

## HUMAN RIGHTS IN BULGARIA IN 1996

### Introduction

Throughout 1996 Bulgaria was governed by the Bulgarian Socialist Party (BSP) with Mr. Zhan Videnov as Prime Minister. After winning the Parliamentary elections in December 1994, the BSP had a stable absolute majority in Parliament. At the end of 1996 the government resigned; the period after the resignation was relatively long and accompanied by mass street demonstrations against the BSP rule. It is generally acknowledged that 1996 was a difficult year for Bulgaria. The economic, financial and bank crisis, the high inflation, the depression and unemployment, as well as the sharp drop in incomes were great challenges to the state institutions. The crisis affected mostly the ordinary people, and especially the social groups which, for different historical, cultural and political reasons, are unable to adapt to the conditions of Bulgarian society, or which were subjected to various forms of discrimination. The crisis affected the finances and the organisation of all state institutions, the legislative institutions included; in these institutions there were a lot of minor and major failures in the administration of justice.

### 1. Ratification of International Human Rights Instruments, Legislative Changes Affecting Human Rights

With few exceptions, as in 1995, almost no progress was recorded throughout 1996 with respect to human rights protection in Bulgaria. No international agreement on human rights has been signed or ratified and, as regards the international obligations already assumed by the country the situation has considerably deteriorated in many respects. Negative tendencies appeared in the domestic legislation that had been in obvious contradiction with the *Constitution* and the international law. Among the positive exceptions, it is worth mentioning the new *Regulations on Social Assistance*, adopted at the end of May. These regulations allow the refusals by social security authorities to be appealed. Thus, access to an independent and impartial tribunal was granted in a satisfactory way - a problem that has been repeatedly raised by the Bulgarian Helsinki Committee (BHC) during the last few years. For the first time after the beginning of the democratic process in Bulgaria, the new Regulations included also the recognized refugees in the groups that qualify for social assistance.

### 2. Independence of the Judiciary and Fair Trial

The legal system is, in general, in a bad state both in terms of organization and finance. Irrespective of this situation and the low credibility of the system, it was able to preserve its independence from the executive and legislative branches. Judicial control over the administrative acts has been functioning routinely, though it was not exercised in all cases of citizens' rights violations. There are, however, some categories of administrative acts for which judicial control is not available. Such are, first of all, the acts of layoffs of some categories of employees, as well as acts that refer to the country's defense and security, currency control, duties and customs. For some of these acts, there are serious grounds to believe that the lack of judicial control contradicts the standards of the *European Convention on Human Rights*.

One of the most serious problems of the judicial system is the delay in criminal cases as a result of poor coordination between the police, the investigation and the prosecutor's office. Many persons, who are arrested or detained, have to wait to be brought before court for over the maximum admissible under the law 9-month term of preliminary investigation, in some cases for over three years. Mr. Zdravko Traykov, Chief of the Central Penitentiary Administration and Mr. Angel Ganev, deputy Public Prosecutor said at a July press

conference that there were about 80 000 criminal cases that had been delayed over the 9-month period. The preliminary proceedings against about 2 500 accused and defendants had been delayed beyond the allowed term. Several applications by Bulgarian citizens, who have been detained for long periods of time on criminal charges, have already been filed with the European Commission of Human Rights.

Another serious problem related to fair trial is the lack of legislative regulations on the participation of a legal counsel for every detainee, with the measure for non-absconding, during the preliminary investigation. Article 70 of the *Criminal Procedure Code* provides for free legal assistance for several categories of accused; the detainees, however, do not belong to any of these categories. There is also no organized form of legal assistance in such cases. The ignorant detainees, or those with no money, take part in the preliminary investigation without a counsellor. The majority of signals about assaults and beatings during detention came from such categories of people, especially when they belong to the minorities group. In most cases this illegal abuse is used with the purpose of extracting evidence. (See *Torture and Ill-treatment of Detainees, Excessive Use of Force by Law-Enforcement Officials*).

During the summer the government drafted changes and amendments to the *Criminal Procedure Code*; these changes provide additional restrictions of legal counsel in preliminary investigation, including examination in the absence of a lawyer. Thus far, however, the draft law has not been submitted to voting in Parliament.

During the past year the detention procedure of delinquent juveniles in the Labor Education Schools (LES) was a source of a serious concern. The procedure is set up by the *Juvenile Delinquency Act* of 1958 and is an administrative measure. According to international standards, however, detention in LES constitutes deprivation of liberty, or imprisonment; it is applied as a punitive measure by the Ministry of Education acting on the proposal of the Local Commissions for Combating Juvenile Delinquency. The commissions are appointed by the municipal administration. The defendant cannot call witnesses; one and the same authority indicts and subsequently passes the sentence with no right of appeal. No council for the defense is allowed at any stage of the procedure, which is a gross violation of the *Constitution*. Reports published by BHC in May and by Human Rights Watch in September severely criticized this procedure which violates a number of standards of international law. In December the *Juvenile Delinquency Act* was amended, but the administrative nature of the procedure remained untouched. A semblance of appeal was introduced and the decision to detain delinquents in LES is only formally made by a judge.

In 1996, trials of former Communist Party and State leaders continued though rather slowly. In February, Todor Zhivkov, the former Bulgarian Communist State and Party leader, who was serving a 7-year-sentence for abuse of power, was acquitted by the Supreme Court on the grounds that during the time of the crime perpetration he enjoyed immunity from criminal prosecution in his capacity as head of state. Zhivkov, however, as well as several other former Party and State leaders, remained accused in some other lawsuits, including the forcible change of the names of the Bulgarian Turks during the '80s.

### **3. Freedom of Expression, Freedom of the Media**

Freedom of expression, including the freedom of media, is guaranteed in Articles 39, 40 and 41 of the *Constitution*. However, the restrictions in the *Constitution* and some other laws, are stronger than the restrictions in the *European Convention for the Protection of Human Rights*. Articles 39 and 40 allow the restriction of the right of anyone to express an opinion; these regulations can be even used to stop or confiscate printed matter or another information medium. This can happen when this right is used to the detriment of the rights and reputation of other persons, or to incite a forcible change of the constitutionally established order, to

commit a crime, or to incite animosity or violence. The respective restrictive regulation of Article 10, paragraph 2 of the *European Convention for Human Rights*, on the other hand, goes beyond the simple statement about "content". It provides for restriction of the freedom of expression "for the prevention of disorder or crime", i.e. when the expression poses an imminent threat of action. Article 41, paragraph 2 of the *Constitution* guarantees the right of citizens to obtain information from state institutions on any issues of legitimate interest. However, there is no law in Bulgaria that requires from the state institutions to provide information to citizens or organizations upon request.

In the beginning of June, upon the request of the President of the Republic of Bulgaria, the Constitutional Court adopted a decision which offered a binding interpretation of the Constitution with respect to the provisions that guarantee freedom of expression and the right to information. In this relatively liberal decision the Court defined freedom of expression as a fundamental human right, connected with the other fundamental human rights (e.g. the right to freedom of thought, conscience and religion). The Court ruled that the citizens' and legal persons' access to information cannot be restricted unless the restriction is explicitly prescribed by law and conforms with the grounds that are pointed out by the Constitution, moreover, only to ensure the protection of conflicting interest. The ban on publishing and broadcasting, as well as the confiscation of printed matter "shall be allowed only through an act of the judicial authorities". The Constitutional Court also made a pronouncement on some basic provisions of the future draft *National Radio and Television Act*. It ruled that the law must guarantee their independence and must serve as a barrier against any political and administrative interference in their activities.

In 1996 the basic problems related to freedom of expression were connected with the restrictive regulations of the *Radio and Television Act*, which was adopted in its final version in September. Closely connected with the Act was the problem of the political control over the national electronic media and the criminal prosecution of journalists for "insult and libel of public officials," mainly prosecutors.

The dispute on the final version of the *Radio and Television Act*, adopted with the parliamentary majority vote and with the fierce resistance on the part of the Opposition in the beginning of September, went on through the entire 1996. Initially, the law was returned to Parliament for reconsideration by the President of the Republic. After overriding the President's veto, the law was attacked before the Constitutional Court by a group of opposition MPs. Both the President's motives and the opposition MPs' request pointed out to the possibility, provided by law, to establish political control over the state and, in some instances, over the private electronic media. The law contains a number of rather narrow admission criteria for broadcasting news. It sets up a council (the National Radio and Television Council) established on purely political principles and dominated invariably by the Parliamentary majority. This Council, besides enjoying the right to select the leadership of the public media, has a wide range of additional powers and rights: to exercise continuous control over the media, both private and public; to approve the program schemes and all subsequent changes in these schemes; to exercise control over the execution of concession and licensing contracts already concluded on broadcasting radio and TV programs; to impose administrative discipline, including temporary suspension of certain broadcasts by administrative acts. The law actually deprives political parties, trade unions, religious and non-governmental organizations of broadcasting their own programs from and on Bulgarian territory. The law went as far as to pronounce the Bulgarian language as mandatory in all kinds of programs broadcast on Bulgarian territory; only by exceptions shall some programs in other languages be broadcast with the explicit permission of the National Radio and Television Council. This regulation places the ethnic minorities in a situation of being hostages of party interests. As regards the religious minorities, the provision is overtly discriminatory - the national radio and television shall broadcast messages and addresses on

the occasion of important religious holidays of the Bulgarian Orthodox Church; other officially recognized religions can get program time only for addresses to their believers.

All these problems were resolved, to a large extent, on November 14, when the Constitutional Court ruled out these provisions as anti-constitutional. The provision discriminating religious minorities, however, remained in the text - it was not contested by the Opposition MPs in their appeal to the Constitutional Court.

1996 was a year of an increasingly strict control over the national media. Right after the first dismissals of leading journalists in the Bulgarian National Radio at the end of 1995 (Yassen Boyadzhiev, Lilyana Popova, Galina Spassova, Chavdar Stefanov, Statul Karabashev, Alexander Velev, and Assen Mateev), the professional circles in the state electronic media were systematically subjected to different types of restrictions of their fundamental obligation to inform society. At the end of 1995 fifty-four radio journalists came out with a declaration, addressed to the Bulgarian Parliament, the President of the Republic and the representatives of all political forces; in it they emphasized "the consistent and deliberate policy of the leadership to suppress professionalism and the freedom of expression." A wide debate on the need to guarantee the right to freedom of expression was organized by the private media with the help of Bulgarian and international human rights organizations during the first months of 1996. The debate included a parallel discussion on the possibility to establish public electronic media that should be reliably protected against any party, group or economic interests.

Strict control was established in the national radio in the news broadcast of its main program "Horizont." No public control, even by the existing trade unions, was allowed. The program directors created an atmosphere of fear and obedience among the journalists by signing periodically short-term labor contracts and by cunningly using economic levers to remunerate the journalists' work. By the end of the year over 15 persons (Gita Minkova, Svetla Petrova, Diana Dimitrova who had protested, and Tsonya Subcheva and Diana Tsankova who had been dismissed) had left the national radio. Popular reporters and program leaders were fired on accusations of "disloyalty" to the institution. At the beginning of 1997 the journalists went on strike with demands to have censorship lifted and to bring to justice the authorities of the national radio.

The situation in the national television was similar. Mr. Ivan Granitski, its director, was removed by the same Parliamentary majority which had elected him before. His post was offered to Mr. Ivan Tokadzhiev, appointed as acting director of the national television. The main news programs and commentaries ("Otzvuk," "Plus-Minus") lost their critical character. The television's rating in the opinion polls sank to an all-time low. At the beginning of 1997, following the sharp political changes all over the country, the TV workers went on strike. Besides being dissatisfied with the low remuneration, they demanded the lifting of censorship. The strike committee made public conclusive facts about telephone coercion, manipulated news and program blocks, the transmission of "ordered" programs in the topical and cultural broadcasts.

The other serious concern with the right to freedom of expression was the criminal prosecution of journalists for statements against prosecutors. Such statements were subsequently branded as offensive or defamatory and the journalists were sentenced by courts. The *Penal Code* provides for *ex officio* criminal proceedings and the use of the state resources for criminal prosecution in libel cases against a "public official." Conversely, in libel cases against a private person, the criminal prosecution is initiated only after a petition of the victim. The case law in Bulgaria allow the prosecutor's office to indict in cases of libeling an "executive" even when the victim has not filed a complaint. The sentences prescribed by

Bulgarian law for libel of "public officials" are much more severe than sentences in cases of libeling private persons.

In June, the Blagoevgrad District Court confirmed the sentence on a journalist - six months' effective term of imprisonment - for libelling the Chief Prosecutor Ivan Tatarchev in an interview with a Sofia lawyer. On February 20, two journalists from the *24 Chasa* (24 Hours) and *Trud* (Labor) newspapers were arrested in Smolyan on charges of libel against a prosecutor. They were subsequently released from detention and the investigation concluded with the statement that no crime was committed since there was no intent of libel. Such was also the ruling of the District Prosecutor's Office. On appeal, however, the Sofia City Prosecutor's Office supported the indictment that is still upheld. Accusations against journalists for "libel against public officials," mainly prosecutors, were brought in several other cases during the year. They, however, did not result in prison sentences at any of the stages of the criminal procedure. In one of the most widely publicized cases, Mr. Plamen Kamenov, editor-in-chief of the *Noshten Trud* newspaper, received a four-month suspended sentence for having published a blank form with the signature of the Chief Prosecutor, ordering the search of the President's Office. The blank form was filled in by the Editor's office. In the course of the case, it was established that the Chief Prosecutor's signature on the blank form was genuine. Nonetheless, the journalist was sentenced. Several jurists commented the case as a completely legitimate journalistic trick to protest against arbitrary decisions that could be used against any person.

In 1996 several cases were recorded in which religious books were confiscated in flagrant violation of the freedom of expression, as well as of the freedom of thought, conscience, religion, and belief. With respect to Jehovah's Witnesses, such acts of confiscation by the police have already become a routine. Here are two typical cases: On June 20, in the town of Assenovgrad, policemen broke up a peaceful assembly and took over 46 books, as well as booklets and cassettes with religious content, from Jehovah's Witnesses. On September 6, in the town of Dimitrograd, the police searched the house of H.H. and seized 130 journals and books professing the doctrines of Jehovah's Witnesses.

#### **4. Freedom of Association and Peaceful Assembly**

During the year, the right to freedom of association and peaceful assembly was guaranteed for the majority of Bulgarian citizens. The *Constitution* and the *Law on Political Parties* provide for the discriminatory ban on the formation of political parties "on ethnic, racial or religious lines." During the year, however, these provisions, as far as we know, have not been enforced by the courts. During the entire 1996 the freedom of peaceful assembly continued to be a serious problem for some ethnic and religious minorities.

The repressive policy with respect to groups with Macedonian self-identification continued with practices similar to those used in past years. On February 4, the police broke up a meeting behind closed doors of a splinter group of UMO "Ilinden" ("Democratic Movement" with Mr. Ivan Singartyiski as leader). The meeting was held in the cafe "Ilinden" in the village of Musomishte, near Gotse Delchev. The assembly was disbanded on the order of the Blagoevgrad District Prosecutor, issued in advance; the meeting was banned lest some anti-state problems might be discussed. The old banner of the Republic of Macedonia, the portraits of the Macedonian heroes, Gotse Delchev and Yane Sandanski, the statute of the organization and the report of its President, Mr. Singartyiski, were all confiscated. On April 21, the police, as in previous years, prevented UMO "Ilinden" activists from celebrating the anniversary of Yane Sandanski's death at the Rozhen Monastery; the police stopped and searched the activists' cars in the outskirts of the village of Losenitsa. Film and press materials for the celebration were confiscated. Several days before, two persons from the same group were beaten by a civil policeman while they were putting up posters to announce the event. On

May 4, at the Blagoevgrad railway station, twelve UMO "Ilinden" activists were arrested because they refused to obey the police and prosecutor's orders which banned the celebration in front of Gotse Delchev's monument in the town. They were taken from the railway station to the regional police station. There they were detained for about four hours; then they were taken into police cars and thrown out of the cars onto the road from Blagoevgrad to the town of Sandanski so that it was impossible for them to come back. On June 8, in the town of Sandanski, 25 persons from UMO "Ilinden" were arrested by the police and detained for the whole day; the aim was to prevent the organization from holding a congress in a hall of the American University in Blagoevgrad. The same day, at the Petrich railway station, another six persons were detained; in Blagoevgrad - yet another 11 persons. On June 10, five members of the same group were arrested by the Blagoevgrad police and forced to sign a warning protocol, which forbade them to hold the congress. Another 30 persons were warned, without being arrested, that their event was illegitimate. The District Prosecutor's Office banned the congress, and the University authorities refused the use of the hall that had been rented in advance.

The attitude of the authorities towards some religious minorities followed the same pattern. Even groups, recognized as religious denominations, such as the Society for Krishna-consciousness, had serious problems with some local authorities when deciding to hold open-air events. In June, the city administration of Varna did not allow the Society's local branch to hold an open air celebration, motivating its refusal by the lack of registration in the municipality (such a registration is an obligation of the municipality itself when the group is registered with the Directorate of Religious Affairs) and also by "the accumulated negative attitude towards the Society for Krishna-consciousness in the city of Varna". Also in June, the municipal administration of the city of Burgas banned an open-air celebration of the Society for Krishna-consciousness. In June, the Plovdiv municipality prohibited the Church of Jesus Christ and Latter-day Saints (the Mormons) from holding a public event in the city park. A similar case occurred at the same time in the town of Pernik with the Church of the Seventh-day Adventists. In 1993 the municipality of Pernik issued a regulation "imposing a moratorium on the public events of churches other than the ones that are traditional for the country until a new law on religions and denominations is passed."

The problems of the religious communities, labelled in advance as "dangerous sects," were even more serious. In April Mr. Matanov, Director of the Directorate of Religions Affairs, banned Jehovah's Witnesses from holding their congress in the "Hristo Botev" sports hall in Sofia. In May, municipal officials from the "Serdika" district in Sofia denied the local division of Jehovah's Witnesses access to a community center on Timok Street; this center had been used by them as lecture hall for a long time. In August the police broke into a private hall in Sofia, interrupted the gathering of the religious community Word of Life, labelled long ago as "a dangerous sect" and explicitly denied the congregation any access to this hall in the future. In a similar manner, the congregation of Jehovah's Witnesses in the town of Assenovgrad was disbanded. In both cases, journalists were summoned to the places of police actions, and "the events" - disbanding prayer gatherings - were covered in the central news broadcasts of the national TV stations, accompanied by commentaries, overtly supporting the police actions (see Freedom of thought, conscience, religion or belief).

## **5. Freedom of Thought, Conscience, Religion or Belief**

In 1996 no progress was noted in guaranteeing the right to freedom of thought, conscience religion or belief. In some areas a disturbing backlash was observed as regards some important issues, such as the obligation of the state not to interfere in the internal affairs of the religious communities and not to allow police outrages on citizens just because they are members of a religious community that is not tolerated by the authorities. During the year, as

a whole the legislative framework, regulating the religious communities' activities in Bulgaria was not changed, with two exceptions only. The first exception refers to the discriminatory provisions of Article 67 of the enacted *Radio and Television Act* that discriminates religious minorities. (See Freedom of expression, freedom of the media.) The second exception is a special clause in the *Law on Community Centers*, passed in October 1996, which prohibits the use of community halls by congregations of religious communities. This prohibition will have serious repercussions on the small and/or new religious groups, which do not have their own prayer homes and part of whom rent community centers' reading halls for their gatherings.

The main problems with the freedom of thought, conscience, religion or belief during 1996 included:

- Direct and biased discriminatory interference of the state and municipal administrations in the internal affairs of the religious communities;
- Different in type and intensity abuses by the police in its relations with religious minorities;
- Criminal prosecution of conscientious objectors who refuse to join the armed forces;
- Discriminatory suspension of custody of persons belonging to religious communities which have been declared as harmful.

In February, Mr. Boncho Assenov, a former officer with many years of service in the political police of the former communist regime with special functions of supervising the religion, was appointed as counsellor in the Directorate of Religions Affairs. Later, after the resignation of Mr. Hristo Matanov, Mr. Assenov was made the chief official in the Directorate. This appointment indicated clearly that the government was stiffening its repressive attitude towards the religious minorities, especially towards these factions of the large religious communities that were not loyal to the government.

The old practice of the executive power's interference in the internal affairs of the large denominations in Bulgaria - the Eastern Orthodox Church and the Muslim religion - continued in 1996 also. There is a deep internal schism in both religions. Instead of observing neutrality in the wrangling between the antagonistic groups the executive power repeatedly and openly sided with the loyal supporters of the government: in the Eastern Orthodox Church - with Patriarch Maxim's wing, and in the Muslim religion - with the group headed by Nedim Gendjev. On March 18, priests from Patriarch Maxim's Synod took over by force the candle-workshop in the district of Ilienti, which had been run by the competing Synod of Pimen since 1992. The occupation and the counter-occupation continued for 38 days under the relentless support of the government for Patriarch Maxim's group. The police refused to execute the order issued by the Sofia City Prosecutor's Office and by the Chief Prosecutor's Office to put an end to the abuse of property.

At the beginning of July, Pimen's Synod held a sobor (the chief governing body of the Orthodox Church) where a new Synod and a new Patriarch (Patriarch Pimen himself) were elected. After the sobor, the new Synod filed an application for recognition. The government however responded with silence. On December 13, the Supreme Court repealed the tacit refusal, but following its usual practice, refused to pronounce on the merits of the case. It prescribed to the Council of Ministers to reply to the application in written form. The very same day, the Directorate of Religions Affairs registered the Holy Synod of the Bulgarian Orthodox Church headed by Patriarch Maxim.

The situation with the Muslim religion is similar. The Supreme Court, with its decision dated October 14, 1996, cancelled the refusal of the Council of Ministers to register the Statute of the Muslim Religion. This Statute was adopted at an extraordinary National conference, held on March 6, 1995, which also elected the religious leaders headed by Chief Mufti Fikri Sali. However, the executive power refused to take the necessary actions resulting from such a

decision and did not register the new Statute and leaders. Thus, it continued to recognize as Head of the Islamic Spiritual Council Nedim Gendjev who had been appointed with an administrative act.

Many actions and inactions of the central and local governments continued the old hostile practices with respect to the Muslim and Protestant minority religions. In 1996, there were several cases when actions were taken to block the construction of buildings; schools destined to meet the needs of these religions were closed down. In January, the Governor of the Haskovo district banned the construction of a mosque in the village of Zhulti bryag, near Stambolovo. A private Muslim religious high school in a village near Russe was closed down in June. Again in June, the Ministry of Education, Science and Technologies closed down the private primary school, connected with the "Shalom" Christian church in the town of Lovech after a highly critical article had been published in the then pro-governmental newspaper *Duma*. This school was part of the "Schools of the Future" chain which exists in 107 countries throughout the world.

Some media and private groups also contributed actively to fanning hysteria about the property of some minority religious communities. In August, in the village of Komatevo, near Plovdiv, the Protestant Christian Church "Emmanuel" constructed a building to be used as a prayer house. Instigated by the mayor of the district "Yuzhen," a petition of 2 000 signatures was presented against the Church to stop the construction. The windows of the building were smashed. Pastor Ivan Nestorov's father was beaten. At the beginning of September, the building was sealed and the mayor of the district "Yuzhen" asked Pastor Nestorov to hand over the building as a gift to the district "Yuzhen," so that it could be turned into a polyclinic. Similarly, during the summer, in Varna, a media campaign was launched against the construction of a Methodist Church. Methodists have a century-long presence in Bulgaria. Subscriptions and all-day protests were organized against the "shameful building" and the "national betrayal." Finally the construction was terminated in July. In February, the commission on constructions at the Municipal Council of Vidin refused to give permission for the construction of the Bulgarian United Church of God in the local Roma district "Nov Pat". The building, constructed without permission, is threatened by demolition. By the end of the year similar events occurred in Stara Zagora, where on the initiative of the local head of the Eastern Orthodox Church, Bishop Pankratii, and of the press, over 2 000 signatures were collected and the municipality was asked to stop the forthcoming construction of a prayer house of a division of the Bulgarian United Church of God. In this case the campaign has still not brought the project to a standstill, largely due to the Municipality's efforts to resolve the conflict.

During the year, attempts were made by the local authorities to fight some religious sects by adopting legislative acts, which are in conflict not only with international law, but also with the domestic legislation. Thus, on September 18, in the city of Plovdiv, the Municipal Council adopted *"Regulations for Observing Public Order in the Activities of Religious Communities on the Territory of the Plovdiv Municipality."* Article 5 of the Regulations bans the entry in the municipality's registers of denominations that are "a Bulgarian branch of a religious community banned in another country." This is not only absurd; it is also a flagrant violation of the Denominations Act which does not give any discretionary power to local administrations when registering divisions of denominations which have already been registered with the central authorities

Several complaints were filed with the Bulgarian Helsinki Committee and with NGOs, working for the protection of the freedom of conscience and religion; the complaints refer to labor discrimination based on religious grounds. In the most drastic case, V.Ch. from Plovdiv was dismissed from her teaching post in a kindergarten only because she had visited, together with her daughter, the Regional Congress of Jehovah's Witnesses in Romania. In 1996, the

Theological Faculty at the State University of Sofia "St. Kliment Okhridski" was still carrying on its practice of requiring from candidates submitting applications to the Faculty of Theology to present an East Orthodox birth certificate. This requirement is written in the *Internal Regulations on Applying for the University of Sofia*. In the summer of 1996, the application forms of D.S.B. and K.E.K from Sofia were not accepted and the young people were thus deprived of the possibility to take part in the admission competition because they were unable to present such certificates.

After the new *Law on Community Centers* entered into force, some cases were recorded when the Community Centers authorities had cancelled contracts already signed with minority religious communities about holding certain events on the premises, since the Law bans the use of the Centers Reading Rooms for religious purposes. Such was the case with the Methodist Church in the city of Shumen in October.

In 1996 there were cases of discriminatory banning of open-air meetings by municipal authorities, as well as of police actions to disperse meetings of minority religious communities held indoors. (Cf. Freedom of association and peaceful assembly).

With its actions, and above all, with the use of illegal violence in a number of cases, the police also contributed to the general climate of witch-hunting in which some religious communities were compelled to live. On November 27, one of the most flagrant violations of the religious rights of Bulgarian people was committed. Two young followers of Jehovah's Witnesses were severely beaten by policemen in a residential block in the district of "Krasna Polyana," the residents of which are mostly officers from the Ministry of the Interior. The two men were trying to proselytize in a flat. The beatings lasted for a long time, then the victims were arrested and taken to a regional police station in Sofia where they were detained throughout the night and were allegedly beaten again. Lawyers were allowed to visit them only after long negotiations with the police. After their release one of the men was taken to the Emergency Hospital Pirogov and had to stay in the intensive care ward for two days. On September 5, in the city of Assenovgrad, I.S.H. and P.D., both Jehovah's Witnesses, were detained for a short time in the local police station because of having talked to a disabled person offering him some religious books to read. Two Bibles were confiscated.

Another serious concern related the freedom of thought, conscience, religion or belief in Bulgaria is the right to alternative military service. It is guaranteed by the *Constitution*, Article 59, paragraph 2. This article, however, refers to a law that is not yet adopted (although it had to be adopted by 1994). On the other hand, the *Penal Code* stipulates up to three years of imprisonment for refusing to carry out military obligations. In 1996, there were at least seven cases when criminal proceedings were started against young men because they objected to serve in the army on religious grounds. Moreover, the court procedure was tightened because the people, against whom the proceedings were initiated, had already a suspended sentence. When a second sentence is passed, the term of the previous suspended sentence is added to the new one. Such was the case with Deyan Dimitrov, a Jehovah's Witness from the city of Popovo, who after being sentenced on September 9, was taken to the Belene Island prison with a 9-month sentence. The term in prison was the sum of a four-month suspended sentence and a six-month effective sentence. Moreover, such cases are treated by the law as continuing crimes, in which the convicted persons, after their release, are threatened by new criminal proceedings in case they object again to serve in the army.

In June, a draft *Law on Alternative Military Service* was prepared by the Ministry of Defence; this draft was not submitted to Parliament. The draft Law envisages a twice longer service for conscientious objectors, which is a punitive length of service. The whole procedure shall be organized and supervised by the military and the work itself in "the alternative service" shall serve the purposes of the military and will be supervised by it. Moreover, the oath is not

suspended for the conscientious objectors. And finally, this travesty of alternative service is conceived only for people with religious beliefs, but not for pacifists, and the refusal to grant such a service is not subject to judicial review.

During the entire 1996, as in the preceding years, there were several divorce cases where the courts refused to grant custody to mothers only on the grounds of the latter's belonging to minority religious communities. At least three such cases were reported - in the cities of Dobrich, Sevlievo and Simitli. Here is an example: the District Court in Balchik refused to give M.R. from Dobrich custody over her seven-year-old daughter, and gave these rights to the father, an officer from the Ministry of the Interior, only because the mother belonged to the Church of Seventh Day Adventists - a religious denomination with century-long traditions in Bulgaria. The ruling of the court sounded quite odd - "the religious denomination professed by the Defendant is officially registered, does not incite any violence, but at the same time it is different from the traditional Eastern Orthodox religion, adopted by the State... the woman had to comply with his [her former husband's] requirements, which she has not done and has remained a passionate adherent to her religion, and by doing so she has strained her relations with her husband and impaired the exercise of her maternal duties." In this case, as well as in a number of other cases, the judicial power did not only decide the fate of several persons on the basis of its own prejudices, but also conveyed an overtly discriminatory message to the religious minorities regardless of the fact that part of them have been integrated in the cultural life and ethical codes of Bulgarian society for centuries now.

The reaction of the greater part of the minority churches in Bulgaria, even of those officially recognized, to the discriminatory acts of the authorities, was in most cases hesitant because of the fear of reprisals. Some of them (for instance the Catholic Church) never reacted, even when their own interests were infringed. In January eight Protestant religions, duly registered according to the *Denominations Act*, and with a century-long presence in the country, adopted and published a declaration against the smear campaign in the media and against the intolerance, cultivated by the local authorities. The declaration, however, did not discuss the discriminatory acts and practices of the central administration.

## **6. Torture and Ill-Treatment, Excessive Use of Force by Law-Enforcement Officials**

Bulgarian legislation provides a weak defense against the illegal use of force with respect to detainees. Article 30, paragraph 4 of the *Constitution* guarantees the right to legal counsel from the moment of detention, but the *Criminal Procedure Code* does not provide guarantees for the presence of a legal counsel for all categories of detainees (Cf. Independence of the Judiciary and fair trial). The possibility of medical expertise provided by a medical doctor of the detainee's own choice does not exist, either.

In 1996, many cases of ill-treatment of detainees and excessive use of force by law-enforcement officials were documented. The majority of these cases involve victims of Roma origin. Part of the victims have received or are going to receive satisfaction in the framework of the disciplinary procedures within the police or in the criminal court system. In June, the Military Court sentenced five policemen to different terms of imprisonment for murder resulting from the physical abuse of Hristo Hristov in a Sofia police station in April 1995. On appeal the Supreme Court confirmed the sentences by slightly reducing them. In September, two policemen in Varna were sentenced each to 15 years imprisonment for deliberately causing the death of Georgi Todorov after physically abusing him in order to extort a confession. A large part of the abuses, however, remained unpunished. The victims, as well as their relatives, find it very difficult to obtain satisfaction due to the fact that according to the *Penal Code*, criminal proceedings for crimes committed by persons acting in their official capacity of law-enforcement officers, are initiated only by the Prosecutor's Office. There is no possibility for the victim's participation and for judicial review of the refusals by the

Prosecutor's Office. On the other hand, the civil courts are obliged to interrupt the procedure and signal the Prosecutor's Office in case a criminal act is established. The reopening of the civil case is possible only after the termination of the criminal procedure.

The majority of the cases including torture, ill-treatment and excessive use of force by the law-enforcement officials, announced during the last few years by human rights organizations, remained unsolved in 1996. Some were dismissed with a refusal to indict the perpetrators.

Two cases of homicide, committed under circumstances that aroused serious suspicion of ill-treatment by police officers, were announced in the printed media and by non-governmental organizations during the year. On January 29, in a police station in Razgrad, the 17-year old Roma Angel Zubchikov died evidently as a result of physical abuse. His parents, however, were told that he had fallen down and had fractured his skull. Later the version was changed into intoxication as the possible cause of death. The investigation into Zubchikov's death has not yet terminated. In another case on April 15, Ivan Benchev, after being released from the police station, where he was detained for a false bomb scare, was abducted and beaten to death by a group of persons. Subsequently, during the investigation, it turned out that this group was organized by three police officers and comprised some former police officers, who were working for a private security company. The police officers who had organized the beating were dismissed and handed over to the Military Prosecutor's Office.

In June 1996 Amnesty International published its report "Bulgaria: Shootings, Deaths in Custody, Torture and Ill-treatment." The report describes seven deaths of detainees under suspicious circumstances; three incidents when policemen had fired against citizens out in which six people had been shot; and seventeen cases of torture and ill-treatment, involving dozens of victims. All these cases were the result of excessive use of force by law-enforcement officials in Bulgaria. This gruesome record continued after June. It included mass assaults and battery of districts and groups of people, as well as individual cases of excessive use of force. On August 28, about 200 policemen broke into the Roma part of the Filipovtsi district of Sofia for an "identity card check". According to evidence produced by witnesses the policemen were armed with sub-machine guns and some had brought police dogs with them. The identity card check was allegedly accompanied with assaults and battery, and robbery of people and retail shops. Almost all people who could not produce an identity card or document were beaten up on the spot. The policemen broke into shops and allegedly took cigarettes, soda water, smoked bones for their dogs and money. Kiril Angelov, a 50-year-old witness to the scene, claims that when he asked the policemen about the reason for the action, he was brutally beaten up. According to the victims' evidence, the policemen who were armed with sub-machine guns, entered the district school yard and ordered the children to raise their hands and to turn to face the wall. Some of the children were ill-treated.

The victims of individual abuses by law-enforcement officials were numerous. On July 17, in the village of Lessura, military policemen shot dead two Roma who were fugitives from the barracks. On August 16, a Roma was killed in Elin Pelin by the President of the local Municipal Council. On August 28, a Roma was shot down by policemen near the town of Vidin and his friend was beaten after being tied to the central heating radiator in a police station. The victims of abuse were, however, not only Roma. On May 5, Ivailo Gergov and Milen Tsolov were beaten up in the Regional Police Headquarters, Sofia. They had been detained under suspicion of having taken part in the killing of three policemen by criminals on May 3.

In September Human Rights Watch Children's Rights Project published its report "Children of Bulgaria: Police Violence and Arbitrary Confinement," written after a fact-finding mission in Bulgaria and interviews with children, representatives of the authorities and of some

human rights organization. In this report, Human Rights Watch points out that a large part of the street children are frequently ill-treated, or subjected to other forms of abuse by the police and skinheads. The risk of excessive use of force against such children is even higher in the police stations in case of detention. The report recommends that an immediate investigation should be conducted into all cases of complaints of violence against children; that criminal responsibility should be sought from the responsible persons; that a special expert commission for the investigation of the conduct of law-enforcement officials should be established; that the police should be educated and trained to respect human rights; and that an ombudsman should be appointed to inquire into the children's complaints. After the publication of the report, the authorities and the pro-governmental media came out with open attacks against the allegations in the report and totally denied the accusations.

In 1996 for the first time after the beginning of the democratic changes in this country, police assaults on homosexuals were also made public. On June 9, policemen from a district police station in Sofia assaulted the gay and lesbian centre "Flamingo" under the pretext of combating pornography. All available printed materials, office equipment and the files of the 2 000 centre members were confiscated. Three staff members were arrested, and one of them was shown on national television the same evening, the entire action being commented upon in a derisive and abusive tone. Subsequently, the members were released after being detained in the police station for 10 hours. The same day the police raided an erotic centre on Veslets Street in Sofia and confiscated all videocassettes. Two days later the police surrounded a gay beach in Varna and arrested several persons for a short time.

The response to and the investigation (if any) into the cases of excessive use of force by law-enforcement officials were very rarely adequate to and in compliance with the requirements of international law. In its reply, dated September 6, 1996, to the report by Amnesty International, the Bulgarian Ministry of Foreign Affairs announced that inquiries in only 16 of the cases, described in the report, had been conducted. In its November communique, Amnesty International commented that the information about the cases was found to be insufficient. Bulgarian authorities offered no information on three death cases in detention centres which occurred under suspicious circumstances. In the remaining four cases, there are no police officers charged with criminal offence. At a number of public meetings with Bulgarian NGOs, the representatives of the police and the prosecutor's office did not show a desire to carry out an investigation into the cases under consideration.

## **7. The Right to Inviolability of Privacy, Home and Correspondence**

In March, at a plenum of the ruling Socialist Party, Andrey Lukanov, former Prime minister of Bulgaria, who was later shot dead in Sofia, declared that the police had resumed the old State Security methods and were spying on politicians and other persons. In several other cases persons and groups, engaged in public activities and looked upon unfavourably by the authorities, were subjected to evident spying and search by the security services. In the middle of March, activists of the Human Rights Project and the Bulgarian Helsinki Committee were repeatedly searched and frisked by the Sofia airport customs officers, by order of security officers, on their way to and back from Greece where they had gone to take part in the "Regional Security and Human Rights in South-Eastern Europe" Conference. Some of their printed materials were confiscated. In December a public scandal erupted after the announcement that the telephones of the Union of Democratic Forces, the largest opposition political organization in Bulgaria, had been tapped during the presidential election campaign. The subsequent investigation, conducted by the Military Prosecutor's Office, confirmed these accusations and instituted criminal proceedings. In several other cases, organizations for the protection of Roma rights also informed the public about instances of state security's spying over their activities.

## **8. Conditions in Prisons**

During the year the main problem with prisons was the fact that the number of detained on remand constituted a large part of the total number of prisoners in Bulgaria. Out of a total 10 000 prisoners, almost 4 000 were on remand, i.e. about 2/5 of the total number. In many places this created serious difficulties in separating them from those convicted. Data from July shows that out of the 1 000 inhabitants of the Central Sofia prison, only 240 were convicted, and in the Boychinovtsi juvenile prison only 33 out of 177 boys were convicted. Moreover, as a rule the accused and defendants do not work, and consequently cannot benefit from the reduction in sentence envisaged by law (two working days are counted as three days in prison). This creates additional tension. In part of the prisons food and heating are insufficient during the winter. In several prisons hunger strikes were staged and suicide attempts were reported.

In September the Ministry of Justice issued an amendment to *Regulation N 12* about the situation of prisoners on remand; this amendment authorizes prison directors to undertake extra measures in order to isolate the detainees who "threaten the security in the prison or correctional institution." Thus far, such measures have been possible only with respect to those sentenced to death or by a prosecutor's order.

In the first half of 1996, a representative of the Bulgarian Helsinki Committee visited several Labour Education Schools in order to get acquainted with the conditions of confinement of juveniles. Conditions in some of the schools were found to be highly inadequate and did not comply with the standards of children's confinement conditions. Besides the cases of utter misery, several cases of systematic physical abuse of children were documented.

## **9. Death Penalty, Extrajudicial Executions and "Disappearances"**

Throughout 1996 the moratorium over the execution of death penalties, imposed in the summer of 1990, continued to hold. The courts, however, were still giving death penalty verdicts and the total number of those sentenced to death increased. In not a single case, however, had all appeal procedures been exhausted, so the total number of the persons sentenced to death with confirmed sentences remained unchanged. The situation of persons with death sentences and exhausted domestic procedure continued to deteriorate. Some of these persons have been on death row for seven years now. Evidently, as a result, irreversible processes of personal degradation have affected them.

The attitudes of the authorities and society towards the death penalty remained rather repressive. On June 6, Mr. Nikolay Dobrev, Minister of the Interior, sent a letter of appeal to the Speaker of Parliament and the Chairmen of several parliamentary committees with the proposal to lift the moratorium on the execution of death sentences. This proposal was not considered by Parliament.

In 1996 there were several highly publicized cases of armed conflicts between mafia groups to settle controversial questions. A number of people were killed in the clashes and the mass media covered the events widely. On October 2, Andrey Lukanov, former prime minister of Bulgaria, was arrogantly assassinated in an obviously commissioned murder. There is no information, however, that organized extrajudicial executions and cases of "disappearances", tacitly supported by the government, exist in the country.

## **10. Protection of Minorities, Problems of Citizenship, Aggressive Nationalism and Xenophobia**

The general low level of protection of the ethnic identity of the minorities in Bulgaria remained unchanged during the past year. In many respects the attitude of the government towards some ethnic groups still bore the stigma of the communist system's oppressive policy towards the minorities. By the end of 1995 and in the beginning of 1996, some representatives of the Turkish minority expressed their wish to improve the teaching of the Turkish language by including it in the regular school curricula, and also by teaching some topics in Turkish. In January, Academician Ilcho Dimitrov, Minister of Education, who had also been Minister of Education during the campaign of forcible renaming of the Turks in the '80s, declared that: "Turkish schools will not be allowed to exist in Bulgaria, this should be clear to them. If they want Turkish schools, they are free to go to Turkey."

The integration of the Roma minority continues to be an extremely serious problem for the country. The Roma are subjected to different forms of discrimination in all spheres of social life: education, employment, housing, social security, medical care, etc. Almost no progress was made in the teaching of their mother tongue (Romany) in schools. Instruction in the mother tongue was limited to a small number of schools which is highly inadequate for the needs of the community. In the other spheres, the education among the Roma community is of low quality, with inadequate material conditions and staffing; only in a few cases does the education fall under the control of the Ministry of Education. The level of unemployment among the Roma is several times higher than that among the remaining part of the Bulgarian population. The Roma were seriously affected by the economic collapse during the second half of 1996. By the end of the year there were several reports in the press about Roma who had died of starvation. The conflicts with law-enforcement officials also increased in number. During the year many Roma were victims of excessive use of force by police officers (See Torture and ill-treatment, excessive use of force by the law-enforcement officials). There are very few Roma who in one way or another are involved in the political decision-making process, not even when problems concerning their community are discussed. The number of Roma working in the police force is negligibly low.

The official reaction of the authorities on Roma issues is contradictory. In May the Higher Certifying Commission at the Council of Ministers refused to confer a degree to a specialist on Roma culture on the grounds of "putting on an equal footing Gypsy and Bulgarian culture." On the positive side should be mentioned the enhanced sensitivity and awareness of society and the authorities that the Roma problems need an urgent solution. The government, however, from sheer inertia, still clings to the old tradition of treating the Roma problems as predominantly social; there are no discussions whatsoever about the ethnic discrimination of Roma, nor has it ever been recognized. This is also the spirit of the *Programme for Solving the Problems of the Roma in the Republic of Bulgaria*, drafted in 1996 and adopted by the Council of Ministers on January 30, 1997, with *Decree No 163*. This programme envisages measures to provide employment, land lease, support of house construction, health care for the Roma population, encouraging Roma children to stay in school and the advancement of Roma culture. On the other hand, the programme provides for "early professional orientation" of Roma children as a principle of the educational policy for Roma, an idea which enjoyed great popularity under the totalitarian regime and for some time afterwards in certain circles after its collapse. The program, however, makes no provisions for any measures to be taken to strengthen the very inefficient and practically non-performing system for protection against discrimination.

The problems of the Roma continue to be absent from the important forms of public discussion in Bulgarian society. The Roma are almost entirely neglected by the electronic media, and printed publications all too often employ racist stereotypes in describing them.

No progress was noted in the relations between the authorities and the Bulgarian citizens who have identified themselves as ethnic Macedonians in 1996. By the end of May, the then Prime Minister Videnov, in reply to a parliamentary investigation, reaffirmed the position of several Bulgarian governments that Bulgaria will not satisfy the Macedonian conditions that bilateral contracts be written in the Bulgarian and the Macedonian languages. He said that the government has no intention to acknowledge "the term 'Macedonian language'". The result of these attitudes was that the Bulgarian citizens with Macedonian self-identification faced a number of problems in their relations with the authorities, which, in some cases, brought about serious human rights violations (Cf. Freedom of association and of peaceful assembly).

## **11. Political Asylum, Rights of Foreigners, Family Reunification**

The institutions which should guarantee the legitimacy and the observance of the rights of asylum seekers, refugees and foreigners are no exception in the context of the continuing general crisis of the rule of law in Bulgaria. After the *Procedure for Granting Refugee Status* was enacted in 1994, the first court hearings of appeals against refusals to grant refugee status by the National Bureau for Territorial Asylum and Refugees took place in October 1996. The Bulgarian Helsinki Committee offered legal advice and representation during the appeals. It turned out that even the judges were ignorant of the existence of *the Regulations for Granting and Regulating Refugee Status*. The case files had not been read in advance by the judges. The refusals also generated the additional problem with those asylum seekers who had been refused refugee status and whose refoulement was impossible because of the real threats to their safety in the countries from which they were fleeing.

Another key problem is the lack of information on refugee issues in most state institutions which deal with foreign citizens in Bulgaria. During most of the contacts established by the Office of the UN High Commissioner for Refugees and by the Bulgarian Helsinki Committee's Project for Legal and Social Protection of Refugees it turned out that the state institutions used only the *Law on Residence of Foreigners* and did not know about the existence of the *Regulations for Granting and Regulating Refugee Status*.

The sluggishness of the state bureaucratic machinery in granting refugee status is disturbing. Since the beginning of 1997, only 209 persons have been granted such a status (out of 1 585 applicants, whose registration had started as early as 1993). In some cases the procedure has lasted for over three years. It was only in February 1997 that the first documents certifying refugee status were issued. The lack of such documents raised obstacles, and in some cases made it absolutely impossible for refugees to be employed, to marry, to travel within the country and abroad. The problem of the applicants' possibility to enter into civil marriage is still unsolved, especially for persons who have no documents other than those issued by the National Bureau for Territorial Asylum and Refugees. The very process of the refugee applicants' registration encounters a lot of difficulties caused by the Bureau officials. Many petitions have been filed with the Bulgarian Helsinki Committee by persons to whom registration has been denied on grounds which have nothing to do with the law. At border checkpoints, airports included, there are still no registration offices; quite often asylum seekers are immediately sent away to different parts of the world, without even being given the possibility to present their case. The practice of prolonged detention of persons in transit halls for days on end, sometimes even weeks, still continues.

The restrictive measures, taken by the government during the year in order to stop the flow of migrants into the country, also had a negative effect on refugees. Until recently Bulgaria was one of the few countries freely offering visas to visitors from the Third world countries; now a trend is observed of restricting entry to Bulgaria, even for those who really need asylum.

The improvement in the dialogue between the NGOs and the governmental refugee organizations should be noted as a positive moment. The ideas and the work of the NGOs serve as a catalyst in improving the work of the National Bureau for Territorial Asylum and Refugees.

As a result of the efforts of the Bulgarian Helsinki Committee, the integration of refugees into Bulgarian society has achieved a certain success. Against the background of the insufficient information on refugee issues in Bulgaria, the experience in publishing the BHC Newsletter *The Refugees - Today and Tomorrow* has had a positive impact. Besides the valuable information provided for political asylum seekers and refugees, the newsletter offers asylum seekers and refugees the possibility to acquaint society with their own problems.

During the year, there were several cases of violence committed by racist groups, such as skinheads and others, against refugees, asylum seekers and coloured foreigners, which were left unpunished by law-enforcement officials. In one of the scandalous incidents in January, skinheads attacked and beat the first secretary of the Chinese Embassy in Sofia, obviously acting from racist motives. In several other cases, the assaults of racist groups resulted in foreign citizens being seriously injured. Such cases were not properly investigated by law-enforcement officials. BHC possesses also information about cases of police abuse motivated by racism. The situation of Africans is extremely desperate. They suffer not only from excessive use of force but also from some more covert forms of racial discrimination on the labour market - employment is refused because of the colour of their skin, regardless of their qualifications. And in the cases when they are employed, they are obliged to give part of their pay to the remaining workers so that they can stay at work.

## **12. Freedom of Movement**

No restrictions on the free movement of Bulgarian citizens inside the country were recorded during the year. But the chances of Bulgarian citizens to travel to many countries, in particular in Europe, are severely limited because of the harsh visa restrictions introduced by these countries. As in the preceding years, in 1996 too, the process of receiving a visa, especially for the large European countries, involved a procedure that is both time- and nerve-consuming, and requires a lot of effort and material resources.

## **13. Free and Fair Elections**

Regular presidential elections were conducted on October 27 and November 3. They were convincingly won by the contender of the opposition, Mr. Peter Stoyanov, who took office in January 1997. The elections were recognized as free and fair both by internal and foreign observers, including those from the OSCE mission.

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