behalf of a client who had been arbitrarily and against his will institutionalised in the notorious Pastra institution. The BHC filed a similar case on behalf of a man from the Rusokastro institution for adults with mental disabilities.

Cases before the European Court of Human Rights for caused death and ineffective investigation

- The LDP filed an application before the ECHR in connection with the death of a patient in a psychiatric hospital after forceful detention not ordered by a court, seclusion and immobilisation for over 6
hours; the patient had been forcefully treated. He died during immobilisation. The authorities failed to carry out an effective investigation;

- The program also filed a complaint on account of negligence of the personnel of a social care institution for adults with mental problems which resulted in the running away and eventual death of a client. The national authorities failed to conduct an effective investigation in this case too.

- The ECHR was also addressed in the case of the failure of the prosecution to conduct an effective investigation and bring charges in a racially motivated murder.

Cases before the ECHR regarding inhuman and degrading treatment, violations of the right to personal life

The LDP filed a number of applications before the European Court in connection with prosecutors’ refusals to investigate racially motivated attacks; excessive use of force by the police; unlawful placement in psychiatric institutions and social care institutions.

Cases concerning unfair trial, other cases

The LDP filed a number of complaints on account of lack of an effective remedy for protection against a non-executed court order to reinstatement to work; unlawful detention in a juvenile reform institution, unfair trial, violations of the freedom of assembly of a religious group and of association of a ethnic minority group, among others.

- The Falun Dafa/Falun Gong Association had sent a letter to Sofia municipality informing it of its intention to hold a peaceful demonstration in front of the Chinese Embassy to inform the public of the repressions of the Communist regime and the repressions against practitioners of Falun Gong and organ harvesting in China. The Bulgarian authorities banned the peaceful protest.

Cases before the European Committee of Social Rights

In cooperation with partner organisations, the LDP filed strategic cases before the European Committee of Social Rights at the Council of Europe on account of violations of the European Social Charter (revised):

- MDAC v. Bulgaria: The committee established that Bulgaria had violated the right of children in institution for children with special needs to education, and had thus discriminated them. The decision was announced on 11.10.2008;

- ERRC v. Bulgaria: The application concerns payment of social benefits for unemployment; it claims that the Bulgarian government is discriminating Roma and women.

Advocacy, legal consultations

- The LDP was engaged systematically in protection of the rights of children in institutions. It sent dozens of alerts to the regional prosecutor’s offices regarding the situation in these institutions; unfortunately, not a single prosecutor’s office found proof of abuse in a single childcare institution. This reveals the archaic understanding that neglect does not constitute abuse;

- The LDP alerted the prosecution and the State Child Protection Agency to the case
of a four-year-old boy who had his face smeared with faeces by a staff member of the Zelenikovo state childcare institution for soiling his underwear. Administrative measures were undertaken in this case;

The LDP was also engaged in sending alerts to the local municipality and the prosecutor's office in Smolyan, South Bulgaria, concerning a client of a social care institution capable of leading life in the community, but prevented from doing so because she was legally incapable.

During the year the organization’s lawyers gave free-of-charge consultations to individuals who addressed us with requests for legal aid. The total number of complaints was 352 in 2008. Owing to the large workload of the lawyers, the LDP was forced to terminate the practice of giving written consultations to complaints which do not fall within the priority spheres of activity of the committee. A list with detailed information and contacts with institutions and organizations that such people can address was published on the BHC web site.

The program created and maintained a website with specialized information to assist the victims of discrimination, NGOs and trade unions, http://ravni.bghelsinki.org.

The program assisted people with mental disabilities to fight instances of bad administration and discrimination at the workplace, it consulted them in filing applications to the prosecutor’s office, to defend their right to voluntary treatment and informed consent. The program assisted individuals under guardianship to file applications and defend the exercise of their social and economic rights, parental rights, and other rights.

The program also assisted the Chovekoljubie Association and the team of a Sofia Community Centre for Mental Health Services with consultations regarding the creation of a sheltered home in the village of Gergini. In the last case, the efforts met with fierce resistance from the local authorities and the advocacy for building such a centre has been temporarily stopped. The program also engaged in advocacy before the Bulgarian Red Cross and the Ministry of Emergency Situations to urgently help families from Sofia's Fakulteta neighbourhood whose houses had burned down.

Trainings and seminars

Practicing lawyers from the country underwent a follow-up training in antidiscrimination litigation against gender discrimination in September 2008.

Under a joint project with the Health Initiative and the Nadezda NGOs, program staff took part in a training session on discrimination in the health sphere of women drug-users.

In March the LDP organized the second part of the series of seminars “The Role of NGOs and Trade Unions in the Fight against Discrimination on the Grounds of Race, Ethnic Belonging, Age, Sexual Orientation, Gender, Religion and Disability”. In May 2008, the program organized a training in diversity management for representatives of the Bulgarian business.
In November the round table discussion on the antidiscrimination jurisprudence of the Supreme Administrative Court and the Sofia Administrative Court was jeopardized by the non-attendance of the judges from the two courts. Judges from the two courts were given advance copies of the report of the BHC which made a critical analysis of their jurisprudence on the Antidiscrimination Act. The publication of the analyses is forthcoming in the spring 2009. It is hoped that this analysis will result in an improvement of the court practice on such cases.

LDP staff members were invited as experts at seminars for drafting new antidiscrimination laws of Spain and Bosnia and Herzegovina; they took part in the drafting of the Declaration of the Principles of Equality of the Equal Rights Trust. Upon the invitation of the UN Committee on Economic, Social and Cultural Rights and the University of Oslo they took part in the drafting of General Commentary No. 20 Non-Discrimination and Economic, Social and Cultural Rights.

The lawyers from the program gave presentations connected with the need to change the procedure for putting people under guardianship, setting up guardianship commissions at the psychiatric hospitals, protection from discrimination, prohibition of torture, civil society participation in drafting laws.

**Lobbying**

In October 2008 the BHC and MDAC co-organised a round table on the decision of the European Committee of Social Rights in connection with the right of children with disabilities to education, *MDAC v. Bulgaria*. According to the decision, Bulgaria had violated the right to education of children in social care institutions for mentally disabled children. Polonka Končar, chair of the European Committee of Social Rights, was special guest at the round table.

The LDP engaged in advocacy activities before the Minister of Justice for amendments to the Child Protection Act, Execution of Sentences Act, the Family Code, the Meetings and Rallies Act, the Penal Code. A position was presented on the need to penalize torture and introduce provisions regarding hate crimes in the Penal Code.

The LDP also issued a recommendation to the Council of Ministers to start a procedure for accession to Protocol 12 of the ECHR establishing a general ban on discrimination.

The BHC, OMCT – World Organisation Against Torture, and the MDAC issued a joint appeal to the Bulgarian parliament to adopt legislative amendments to stop the violations of the rights of people with mental disabilities and stressed the importance of ratifying the UN Convention on the Rights of People with Disabilities and the Optional Protocol to it. In a series of letters to the Bulgarian MPs and government, to representatives of EU institutions and UN special rapporteurs, the three organizations stressed that people with mental disabilities faced social isolation and serious violations of their human rights, including abuse and ill treatment. The LDP prepared a position to the UN Commissioner of Human Rights regarding the position of the Bulgarian authorities to delay the ratification of the Convention on the Rights of People with Mental Disabilities.

**Researches, expert analyses**

The BHC Legal Defense Program carried out a comprehensive analysis of the case law on anti-discrimination cases of Bulgaria’s administrative and civil courts, and of the
Anti-Discrimination Commission. The BHC director of the Legal Defense Program wrote an expert analysis of the jurisprudence on anti-discrimination of the Supreme Administrative Court and the Sofia Administrative Court. The analysis was sent to the judges from the two courts. The analysis also contains a comparative study of international case law – the European Court of Human Rights in Strasbourg, the European Court of Justice in Luxembourg, and others.

In 2008 the LDP prepared an analysis for the Legal Network of Experts in the Field of Antidiscrimination of the EU and an article in antidiscrimination law for a forthcoming publication in an Oxford publishing house. The program also took part in the drafting and dissemination of the analysis and recommendations of the BHC and MDAC to the government in connection with the judgment in *MDAC v. Bulgaria*.

**Publications and public awareness-raising campaigns**

In January 2009 the BHC prepared two volumes of the expert analysis of the jurisprudence of the courts and the equality body under the series title *Anti-discrimination Law in Bulgaria: Standards and Practice*. The two volumes are entitled *The Case Law of the Supreme Administrative Court and the Sofia Administrative Court under the Protection from Discrimination Act and Selected Standards of Anti-Discrimination Law*. Two more volumes from the series are forthcoming in 2009.

Under a joint project with the Health Initiative, the LDP prepared a brochure on non-discrimination of women drug-users and their patient’s rights.

For the purpose of the information campaign against gender discrimination of women, the program printed and distributed 18,000 post cards and 200 posters in support of equal rights for women. The electronic postcard with a photo of award-winning young Bulgarian actress Elen Koleva can be viewed and sent from then FAME Cards site, [www.fame.bg](http://www.fame.bg), from the „Most popular“ section.

Staff of the LDP also designed and maintain the site [http://ravni.bghelsinki.org/](http://ravni.bghelsinki.org/), which contains information on the ways to fight gender-based and other forms of discrimination. A number of journalists and activists used the site as a starting point in their materials and researches.

The experts of the Legal Defense Program had dozens of participations in television and radio broadcasts on key issued of interest to the BHC and the public. Through interviews and publications, the BHC had the opportunity to share its positions in the printed media.
In 2008, the Closed Institutions Program concluded its work on the project *Assistance for the Reform in Bulgaria’s Penitentiary Institutions*, funded by the Trust for Civil Society in Central and Eastern Europe.

In 2008, with the support of the OSI Internship Initiative, the BHC has also been implementing a research project on the situation of underage offenders and on the system of combating juvenile delinquency.

In February 2009, the Closed Institutions Program started work on a joint project with the Helsinki Committee for Human Rights in the Republic of Macedonia on strengthening public oversight of prisons in the two countries. The project is implemented with the support of the Open Society Institute – Budapest.

During the whole of 2008 BHC experts took part in a working group set up by the Ministry of Justice which had to prepare a bill for a Execution of Sentences Act. In December 2008 the bill was tabled in parliament and out up for preliminary voting (the so called ‘first hearing’) in January 2009. This version incorporated some of the proposals put forward by the BHC.

In 2008, the BHC received access to institutions under the jurisdiction of the Interior Ministry for temporary placement of minors, and inspected the procedure for placement, the length of placement, and the general materials conditions in them.

### Monitoring of prisons and prison hostels. Consulting Inmates

In 2008, the BHC concluded its round of monitoring of prisons across the country. BHC monitors were engaged in monitoring prisons, and carrying out inspections on inmates’ complaints. In May 2008 the programme made a detailed inspection in the Varna Prison in order to undertake litigation on behalf of inmates. Numerous allegations were checked, including in connection with abuse of inmates.

### Survey among prison population of use of force in police custody

In the last months of 2008, the project staff was involved in conducting a survey in four prisons on the use of force by police during detention and in police custody. The study was done for the eight consecutive year and is representative of the situation in the four visited prisons. BHC researchers conducted interviews with inmates in the prisons in Plovdiv, Pleven, Belene and Bobovdol on the way they had been treated in police custody. The data is used in the writing of the BHC Annual Human Rights Report.

### Round table on the reform in the penitentiary institutions

In order to speed up reform in the researched institutions, in April 2008 the BHC organised a roundtable discussion, at which the necessary reforms in the prison system were discussed. Senior representatives from the Ministry of Justice, the Central Penitentiary Administration, the Ombudsman’s institution, prison directors, and a
representative of the European Committee for the Prevention of Torture at the Council of Europe were present. Representatives of NGOs also took part in the discussions.

**Monitoring juvenile reform institutions**

In 2008, the BHC concluded its monitoring visits in juvenile reform institutions. As a result of these visits, the committee prepared a report with key human rights issues and on the system of combating juvenile delinquency (see more below). As a result of the visits to these institutions and interviews with minors placed in them, the BHC selected five cases of violations and filed applications before the European Court of Human Rights on account of fair trial and violations of liberty and security of the person. The applications challenge the existing procedure for placement of juveniles in such institutions.

**Study of the Situation of Underage Offenders**

The research was focused on the system of combating juvenile delinquency. It was implemented in 2008 and was funded by the Open Society Institute – Budapest Internship Programme. The project studied the procedure for placement of minors and juveniles in juvenile reformatory institutions and the work of the commissions for combating juvenile delinquency. The research analysed the practice of the commissions in the period 2000-2007. The research findings were published in a publication on the system of the juvenile reform institutions\(^1\).

**Round table on the rights of children in juvenile reform institutions**

In October 2008 the BHC organised a round table on the „System of Combating Juvenile Delinquency and the Rights of Children in Juvenile Reform Institutions\(^2\). The round table played a key role in the definition of the legal and structural problems before the system of administration of juvenile justice. The BHC published the round table presentations as a separate publication, which is available online on the HC website\(^2\).

**Monitoring investigation detention centres**

In 2008 the BHC finalised its study of the system of investigation detention facilities. The BHC monitors drew up a report on the current conditions in the investigation detention centres. The report also included the recommendations of the CPT and the Supreme Prosecutor’s Office of Cassation regarding investigation detention facilities. At the end of January 2009 the BHC received additional information about the conditions in these facilities. The publication of the report is forthcoming.

**Publications**

In December 2008 the BHC published its latest analysis of the situation in Bulgarian prisons, *The Prisons in Bulgaria*\(^3\). The book is the result of the visits of BHC researchers in all prisons and in most prison hostels. It analyses the process of reform in the Bulgarian prisons after the introduction of the amendments in the Execution of Sentences Act in 2002 and makes a general overview of the system of the places of detention and the material conditions in them. It summarizes the current problems in places of detention, and focuses on those that are in need of urgent measures for reform.

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The Program operates with the main support of the United Nations High Commissioner for Refugees. In September 2008 the program received funding for the first time from European Refugee Fund II through the State Agency for Refugees. During 2008 the UNHCR contributed 78.5% of the financing. The program received funding for the first time form the ERF II, which constituted 17.6% of the total budget of the program. It was used to cover legal defense and representation. The remaining 3.9% was secured as matching funds from the Association for Refugees and Migrants through an Open Society Foundation grant.

The Program ensured legal assistance to refugees, individuals with a humanitarian status, asylum seekers and other individuals of concern to the UNHCR, but also illegally residing immigrants and migrants whose human rights have been violated in some way.

The program carried out its activities on the basis of long-term agreements with the UNHCR, the State Agency for Refugees — since 1998, the Border Police Chief Directorate from 2005, and the Migration Directorate from 2007.

The program operated through eight people personnel, five of which attorneys, and through a national network of associated lawyers, specialised in refugee and immigration law and human rights, which give pro bono legal assistance to the refugees. On the basis to the received financing from the European Refugee Fund II the program re-established the work of the legal network consisting of 10 lawyers and unlike in previous years, apart from the lawyers in Nova Zagora, Svilengrad, Lesovo and Malko Tarnovo, gave legal consultations and representation at the administrative phase to asylum seekers during the proceedings conducted at the State Agency for Refugees. Specialised legal aid was given to certain categories of individuals in need of protection – unaccompanied children, victims of torture and people with disabilities.

The program directed its activities to two main groups of beneficiaries. The first and main group were refugees, foreigners with humanitarian status and asylum seekers, in other words foreigners who are fleeing persecution in their countries of origin or permanent residence or those who have left it owing to a threat of torture or a domestic or international armed conflict. With respect to this group of beneficiaries the program ensured legal defense financed by there United Nations High Commissioner for Refugees and from the Bulgarian government through the European Refugee Fund. The second category of individuals, to whom legal aid was directed, were immigrants with respect to whom the program established violation of their fundamental rights. The focus of work with the second category of beneficiaries was on violation of their right to freedom of movement, protection from inhuman and degrading treatment and punishment and pf the personal and family life. Cases in which the exercise of these rights had been restricted or in another way violated by administrative acts by police authorities were consulted and represented with priority. The financing of this activity was secured by the Open Society Institute – Sofia in partnership with the Association for Refugees and Migrants.

The program carried out its activities through a reception centre and lawyer's reception hours at the functioning refugee reception centres in Sofia and Banya. Regular monitoring was carried out in the places for police detention at the Kapitan Andreevo,
Lesovo, Malko Tarnovo, Novo Selo and Sofia airport border check points. Weekly monitoring was carried out at the Special Institution for Temporary Accommodation of Foreigners in Busmantsi, which is a place for administrative detention of illegal aliens, and at the Special Institution for Temporary Accommodation of Aliens in Lyubimets.

The legal aid was directed to representation before the respective administrative bodies and the court – the State Agency for Refugees, the Border Police Chief Directorate, the Migration Directorate, the National Police Office, the Sofia and Sliven administrative courts and the Supreme Administrative Court.

The numbers of asylum seekers who had received access to Bulgaria had been decreasing constantly since 2002 dropping from 2826 to 639 in 2006. The danger of violation of the principle of non-refoulement made the program focus more on monitoring the situation in the places of police detention at the borders and in the centres for illegal immigrants across the country. For the first time since 2002, an increase in the numbers of asylum seekers was registered — 975 people from which 645 — or 33% of all applications, received access to the territory owing to the BHC program. Although the numbers declined somewhat in 2008 — 746 people — the share of the people who received access to the territory plummeted to 57%, or 423 people represented by the program.

During 2008 the program provided 4377 legal consultations to 2284 individuals, of which 950 — asylum seekers, 61 — refugees, 461 — turned down asylum seekers, 71 — persons with humanitarian status, 664 — migrants, 12 separated children, 8 foreigners with lengthy detentions, and 57 — other categories of foreigners.

During 2008 the program filed a total of 367 law suits, 120 of which in accelerated procedure before the administrative courts, and 247 law suits under the general procedure before the Supreme Administrative Court. The total number of represented cases was 115. Thirty cases were won, 11 in accelerated procedure, 15 in general procedure and four at second instance before the Supreme Administrative Court.

**Partner activities**

In 2008 the Refugee Program worked on several other associated partner activities:

- **International project for monitoring and assessment of the Qualification Directive 2004/83/ЕО** – financed by the European Commission and coordinated by the Dutch Refugee Council. In this project the BHC is taking part in the drawing up of a comparative monitoring report on transposing in the national legislations of the above directive regarding the minimal standards of recognition and the legal status of third-country nationals or stateless individuals like refugees and individuals in need of international protection.

- **Project for Strengthening Refugee Protection in Bulgaria** – financed by the MATRA Program and coordinated by the Bulgarian Refugee Council. As co-founder of the Bulgarian Refugee Council, the BHC is taking part in a project whose main goal is to assist the development of the role of civil society in Bulgaria in the protection, acceptance and integration of refugees and asylum seekers, as well as to secure the permanent and necessary role of NGOs in the national asylum system.
PROGRAMME FOR PROTECTION OF THE RIGHTS OF CHILDREN IN INSTITUTIONS

The program functions without the elaboration of a special project. It is funded by the BHC owing to the surplus funding acquired under the project for legal studies and thematic reports for the EU Agency for Fundamental Rights.

In 2008 the program continued to work actively on concrete cases of gross violations of children's rights and to participate in the development of new legislation and policies directed at the more effective protection and deinstitutionalisation of children.

The work of the BHC on the shooting of the BBC documentary Bulgaria’s Abandoned Children lead to a tremendous public response domestically and internationally regarding the situation of institutionalised children in Bulgaria. After the broadcast of the film, a coalition of 100 Bulgarian NGOs engaged in child protection and provision of services was formed. This coalition monitored the process of deinstitutionalisation of the 65 children from the Mogilino institution, but also designed a political documents, based on its experience, and put forward legislative proposals to make the child protection system more effective. This process was substantiated by the fact the prime minister of Bulgaria gave instructions to the responsible ministries to introduce amendments to the Child Protection Act. Several NGOs were invited to consult these amendments. In late 2008, none of the proposed amendments were introduced by the government in parliament.

On 4 March 2008 the BBC documentary was shown at the European Parliament and discussion was organised afterwards with a BHC representative on the problems of children in institutions. Unfortunately, several Bulgarian MEPs, the Bulgarian President, Prime Minister and ministers continued claiming that the childcare institutions simply need more funds, that the film was not representative of the system as a whole, and was to a large degree manipulative. Nevertheless, the film lead to a nationwide campaign which started collecting funds for deinstitutionalisation of the children of Mogilino. Thirty-five children were taken out of the institution and placed in the community. By March 2009, 30 of the children were still waiting to be deinstitutionalised and to start living in small community houses. This campaign gave the impetus to the work of various foundations on the deinstitutionalisation of children from the Gorna Koznitsa institution.

The BHC managed to maintain together with some media the public attention on the problems of institutionalised children. A BHC representative took part in interviews on TV and the radio after the airing of the film Baklava; after the shooting of the 15-year-old girl in the institution in Trun; after the incident in the Zelenikovo institution when the face of a the four-year-old boy was smeared with faeces by a staff member for reportedly soiling his underwear.

The BHC received numerous reports of violations of children’s rights – e.g. a report from two Peace Corps volunteers who send information about neglect of the children in the Kermen institution for children with disabilities. After the BHC involvement and alerts to the state authorities, the institution director left and the standard of care improved dramatically.

The same results were achieved in the institution in the village of Medven after the
BHC took a French TV crew there and the film *Bulgaria’s Little Phantoms*⁵ was broadcast earlier during the year.

The BHC continued to consult foreign journalists in connection with the problems of Bulgaria's institutionalised children. Most recently, *The Times* ran an article about the degrading and inhuman attitude to babies in a state-run institution in Pleven, which attracted media attention.⁶

In March 2008, the BHC prepared several shadow reports on the state of the rights of the child in Bulgaria and sent them to the UN Committee on the Rights of the Child in connection with the forthcoming hearing of the state report on its obligations under the UN Convention on the Rights of the Child.

In May 2008 a BHC representative was present at the session at which the Bulgaria report was discussed and held a series of meetings with government representatives. Afterwards, the BHC sent out reminding letters and held meetings with deputy ministers in connection with the UN Committee on the Rights of the Child recommendations concerning Bulgaria. A large part of the recommendations of the UN CRC were based on the findings and observations of the BHC. In 2009, the BHC will continue to lobby for implementation of the recommendations and to monitor all actions and measures undertaken toward their implementation in Bulgaria.

In 2008, the BHC maintained close relations with charities set up after the broadcast of the BBC documentary in the UK, Belgium and the Netherlands. The aim of this cooperation was to direct funds collected for genuine deinstitutionalisation of children from Bulgarian institutions. As a result of this activity, stipends were set up for children to be used for inclusive education or for placement in community services, transportation to schools and hospitals, hiring of specialists for work with children with disabilities, etc.

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⁶ [http://www.timesonline.co.uk/tol/comment/columnists/article5720609.ece](http://www.timesonline.co.uk/tol/comment/columnists/article5720609.ece)
SHORT-TERM PROJECTS, RESEARCHES

Provision of Reports and Studies on Legal Issues Concerning the Promotion and Protection of Fundamental Rights in the EU

The BHC started work on this project in 2008. It involves project writing a series of thematic reports and legal studies for the Agency for Fundamental Rights of the EU. In 2009, the BHC engagement for work on the project was renewed for another year.

The project provides for the writing of a series of reports and other deliverables for the institutions and agencies of 27 member-states on the human rights situation in these countries.

In February – April 2008 the BHC prepared a thematic study on homophobia and discrimination on the basis of sexual orientation. In May-July the organisation prepared a thematic study on child trafficking. In September the BHC submitted the final version of the thematic report on the national human rights institutions (the national Ombudsman). In October-November the BHC wrote a situation report on human rights in Bulgaria in 2008. The last study for 2008 – that on protection of personal data – was written in the period November 2008 – January 2009.

During 2008 the BHC also wrote four quarterly bulletins on the state of human rights in Bulgaria. Thanks to the bulletins, gross human rights violations found their way to the public at large for the first time.

Independent Review of the Effectiveness of the Antidiscrimination Regime in Bulgaria

The project was launched in April 2008 with the support of the Equal Rights Trust, London. The project involves conducting an independent review of the effectiveness of Bulgaria’s anti-discrimination law.

A BHC legal expert continued work on analysing the jurisprudence of the courts and equality body on antidiscrimination issues. In September -October 2008 the BHC organised a series of focus group interviews with representatives of different groups – Roma, Muslims, women, LGBT, refugees and people with disabilities – in several places across the country to receive qualitative data about protection from discrimination in Bulgaria as experienced by the law’s beneficiaries.

The project will conclude in May 2009 with the publication of a report on protection from discrimination in Bulgaria, a white paper on good practices in other countries, and a volume with the analysis of the jurisprudence.

Needs Assessment of the Structures Engaged in the Process of Deinstitutionalisation of the Care for Individuals with Mental Disabilities

The project was launched in July 2008 with the support of the Matra KAP Program of the Royal Netherlands Embassy. The project is implemented in partnership with the Bulgarian Institute for Human Relations.

The project is engaged in carrying out a needs assessment of the structures engaged in the process of deinstitutionalisation of the care for individuals with mental disabilities. The project goal is to contribute to the reform in the institutional system of care for persons with mental disabilities and to offer insight into finding the solution for the problematic situation with deinstitutionalisation.
The project is carried out in six regions across the country. By the end of the year, the project team worked with a focus on three of the project regions – Smolyan, Vratza and Veliko Turnovo. The two partner organizations were involved in monitoring and external analysis of the structures in the three regions, self-assessment of the needs of these structures and of the relatives of people looking after people with mental disabilities. The team made field visits, held discussions with the said structures; reports were drafted on the state of care in the three regions which gathered the positions of all stakeholders in the policy of deinstitutionalisation at the local level by identifying the exiting resources, deficits and barriers to deinstitutionalisation.

Three regional round table discussions were organised to discuss the main findings of the project in the three regions.

**Writing of the 2007 ENAR shadow report on racism in Bulgaria**

During the reporting period the BHC wrote the 2007 Annual Shadow Report on Racism and Xenophobia in Bulgaria for the European Network Against Racism. The report, one of 26 on the situation with racism in EU member states, contains a compilation of information and data, gathered by the BHC in the course of the year. The report, which was written in May-June and edited and revised in July 2008, is available on the ENAR web site.

**On the Way to Maturity : An Assessment of the Desegregation Process Implemented by Non-Governmental Organisations in Bulgaria**


The book is the second follow up research of the state of desegregated education of Roma children in eight Bulgarian cities compare after previous BHC researches carried out in 2002 and 2005.

The activities of the BHC in 2008 were supported by foreign private and public donors and by the Bulgarian government through a programme for stimulating employment of vulnerable groups.

In 2008, the BHC income totalled 392,821 Euro. The largest share, 39%, came from OSI sources; 24% came from the UNHCR for the support of the Refugees’ and Migrants Legal Protection Programme; between 6%-7% each came from the Mental Disability Advocacy Centre and the European Refugee Fund; 6,5% came from the European Commission. App. 4%, came from the Leon Levy Foundation for core operational purposes.

The other amounts came from smaller donations, such as the Embassy of the Netherlands, the US Democracy Commission, the Roma Education Fund, the Fundamental Rights Agency, the Trust for Civil Society in Central and Eastern Europe, and others.

The income in 2008 marks an increase over the previous two years, as illustrated below:
**FINANCIAL REPORT**

BHC income in the period 01 January 2008 – 31 December 2008 by donor and project:

**I. INCOME**

**A. Received funding in 2008**

<table>
<thead>
<tr>
<th>Donor</th>
<th>Name of project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Society Institute – Budapest</td>
<td>Institutional Support and Litigation Program</td>
<td>149,800.00</td>
</tr>
<tr>
<td></td>
<td>Others</td>
<td>473.00</td>
</tr>
<tr>
<td>UNHCR</td>
<td>Refugees and Migrants Legal Protection Unit</td>
<td>95,253.09</td>
</tr>
<tr>
<td>Mental Disability Advocacy Centre</td>
<td>Strategic Litigation Project</td>
<td>27,000.00</td>
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<tr>
<td>European Commission, through Human European Consultancy</td>
<td>Organization of Anti-Discrimination Trainings</td>
<td>25,339.86</td>
</tr>
<tr>
<td>European Refugee Fund, through the State Agency for Refugees</td>
<td>Legal Defense to Asylum Seekers and Enhancing the Quality of the Procedure</td>
<td>21,474.59</td>
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<tr>
<td>Leon Levy Foundation</td>
<td>Support for the Activities of the Legal Defense Program</td>
<td>16,149.40</td>
</tr>
<tr>
<td>Matra KAP Programme, Royal Netherlands Embassy</td>
<td>Needs Assessment of the Structures Engaged in Deinstitutionalisation of the Care for People with Mental Disabilities</td>
<td>11,980.78</td>
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<tr>
<td>Roma Education Fund</td>
<td>Assessment of the Functioning Roma Education Desegregation Projects</td>
<td>10,740.00</td>
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<tr>
<td>Democracy Commission, United States Embassy</td>
<td>Initiative “Equal Rights for Women. Now!”</td>
<td>9,656.04</td>
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<tr>
<td>Fundamental Rights Agency, through Human European Consultancy</td>
<td>Writing Reports and Legal Studies</td>
<td>8,580.00</td>
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<td>Trust for Civil Society in Central and Eastern Europe</td>
<td>Evaluation of the Anti-Discrimination Regime in Bulgaria</td>
<td>6,277.23</td>
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<tr>
<td>Open Society Institute – Sofia</td>
<td>Roma Education Round Table</td>
<td>2,709.02</td>
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<tr>
<td>European Network Against Racism</td>
<td>Writing Shadow Report on Racism</td>
<td>2,500.00</td>
</tr>
<tr>
<td>Employment Bureau</td>
<td>Hiring personnel under Employment Act</td>
<td>1,143.99</td>
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<tr>
<td>Operative Program Administrative Capacity</td>
<td>Equal Opportunities Partnership</td>
<td>989.88</td>
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<tr>
<td>European Roma Rights Centre</td>
<td>Research for drafting a complaint under the ESC</td>
<td>400.00</td>
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<tr>
<td>ERSO</td>
<td>Taking part in conference on voluntary repatriation</td>
<td>368.51</td>
</tr>
<tr>
<td>BHC members</td>
<td>2007 membership fee</td>
<td>381.50</td>
</tr>
<tr>
<td>Private donations</td>
<td>For the Mogilino childcare institution</td>
<td>255.30</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
<td>43.93</td>
</tr>
<tr>
<td>Bank interest</td>
<td></td>
<td>942.67</td>
</tr>
<tr>
<td><strong>Total income for 2008 in Euro:</strong></td>
<td></td>
<td><strong>392,821.30</strong></td>
</tr>
</tbody>
</table>

**B. Amounts remaining from 2007:**

| Amount | 176,141.83 |
BHC STAFF IN 2008

CHAIR

Krassimir Kanev

INSTITUTIONAL SUPPORT PROGRAMME

Desislava Simeonova, programme director, web coordinator
Vyara Ivanova, administrative director
Asya Grudova, accountant
Severina Petkova, accountant
Radoila Hristova, part-time technical assistant
Diana Velkova, part-time technical assistant
Krassimir Gegov, technical assistant

LEGAL DEFENSE PROGRAMME

Margarita Ilieva, attorney-at-law, Legal Programme Director
Aneta Genova Mircheva, attorney-at-law, legal consultant
Daniela Furtunova, attorney-at-law, legal-organisational manager
Georgi Voinov, legal consultant
Elena Krassteva, legal assistant
Maria Nikolova, legal assistant

CLOSED INSTITUTIONS PROGRAMME

Stanimir Petrov, coordinator
Dr. Georgi Bankov, coordinator
Lubomir Stoychev, researcher

MEDIA ADVOCACY PROGRAMME

Yuliana Metodieva, editor-in-chief, Obektiv magazine
Emil Cohen, special correspondent, editor, News section,
Human Rights in Focus electronic bulletin
Lubomir Pozarliev, press monitor

PROGRAMME FOR PROTECTION OF THE RIGHTS OF CHILDREN IN INSTITUTIONS

Slavka Kukova, coordinator

REFUGEES’ AND MIGRANTS’ LEGAL PROTECTION PROGRAMME

Iliana Savova, programme director
Plamen Zhelev, attorney
Valentina Nielsen, attorney
Georgi Toshev, attorney
Mariana Andreeva, attorney
Antoaneta Sabeva, consultant
Maisun Shabaan, consultant
Elitza Sekulova, accountant

RESEARCHERS

Antoaneta Nenkova, coordinator of Project for Needs Assessment of Individuals with Mental Disabilities in Bulgaria

VOLUNTEERS

Gabriela Boyanova
Hristina Dimitrova
Vanya Mileva
Elena Shakhanska

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