

**In late April of 2005, a group of inmates at the Sofia Central Prison announced that they were going on a hunger strike. Their number was considerable - about 50, and the peculiar thing is that all of them are foreigners sentenced in Bulgarian courts and serving their sentences in this country. The hunger strike lasted ten days, its final results being several brief mentions in the press, a meeting with a district prosecutor, and some vague promises.**

# **The problem of being a foreigner in a Bulgarian prison**

**Mila BOYANOVA**

## **HIDDEN STANDARDS**

The status of prisoners in Bulgaria is regulated by the Execution of Sentences Act and the regulations for its enforcement. In the newly-revised provisions of both texts, the legislature took special care not to use discriminatory language. In doing so, they failed to provide for the status of foreign citizens incarcerated in Bulgarian prisons. What is missing from the law, however, is provided for supplementarily, in secret directives and intra-institutional orders issued by the justice minister and the officials subordinate to him at the Central Penitentiary Administration. In thus bypassing the fundamental regulatory texts, in which prisoners are not treated separately as Bulgarians, Turks, or Ethiopians, Justice Ministry officials have instituted their own discriminatory system, in which survival as a foreigner in a Bulgarian prison is practically a mission impossible.

## **RIGHTS VIOLATIONS**

Discrimination against foreign-citizen prisoners in this country occurs in areas ranging from the most desirable "privileges", such as conditional early release, transfer and placement in open-type facilities (the so called prison hostels which have a considerably

lighter regime than the main prison), to the minor social perks of everyday life, such as the right to work, leave passes, family visits, educational programs, and the provision of information in a language they understand. Conditional early release is an issue faced by all incarcerated persons. The mechanism for conditional early release is vaguely worded in the Penal Code, and is inconsistently interpreted by the commission in charge of it. Article 70 of the Penal Code sets the requirements for conditional early release as having served at least half of the imposed sentence, as well as exemplary behaviour and an honest approach to work.

Excluding the period of the sentence served, the remaining requirements allow for subjective interpretation. Thus, sometimes minimal offences and wrongfully-interpreted situations end up standing in the way of conditional early release. In addition, the law's vague wording for the procedure of conditional early release, opens the way for corruption. For convicted foreigners, the problems do not end here. Additional rules have been instituted regarding them, which prevent them from shortening their sentences, requesting transfer to correctional facilities in their own countries, or taking advantage of the annual leave passes to which they are entitled. Those who are convicted of drug trafficking, which is the most common crime among foreigners here, are usually subject to pay large fines to the Bulgarian state. Their inability to pay them leads

to their being denied transfer out of the country or conditional release. Use of their leave passes is prevented by their lack of a permanent address in the country, and they need a permanent residence in order to qualify for placement in an open-type prison hostel. It is impossible for most foreigners to pay the fines levied on them due to their having minimal/nonexistent incomes in prison, as well as no support from their families. And while there is no discrimination with regard to the way in which the state tries to collect the debts owed to it, in reality payment is rarely made, and a huge gap remains in the regulatory provisions. The European Convention specifies, with regard to the transfer of incarcerated persons, that the sentence should be served in a way to be negotiated by the two countries imposing the sentence and executing the transfer. This means that our country could seek a compromise solution, by transferring foreign prisoners and attempting to collect the otherwise uncollectible fines in cooperation with the prisoner's respective country, thus leading to a savings in the budget from the expense of housing that group of prisoners, which must otherwise be paid for years to come.

## ISOLATION

Daily life does not proceed easily or according to the rules, either, for foreigners incarcerated in the Sofia Central Prison. The law dictates that they are separated from Bulgarian prisoners, which would entail designating certain specific parts of the prison, including corridors and common rooms, for them. Instead, the penitentiary administration has preferred to keep them in a sort of solitary confinement, which is usually imposed on those with harsher sentences or repeat offenders. Thus, foreign inmates, some of them convicted of a first offense, must serve their prison time in their cells, afforded no contact with others, nor access to the limited recreational facilities at the prison. At the same time, no distinction or separation is made among the foreign inmates between first-time and repeat offenders. They all serve their sentences together, meaning that the former must endure all of the consequences of the unfavorable treatment of the latter. The language barrier is also a problem for foreign citizens held in Bulgarian prisons. Although the Execution of Sentences Act generously extends the opportunity to participate in educational programs to all who desire, foreign citi-

zens are rarely able to take advantage of this. They have no access to books, newspapers or television programs in foreign languages, and their isolation prevents the traditional method of learning Bulgarian, through contacts with Bulgarian inmates. This also leads to such serious problems as the foreign inmates being insufficiently informed regarding the prison's internal rules, as well as the impossibility of their understanding, and appealing, the sentences and penalties imposed upon them.

## THE RIGHT TO WORK

The right to work, as well as shortening the length of the imposed sentence by the number of days worked, is also severely limited for foreign citizens incarcerated in Bulgarian prisons. Amendments to the Execution of Sentences Act have changed what used to be an obligation on the part of the penitentiary administration, to secure employment for all inmates who wish to work, into a possibility, or rather, a good wish. There has long been a limited number of job positions for prison inmates, and a great demand for them, again leading to violations and corrupt practices. Even in those rare instances when foreign inmates are placed in the prison workshops, kitchens, or printing house, the formula of every two days worked counting for three days of serving the sentence (this system, known as "2 for 3", reduces the prison sentence) is not applied to them. There is either no explanation for this, or it is explained unclearly and in violation with the applicable regulations, simply reflecting the will of the administrative official in charge.

**Due to all of these facts, several complaints against discrimination have already been filed by foreign nationals serving their sentences in Bulgaria under the Protection from Discrimination Act. Although these complaints do objectively demonstrate discrimination on the basis of nationality, for now they are hitting a brick wall in the Bulgarian courts. Thus, leaving the way open for applications before the European Court of Human Rights. ■**