

## HUMAN RIGHTS IN BULGARIA IN 1994

### Introduction

During the larger part of 1994 Bulgaria was ruled by the government of Prime Minister Lyuben Berov, elected at the end of 1992 by the parliamentary mandate of the Movement for Rights and Freedoms (MRF), the political organization of a majority of the Bulgarian Turks, the Bulgarian Muslims and Roma. The Berov Cabinet was supported by the Bulgarian Socialist Party (BSP, the former Bulgarian Communist Party) and part of the United Democratic Forces-elected MPs who had split from their parliamentary group. This government resigned in early September and following two unsuccessful attempts at forming a new Cabinet within the then-operating Parliament, the President of the Republic appointed a Caretaker Cabinet on October 17 under the direction of Ms Reneta Indzhova, the country's first female Prime Minister. Shortly afterwards, new parliamentary elections were called for December 18. The elections monitored by a number of local and foreign observers were deemed free and democratic. The BSP won an absolute majority in the elections and subsequently formed a new government.

In March, 1994 Bulgaria ratified the *European Convention for the Prevention of Torture* - a progressive step towards the improvement of the human rights situation in Bulgaria, and one which will allow for visits from the European Committee for the Prevention of Torture to Bulgarian places of detention. Also in 1994, the Bulgarian Parliament adopted a new *Act on the Judiciary* which consolidated the legal system and ensured its independence. A serious problem with human rights abuses - the *Law on Additional Requirements of Scientific Organizations and the Higher Testimonial Commission*, also known as the *Panev Law*, was abolished soon after the formation of the BSP Cabinet. The *Panev Law* provides a basis for automatic disqualification from management positions in scientific institutions of certain categories of individuals who had been connected to the former totalitarian regime.

Irrespective of the positive developments outlined above, other troubling human rights problems continued in Bulgaria in 1994.

### 1. Minority Rights

Violations of the rights of the Roma population continued to be the dominant human rights problem in Bulgaria. The Roma still face a number of problems in their daily life: ethnically-motivated acts of violence which infringe the right of inviolability of the Roma population; wide-spread segregation in education, employment, health and social care and in local government; constitutionally approved discrimination with regard to the political rights of minorities (Article 11, para 4 of the *Constitution*); acts and statements by media that are perpetuating a negative public image of the Roma, much of which could be said to constitute hate speech; and continued verbal denigration of the Roma minority through repeated reference to the crime rate within the Roma population. All of these conditions lead to the conclusion that the Roma population in Bulgaria is subjected to racial discrimination.<sup>1</sup> As a result, the socio-economic marginalization of a considerable part of the Roma community is increasing, further contributing to a high degree of unemployment, substandard education, poverty and segregation of the Roma community from the rest of the Bulgarian society.

In 1994 incidents of police brutality received considerable coverage in the Bulgarian press. The media reported a number of cases of unlawful acts of violence by the police and the BHC received many complaints from police brutality not only from Roma, but also from other Bulgarian citizens. Official investigation of these cases within the Criminal Justice system

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<sup>1</sup> Under Article 1, Para 1 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (UNO, 1965).

was hampered, however, by its procedural delays and the nature of the procedure for investigating unlawful acts perpetrated by the authorities.

The Bulgarian Helsinki Committee has collected information on more than 30 cases of ethnically motivated illegal abuses of Roma by the police, by police investigators, by private security companies and by extremist racist groups. There have also been cases of group violence committed by neighbouring non-Roma communities, intended as collective punishment, revenge or simply as an expression of hostility. Despite the fact that the criminal justice system provides opportunities for legal redress by all citizens against unlawful acts of violence, the administration of justice in cases when the rights of Roma have been violated was impeded by the what appear to have been discriminatory handling of the complaints by the authorities. The Human Rights Project has extensive information on cases of improper arrest, torture, inhuman and degrading treatment or punishment of Roma by the police and the investigating authorities intended to coerce Roma criminal suspects to plead guilty. Investigating authorities are known to have used illegal means of pressuring the accused to plead guilty rather than carrying out a thorough investigation of the case. This holds especially true for Roma with prior criminal records. In fact, the use of the term "investigation" has taken on an entirely different meaning with regard to Roma criminal suspects. There has been evidence, for example, that M.K. from the town of Kotel was arrested on March 1, 1994 and beaten with electric shock truncheons and threatened with sexual abuse if he did not sign a confession within 15 minutes. When he refused to comply, he was beaten by six policemen. The BHC received another complaint that three other people - K.K., M.D. and B.D. - were beaten by the police in Kotel on March 5 in an attempt to force them to confess to committing a theft. K.K. was forced to sign a blank sheet of paper and was then detained for 30 days.

Brutality against members of the Roma minority was observed not only in attempts of making them confess their guilt, but in other purposes as well. On March 8, 1994, S.B. from Kotel was buying bread in a shop in which the vendor was a former policeman. When S.B. requested to be given a better loaf of bread, the vendor became angry and hit him in the eye with the loaf of bread. In response, S.B. broke the shop window. The vendor then called the police, who went to S.B.'s house, beat him and arrested him. He was beaten again in the police station. During the trial in which S.B. was charged with hooliganism, the defendant complained that he had been beaten in the police station and gave the name of policeman who had beaten him. The court, however, failed to acknowledge the complaint. There were numerous other similar complaints of brutality by the police and authorized armed guards in the towns of Sliven and Pazardzhik, the village of Gradets, etc. According to victims, the most typical cases were those where beatings by the police and investigating magistrates took place in police stations. The usual scenario is for the victim to be laid down on the floor and kicked. In many cases, groups of three to seven policemen beat a single person with truncheons, iron chains and other objects. The Bulgarian Helsinki Committee is concerned that police beatings of Roma have become a routine practice.

Sometimes these acts of brutality have a fatal outcome. According to information provided by Human Rights Project, there were at least two cases in which Roma have died in custody as a result of severe beating. In another case, two Roma were shot in front of a police station. On August 4, the police arrested 15 Roma, suspected of criminal offences. One of the detainees, Liubcho Terziev, died two days after his arrest. According to the official death certificate, cardiovascular insufficiency was the cause of death. Witnesses of his burial, however, claim to have seen traces of torture on his body, as well as electric burns on his genitals. The scars on the man's dead body were documented by a journalist from the Bulgarian *168 Chasa* weekly.

On the night of September 24, Slavcho Ljubenov Tsonchev, 49, of Roma origin, died in custody in the Pleven Police Department, nine hours after he was arrested on suspicion of

theft. The official death certificate was not issued in due time. In the morning on September 25, his wife, Anya Velikova, went to the police headquarters and was told that her husband had died in hospital, where he had been taken after feeling sick. His wife went to the hospital and was told that her husband had never been admitted there. On February 1, 1995 in a civil procedure in which the Pleven District Court had to prove Tsonchev's death, the court acknowledged that he had died inside the police headquarters on September 25, an hour after midnight.

On September 6, while stealing sunflowers heads, five Roma from the town of Nova Zagora were arrested by a civil guard and a policeman. One of the detainees ran away. The guard went after him while the policeman stayed behind to guard the other four. Instead of the runaway, the guard arrested another Roma, Assen Chulov, who had not been involved in the theft. Then the two of them returned to the group and, without any reason the guard shot Assen Chulov. On December 25, a policeman shot in the head Hristo Georgiev Georgiev, a Roma from Varna, while the latter was sleeping in his home. The policeman had gone to the house with a partner after someone had called the police shortly before that because of a family brawl. Hristo Georgiev had not shown any resistance. Investigation proceedings were started on the last two cases.

In 1994 there was a series of raids and attacks on Roma neighbourhoods and on Roma individuals. The raids were organized by the so-called 'skinheads.' On March 26-28 unidentified individuals, suspected of being members of these groups, set four Roma houses on fire in Pleven, by throwing bottles of "Molotov cocktail." Five other houses were damaged. The policemen who arrived at the scene of the incident did not help the victims in any way. Later in the year there were other cases when Roma were individually attacked and beaten by skinheads in the streets of Pleven. On August 11 two homeless Roma children, R.D. and I.A., were severely tortured in Sofia - there were traces of burns and string strangulation on the dead body of one of the children; the victim had also been raped by two twelve-year-old skinheads.

In 1994 representatives of security companies, also known as the "wrestlers," participated extensively in acts of violence against Roma. On July 12, a group of ten "wrestlers" attacked the home of a Roma family in Dupnitsa on the grounds of a financial dispute. Plamen Milanov and Alexnader Yanev, who worked as security guards at the Bobovdol Prison were among the attackers. They used their assigned weapons during the attack. Stepping out of two cars, the attackers batted members of the Roma family and later opened fire, firing at least ten gunshots. Lenin Mitov was wounded. One of the attackers was wounded with his own weapon when the whole Roma community came to the rescue of the Mitov family, surrounded the group of "wrestlers" and managed to subdue them, since they were outnumbered. Several Roma received less severe injuries. A few days later, four Roma from the family which had suffered the attack were unlawfully dismissed from their jobs.

The most typical case of an attack on Roma by "wrestlers" was the one in Bratanitsa village, near Pazardjik. On September 23, approximately ten "wrestlers" arrived in the village and for less than an hour cruelly batted several people, fractured N.N.'s skull with their bats, smashed windows and other objects in the Roma neighbourhood, and then left. By the time the police arrived, the raid was already over.

There are several cases of illtreatment of Roma by other Bulgarian citizens. On February 25-27, 1994, out of spontaneous indignation to a murder that was allegedly committed by a Roma, a group of villagers from Dolno Belotintsi village, near Montana, committed a series of ethnically-motivated acts of violence against the Roma residents of the village. On February 27, there was a rally in the village central square, inciting threats of a raid on the Roma neighbourhood in which mob acts of vengeance were to be carried out. A series of raids on Roma homes were staged the same evening in an attempt to force the Roma to leave the

village. The house of Miron Simeonov Metodiev was set on fire and completely destroyed. Eight other houses were severely damaged. Most of the Roma from the village were forced to temporarily leave the village.

The events in a case in Dragomanovo village were similar. On March 27, 1994, three Roma, wrongfully suspected of theft, were tied to trees and clubbed. One of them was tied to a car and dragged along the road. In Morozovo village, near Haskovo, on the night of June 12 unidentified people, apparently local residents, raided the town's Roma neighbourhood, setting houses on fire. During the fire, the attackers threw stones and metal objects at the inhabitants of the burning houses.

The situation of some other minority groups, despite being somewhat better than that of the Roma population, was also cause for concern. The participation of MRF in some areas of central and local government has succeeded in somewhat consolidating the position of Bulgarian Turks as an ethnic community in Bulgarian society and has played a positive part in the reduction of interethnic tension. Research made in 1994 on interethnic attitudes revealed reduction in prejudices and social hostility towards Turks on the part of the mainstream population. The presence of MRF in the government provided an opportunity for openly defending the rights of Turks in Bulgarian society, thus reducing the marginalization of this minority group.

Despite the fact that in certain spheres where administrative interference on the part of the central government authorities was impossible or hardly applicable, problems with the rights of Turks and Bulgarian Muslims continued to exist. In some regions, such a sphere turned out to be the Judiciary. In July, at the request of the Haskovo District Governor, the Kardjali District Court invalidated the Turkish names (Aktash, Cabiller, etc.) of 16 quarters in the Fotinovo region, which had been appointed by a decision of the Municipal Council in Kirkovo, at the beginning of the year. This extended the 1993 practice of courts to abolish decisions for renaming local councils in regions populated primarily by Turks.<sup>2</sup> In April, the Blagoevgrad District Court endorsed Yussuf Djudjo's sentence. He had been indicted and sentenced in 1993 for forging contents of private documents - the applications for changing Bulgarian names back into Muslim names of several Muslims, victims of the coercive name change of Bulgarian-speaking Muslims in 1973-1974. The trial was widely publicized and the proceedings were assessed as unjust and partial by many observers.<sup>3</sup>

In 1994, the hostile policy towards Bulgarian citizens who have identified themselves as Macedonians (10,000 according to the officially unannounced results of the December 1992 census) decreased somewhat. There were no mass beatings of activists from the United Macedonian Organisation (UMO) "Ilinden," a separatist Macedonian organisation, as had been the case in 1991, 1992 and 1993. Nevertheless, in blocking the road to Yane Sandanski's grave near Hotovo, the police once again refused to permit a group of approximately 100 people to celebrate the anniversary of Yane Sandanski's birth. While attempting to put up announcements of the anniversary, three activists from UMO "Ilinden" reported that they were beaten by policemen in Blagoevgrad on April 15. On July 31, the police blocked all roads to the Samuilova Krepost locality once again and prevented UMO "Ilinden" from commemorating the anniversary of the Ilinden Uprising.

## **2. Freedom of Thought, Conscience, Religion and Belief**

In comparison to 1993, in 1994 violations of religious freedoms in Bulgaria significantly increased, especially with regard to what have been called "non-traditional" religious denominations. The principal basis for these violations was the *Law for Amendment of the*

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<sup>2</sup> Cf. *Human Rights in Bulgaria 1993*, a report by the Bulgarian Helsinki Committee, October 5, 1993.

<sup>3</sup> *Ibid.*

*Persons and Family Act*, passed on February 3, 1994, and promulgated on February 21, 1994. All private associations were registered under this law and now a new article - Article 133A - was introduced. The latter states that "juridic persons with not-for-profit purpose, performing activities connected with religious faith or dealing with religion and religious education, shall be registered according to the conditions here mentioned, after the approval of the Council of Ministers." Another provision demanded the re-registration of all organizations within a three-month period, again upon the approval of the Council of Ministers. This law was adopted with an overwhelming majority in Parliament and is openly repressive in wording. It was adopted almost entirely without Parliamentary discussion and after only two readings, receiving 186 votes out of a total of 189.

The Council of Ministers issued *Decree N20* whereby a Special Commission chaired by Mr. Hristo Matanov, Director of Religious Affairs, was set up. The Commission was established to evaluate the registration of religious groups and "to supervise the activities of the religious denominations." The members of the Commission were officers from the Ministry of Justice, Ministry of Defence, Ministry of Foreign Affairs, Ministry of Education, Ministry of the Interior, and the Youth and Sports Committee. Without any List of Regulations or written directives, the Commission started conducting meetings behind closed doors. Requests for registration and re-registration of religious organizations, submitted before May 21, 1994 were inspected at these meetings. The parties concerned were not present. According to non-official sources, 78 requests had been submitted to this date. The Commission worked out draft decisions and presented them to the Council of Ministers for approval. Up to July 25, 1994, the Council of Ministers accepted three decisions which affected 62 communities and foundations. Only 23 of them, mostly with Christian-Orthodox orientation were permitted to register and re-register. The remaining 39 communities were denied permission. These had mainly Protestant orientation, two Muslim and one Christian-Orthodox organization.

The decisions of the Cabinet offer no explanation for the acceptance or rejection of an organization and are simply lists of the organizations which were denied registration.

The defenders of Article 133A said that it did not contradict Article 37 of the *Constitution* which guarantees freedom of conscience, thought, religion or belief. But as a result of this provision, the organizations lost their juridic person status and the following rights: the right to rent halls and offices through rent contracts, the right to appoint staff, etc. The Bulgarian representative of Gideon International was denied re-registration. Gideon International distributes Bibles all over the world. The whole procedure for adoption and enforcement of the new law is a severe abuse of human rights. Firstly, it contradicts Bulgaria's *Constitution*. This new law not only restricts unnecessarily the freedom of association, guaranteed by Article 12 of the *Constitution* and the freedom of religion (Article 13 of the *Constitution*), but also violates the constitutionally established division of powers. This is proved by the fact that a government-appointed Commission repeals the decisions of established courts. While the court decisions were given after open court sessions with the presence of a defence lawyer and a guaranteed right of appeal, those of the Council of Ministers were given without any procedural guarantees and on the basis of unknown criteria. The affected organizations had not been charged with any offence. None of the accusations that there had been instigation to suicide were proved and nobody was brought to court at the time of acceptance of these decisions by the Council of Ministers. There has not been a single member of a "sect" charged for committing a crime motivated by a religious conviction.

Only 6 out of 39 organizations filed complaints before the Supreme Court. On November 30, 1994 the Third Civil Department at the Supreme Court heard the case of Word of Life Foundation and Jehovah's Witnesses organization versus the Council of Ministers. There was no verdict by February, 1995.

On March 1, 1994, the Supreme Court, at the initiative of the Prosecutor's Office, revoked the registration of Word of Life Foundation by invoking Article 133A. The Supreme Court said that the "vagueness" of the organization's "beliefs" from a Constitutional perspective rationalized this decision. A court in the town of Plovdiv rendered a similar decision against the Emmanuel Biblical Centre.

In June members of the Bulgarian Church of God in the town of Russe said that their activities were under surveillance by the local branch of the National Security Service. In August, the press reported about the existence of a special group in the National Security Service charged with monitoring new religious organisations.

Also in 1994, there were reports of discrimination against religious communities labelled as "sects" by the local authorities. On March 11, 1994 the Plovdiv Municipal Council issued a special order "on the registration and activities of the religious communities on the territory of Plovdiv Municipality". This order targeted 28 out of the 33 organizations registered under the *Denominations Act* and imposed heavy fines for distributing posters and other religious materials; all further meetings conducted in closed premises were prohibited (in contradiction to Article 47, para.3 of the *Constitution*); the procedure for re-registration of already registered organizations became extremely complicated. The Directorate for Religious Affairs, many of the affected organizations, as well as Citizens for Religious Tolerance Project opposed this decision. Several months later, the Plovdiv District Governor stopped the execution of the order, but it could still be enforced by decree of the Governor. A similar order was issued by the Municipality Council in Sliven. In this case, it was decreed that the conducting of any religious activity or meeting in privately-owned premises requires the prior consent of all neighbours.

In 1994 violent actions against members of "non-traditional" churches in Bulgaria became widespread. In April, May and June several activists of the Church of Jesus Christ and Latter Day Saints (the Mormons) in Sofia were beaten on several occasions. On June 10, a group of skinheads attacked a mass of the Bulgarian Church of God (BCG) in the town of Russe. Seven people were injured, one of them severely. Many people in town identified the perpetrators as well-known activists of the Bulgarian National Radical Party. The police started an investigation against "unknown perpetrators" after BHC's insistence and complaints by the victims. The results, however, have not yet been announced. Moreover, there are serious grounds to assume that these same people attacked the BCG's house of prayer in October. In June the houses of prayer of the BCG and the Church of Seventh Day Adventists in the town of Blagoevgrad were attacked and on the night of September 4-5, 1994, the house of prayer of the BCG was vandalised.

There were also numerous complaints by communities which were denied the use of premises which they had rented from the Municipal Councils. Such cases were registered in Russe (the Bulgarian Church of God was deprived of using its hall despite of the fact that the Church had been registered under the *Denominations Act*), in Plovdiv, in Sofia, etc.

In the Department of Theology of Sofia University all newly enrolled students were asked to present a certificate of baptism from the Orthodox Church and married couples had to provide a marriage certificate from the Orthodox Church in order to receive the necessary signatures verifying the completion of their studies in the department.

Some cases of religiously motivated employment discrimination were also registered. Such was the case with Ms Radka Popova, Secretary of the Municipal Council in the town of Velingrad who was dismissed from her post on the basis of her affiliation with the Evangelical Church. On June 15, 1994, Ms Kalina Lyutova, a fine arts teacher in the 192nd High School in the village of Bistritsa, a suburb of Sofia, was warned with dismissal by the school Headmaster because she had given the text of "St. John's Gospel" published by Word

of Life to one of her students. Since Ms Lyutova was appointed to her post on a term contract, her penalty resulted in her dismissal later.

On June 22, 1994, the police blocked access to a private hall where the meetings and Bible School of Word of Life Foundation and the then legally registered Truth from Zion were taking place. The claimants have not been provided with a prosecutor's warrant for terminating the use of the hall. Thus the organisations were deprived of their constitutional right to appeal the decision of Sofia City Prosecutor's Office. On August 5, 1994, the police blocked all access to a hall in the town of Haskovo in order to prevent a conference of Jehovah's Witnesses.

### **3. Problems of Refugees and Foreigners**

Bulgaria acceded to the *Geneva Convention* (1951) and to the *New York Protocol* (1967) *on the Status of Refugees* in October 1993. In 1994, in view of the problems that Bulgaria was encountering in addressing issues of asylum and refugee status, it became clear that no implementation measures existed with regard to these instruments. It was the lack of any clear-cut policy that hampered the development and the adoption of a national legislation on refugees, as well as the consolidation of adequate practices. The abolition of the existing discrepancy between international legal instruments and national refugee procedures is still forthcoming. The same holds true for the application of national legislation to European and international standards, in conformity with contracted international obligations.

On November 1, 1994 a temporary *Decree on the Determination and Granting of Refugee Status* entered into force. It did not, however, address all substantive issues related to the granting of refugee status. For example, the lack of relevant legal and administrative measures impedes the practical solution of problems with individuals who have invalid documents and stateless asylum seekers.

The problem of solving employment authorisation to asylum seekers is considered a political and legal challenge. The National Employment Agency requires foreigners to have work permits before they can work in Bulgaria. This means that there should be no Bulgarian citizens applying for the same job and that employers should pay in advance a sum of three average monthly salaries (6,429 BG Levs) for every work permit. If they fail to do so, they have to pay a fine of 50,000 BG Levs. As a result, asylum seekers are effectively prevented from engaging in paid employment, notwithstanding a state budget which is incapable of providing regular support. At present, people awaiting refugee status determination live in sub-standard conditions, unless they manage to locate illegal employment, thereby exposing themselves to confrontation with underground organisations and often becoming involved in illegal activities. The lack of national legislation regarding refugees and other foreigners has contributed to an increase in illegal immigration. The total number of foreigners who are temporary or permanent residents in Bulgaria is approximately 50,000. According to official data, there are approximately 15,000 undocumented foreigners. The media, however, has reported on various occasions that approximately 40,000 foreigners who have entered Bulgaria with transit visas have not departed.

The increasing influx of foreigners from Asia, Africa and the Middle East, who are often unskilled labourers or business investors, many of whom reside in Bulgaria illegally, have been perceived by many impoverished Bulgarians as a potential threat, thus provoking acts of animosity and xenophobia towards foreigners.

Current public opinion is a further indication of the lack of appropriate conditions for the resolution of problems and attitudes towards refugees and foreigners, given the general difficult social conditions in existence.

In a protest letter, 5,000 Sofia residents threatened with civil disobedience against the housing of refugees in buildings of the former AONSU Institute, a college which had been run by the Central Committee of the former Bulgarian Communist Party. The protest letter was sent to the President's Office, the Parliament and the Cabinet. The main reason for the protest was the fact that at the initiative of a small number of intellectuals, individuals posing a threat to the health and safety of the community would reside in the country.

The Bulgarian Helsinki Committee received complaints that similar attitudes could be observed among customs officials at Sofia Airport. In the beginning of November 1994, a group of 16 people arriving from Nigeria, Uganda and Kenya were forcefully held in detention in one of the airport's transit halls for a periods ranging from three to eight days, despite the fact that the detainees had transit visas. Among the people in the group, there were individuals suffering from chronic asthma, as well as pregnant women. The passengers were compelled to sleep on the cold floor and they were refused to be served by the refreshment bar. The media reported that the police in Russe had filed a disciplinary letter for replacing customs officials at the Danube Bridge for cruelly beating a dozen Kurds who had been sent back to Bulgaria by Romanian border officials. The BHC has evidence that during the police identity check of foreigners living in a hotel in Pancharevo, many foreigners had been beaten by policemen.

Often such attitudes are actively instigated by the media, which in its quest for circulation increase shocks its readers with bombastic headlines like "Refugee Camps All Over Bulgaria," provided that there is not a single refugee reception centre in Bulgaria so far. Another headline emphasises that the labour stock exchange provides refugees with employment, while every fifth Bulgarian is unemployed. The facts, however, are that the total number of asylum seekers is just 1-3% out of the total number of foreign immigrants and temporary foreign residents, and this poses no threat to national security, nor to the labour market.

In all big cities, the most extreme and noisy propagators of the above-mentioned attitudes among the population are the organised skinhead gangs. Last year, the media continuously reported about skinheads beating foreigners, with Arabs and Africans as the most frequent victims. The BHC has documented evidence of 26 attacks on Arabs and Africans in Sofia which involved physical violence, plunder and in certain cases even murder. In the majority of cases, the attacks were committed by neo-nazi skinheads, but in some of the documented cases of plunder, real or disguised policemen had been involved. In most of the cases, the victims, having invalid documents, had not contacted the police at all.

In the light of the above-mentioned problems, the BHC views its role as providing society with the maximum objective information on the state of the current problems with foreigners and more specifically on those awaiting refugee status and political asylum. One of the Committee's latest projects has as its major goal the provision of legal defence and aid to all of the above-mentioned categories of foreigners.

#### **4. Problems of the Criminal Justice System**

The *Constitution* of Bulgaria provides everyone with the right of legal counsel from the moment of their detention or the start of legal proceedings (Article 30, para.4). Under a decision of the Supreme Court from August 1991, the authorities responsible for the preliminary proceedings are obliged to explain to the person on remand that they have the right to legal counsel. The authorities should provide such individuals with the opportunity to contact their legal counsel prior to the beginning of any investigation proceedings. Article 70, para.1 of the *Criminal Procedure Code* provides for obligatory legal counsel in criminal proceedings, but only for a limited number of cases (when the defendant is a minor or is physically or mentally disabled, when the case is criminal and provides 10 years imprisonment, when the defendant has no command of Bulgarian, when the defendants'

interests are controversial and one of them has legal counsel, when the case is heard in the defendant's absence). Despite the fact that the *Bar Association Act* provides the opportunity for defendants to contact the Supreme Bar Council which can offer them free legal counsel, out of unfamiliarity with the *Bar Association Act* itself, as well as out of lack of practice in the Act's clarification by the police and by the investigation, in most cases the defendants have to find legal counsel at their own expense which in the case of financially disadvantaged defendants means that they are practically with no legal counsel during the preliminary investigation. On the other hand, the right to a forensic medical test at the defendant's will at all stages of the preliminary proceedings, without being prohibited, is not explicitly guaranteed by Bulgarian legislation either. At the end of 1994, the Bulgarian Helsinki Committee conducted a research on prisons and penitentiaries. This research shows that forensic medical tests at the defendant's will, even when accepted by the local authorities (which seldom happens), is guaranteed practically nowhere. Absence of legal counsel and the lack of forensic medical tests at the defendant's will are prerequisites for illegal violence on detained individuals. In 1994, victims of such practices, according to evidence provided by the detainees themselves, have most often been Roma. The BHC, received complaints from other Bulgarian citizens, as well. Some of the cases are under investigation, but in most of the others it is very hard to determine the act of violence owing to the restrictions in Bulgarian legislation.

Another shortcoming of Bulgarian legislation is the difficulty bordering on practical impossibility to receive legal remedies in cases when violence has been applied on part of the authorities. In these cases, the criminal justice system in Bulgaria provides an opportunity for criminal prosecution only on general terms through the Prosecutor's Office, which presses charges only in extremely rare cases. There is no possibility for the victim to take part in the criminal prosecution. In these cases, on the other hand, civil proceedings are highly dependent on the outcome of the criminal proceedings. A similar case from 1992 of a representative of the Roma minority is currently subject to a hearing before the European Commission for Human Rights. Several other cases came up in 1994. Their hearing is forthcoming.

In 1994, the sluggish stage of preliminary proceedings in the Criminal Justice System was widely discussed. The BHC has discovered hundreds of cases of people who have been detained beyond the fixed maximum period of six months for people on remand. At the end of 1994, in a special investigation the BHC found out several cases of people who have been on detention for over two years during their preliminary investigation. At the end of 1994, two persons on detention in Sofia Prison went on hunger strike demanding that the legal proceedings against them be started. One of the detainees died. In some cases there are serious justifications to presuppose that the long period of detention has subsequently been used as an indirect pressure on the jury to pass a sentence as long at least as the detention period, in order to avoid the defendant pressing charges against the state.

In 1994, another grave problem of the Criminal Justice System in Bulgaria continued to be the capital punishment. After Bulgarian Parliament had imposed a moratorium on capital punishment in 1990, the courts continued to enforce death penalties, some of which had gone through all possible domestic legal proceedings. At present, there are 12 people in Bulgaria sentenced to death for severe criminal offences. The life of these 12 people depends on lifting the moratorium on capital punishment and on the President's signature under the death penalty verdicts. In several other cases death penalties have been enforced, yet not all domestic legal means have been exhausted so far. At the beginning of 1994, in response to severe pressures on the part of some social circles, a group of MPs motioned in Parliament a proposal for lifting the moratorium. It was expected that after the proposal, 10 people with death penalties would immediately be executed. The BHC started a campaign against the proposal for lifting the moratorium. In the long run, the proposal was not adopted by Parliament, but the problem with the capital punishment will finally be solved with the forthcoming adoption of the new *Penal Code*. The prolonged keeping of people sentenced to

death in a state where their life is preserved only by the moratorium on capital punishment and the President's decision is undoubtedly a specific form of torture.

## **5. Children's Rights**

There is no doubt that the economic and cultural crisis in Bulgaria during the period of transition has affected certain categories of children. Bulgaria is a party to the *Convention on the Rights of the Child* (UNO, 1991). In order to ensure the effective implementation of the *Convention's* provisions, some legislative and practical steps should be taken. According to information provided by the Children at Risk Centre, established in 1994, the most frequent problems regarding the rights of children in 1994 were the following:

- Unemployed parents did not receive extras for their children and had other economic problems due to shortcomings in Bulgarian legislation;
- Poverty and severe living conditions in many Bulgarian families, leading to starvation and squalor, forced children to become beggars in some cases;
- Educational segregation affected Roma children studying in schools built during the former regime and offering special curricula and poor education;
- Many children (especially the homeless) were physically, sexually and mentally abused by their families and by others. There were cases of prostitute-trafficking of children to which the Judiciary remained nonchalant;
- There were cases of discrimination in admitting children in some schools, as well as discrimination of children whose parents have AIDS;
- Society has not found any effective mechanisms for integrating children at risk - drug addicts, juvenile prostitutes, etc.

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