

HUMAN RIGHTS IN BULGARIA IN 1999

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Throughout 1999, Bulgaria was ruled by the government of the United Democratic Forces (UtdF). The government continued to declare its commitment to advanced European human rights standards. In two widely publicised international reports – of the European Commission of October 1999, and of the rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) of January 2000 – Bulgaria was given a relatively good assessment of the overall situation of the protection of human rights. Both reports cited the abolition of the death penalty in Bulgaria in December 1998 as one of the most important positive changes. In August, Bulgaria ratified the *Second Optional Protocol* to the *International Covenant on Civil and Political Rights*, and in October – *Protocol No. 6 to the European Convention on Human Rights*. Among the other positive changes the reports cite the ratification of the *Framework Convention for the Protection of National Minorities*, the reforms in criminal justice system, the adoption of the *Refugee Act*, the adoption of the *Alternative Service Act*, the registration of Jehovah's Witnesses, the government's declared willingness to integrate the minorities, and the democratic administration of the municipal elections in October 1999. On 26 January 2000 the monitoring procedure on Bulgaria was closed with *PACE Resolution 1211*.¹

Despite the progress, both the documents of the two international organisations and the reports of a number of local and international human rights observers cite a number of serious human rights problems, some of which have become traditional for Bulgaria. A stalemate was observed in some spheres, and in others – e.g. the political control over the national electronic media – even a regression.

1. The Right to Life, Death Penalty

After the abolition in December 1998 of the death penalty, capital punishment was not imposed in Bulgaria by the courts in 1999. The other old problems related to the right to life however remained. As in previous years, throughout 1999 they included the excessive use of physical force and lethal weapons by law enforcement officials and the reluctance of the Prosecutor's Office to investigate cases in which people lost their lives as a result of this.

¹ See Regular Report of the Commission on Progress towards Accession, Bulgaria – October 13, 1999 at: http://europa.eu.int/comm/enlargement/bulgaria/report_10_99/index.htm; See also <http://stars.coe.fr/ta/ta00/eres1211.htm> about the materials on the report of the PACE observers and Resolution 1211.

No legislative changes were made to amend Article 80 of the *Ministry of the Interior Act* which permits the use of firearms in the apprehension of an individual, committing or having committed a crime, or for preventing the escape of an individual, detained for a committed crime. These provisions, as repeatedly noted by local and international human rights observers, contravene Principle 9 of the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, insofar as they permit use of lethal weapons to apprehend suspects even of minor crimes or to prevent their escape after arrest.

The investigation of previous cases which warrant the assumption that excessive force and firearms were used by police officers, as a result of which people lost their lives, was inadequate and contributed to the climate of impunity in which law enforcement officials act. Police officers were sentenced in only two out of a total eleven cases in 1998, known to the Bulgarian Helsinki Committee, in which people were killed under suspicious circumstances by law enforcement officials - those of Ivan Markov and Staniela Bugova.² A policeman was sentenced in the Yordan Yankov case in July, but after the subsequent appeal the case was returned for further investigation. In all other cases the investigative and judicial proceedings were either not completed by the end of 1999 or terminated. More specifically, during 1999 investigative proceedings were dismissed and no charges were brought against the perpetrators in the cases of Romanian citizen Ionel Vlad, killed on 4 March 1998 by border guards near the town of Gotse Delchev; of Lyuben Dimitrov, killed by a police officer on 7 May 1998 in Varna; and of Hristo Tanev, killed on 24 August 1998 in an attempted escape from the Pleven Prison. The investigative proceedings were terminated on the grounds that the law enforcement officials had used lethal weapons in conformity with the law. The communication of BHC with the Military Prosecutor's Office improved in 1999, although some of its regional divisions (the one in Varna, for example) were as reluctant as ever to answer the committee's questions.

At least five persons lost their lives in Bulgaria in 1999 under suspicious circumstances which warrant the assumption of excessive use of force and firearms by police and border police officers. On 1 February, the Rom Tencho Vassev from Stransko was shot dead by a border guard whilst attempting to illegally cross into Greece at Novo Selo near Svilengrad. The case was investigated, but no effective sentence was passed by the end of the year. On 13 May, in a chase near Pravets policemen shot and killed Nikolai Filipov, suspected of having stolen a car. The instituted investigative proceedings were terminated in November. On 6 June, Gancho Vuchkov – Ganetsa, with a criminal record, was killed following a car chase. In October the Sofia Military Prosecutor's Office dismissed the investigative proceedings after concluding that he had shot himself. But the forensic medical certificate established lacerations on his knuckles caused by handcuffs. On 14 June, on the border near Kulata Oleg Georgiev was shot and killed by border guards whilst travelling in a van to Yugoslavia. His parents claim that the border guards gave no warning shots and were lying in ambush. The investigation into the case was still ongoing at year's end. On 21 September, Kostadin Sherbetov died in the pre-trial detention facility of the Second Precinct Police Department in Sofia after having been arrested as a crime suspect a few hours earlier by a private security firm and turned over to the police. He had eight broken ribs and a head hematoma and his body was badly bruised. The investigation was ongoing at year's end.

The practice of the arbitrary use of lethal weapons by police officers led to a number of shootings which did not end in death by pure chance. Such incidents occurred in Sofia, Russe, Sliven, Razlog and Velingrad and left young people badly crippled. As in previous years, this serious human rights problem in Bulgaria was undeservedly ignored both by the authorities and the media.

2. Torture and Ill-Treatment, Excessive Use of Force by Law Enforcement Officials

As in previous years, in 1999 too, the problem of the excessive use of physical force, including torture and systematic ill-treatment, continued to be a serious issue in relations between citizens and law enforcement officials in Bulgaria. The amendments to the *Code of Criminal Procedure* (see **Independence of the Judiciary and Fair Trial**) which were made in July provided for the possibility

² About the cases see Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1998, Obektiv*, February 1999.

of appointing an official lawyer for indigent defendants “when the interests of justice so require”. The reform is supposed to increase guarantees against the illegal use of force during detention and the preliminary investigation. However, the provision is much too general and vague ; it leaves to the law-enforcement officials the full discretion to interpret what “the interests of justice” are. That is why serious doubts exist as to its ability to significantly contribute to the legal defence and guarantees against illegal violence.

In March, the Sofia District Court sentenced the Sofia Directorate of Internal Affairs to pay damages to several persons who were beaten on 10 January 1997 during the mass protests outside the National Assembly.³ The court decided that the police officers of the Sofia Directorate, albeit unidentified in the course of the trial, were responsible for the beating and the Directorate was sentenced to pay damages as the institution having issued the order.

The investigation by the Prosecutor’s Office into cases of mass beatings of groups of people in 1998, reported by the BHC⁴, was inadequate and, as the investigation of the killings, contributed to the climate of impunity in which Bulgaria’s law enforcement officials act. In March, the Military Prosecutor’s Office in Pleven closed the investigation into the police raid in the Roma neighbourhood in the village of Mechka in July 1998. During the raid, conducted under the formal pretext of a search for stolen property and animals, at least 30 persons, including women and disabled people, were beaten and suffered various injuries. The Prosecutor’s Office dismissed the case under the pretext that it was impossible to identify the individuals involved. In April, the Military Prosecutor’s Office in Pleven also refused to institute preliminary proceedings in connection with the mass beating of protesting workers from the Plama refinery in May 1998. In the other two cases of mass beatings in Roma neighbourhoods – in Krivodol in March 1998 and in Septemvri in April 1998 – preliminary investigations were not even instituted. The Prosecutor’s Office which was repeatedly approached, justified itself by saying that no complaints had been lodged by the victims. The *Code of Criminal Procedure* however does not necessarily require a complaint from a victim in order to start an investigation.

In contrast to 1998, no police raids against Roma neighbourhoods, accompanied by mass beatings, were registered in 1999. The only raid against a large group of people making for the assumption that excessive force was used by police officers, was the beating of several dozen football fans in Petrich on 27 November. The victims included children and a pregnant girl. The Minister of the Interior appointed a special commission to investigate the incident. Until the end of 1999 it had not completed its work. In another widely publicised case, a Sofia businessman, his son and three of his friends were battered by 15 Interior Ministry officials in camouflage uniform at the Iskar dam near Sofia. As a result, one of the victims was crippled for life.

Besides death cases caused by the use of firearms, during the year BHC received much convincing evidence of the excessive use of force and firearms by law enforcement officials, causing injuries and sometimes even crippling people for life. As in previous years, Roma continued to constitute a disproportionate number of the victims of official violence. This abuse was carried out in different contexts which can be grouped in three main groups:

1. Injuries resulting from the use of firearms in the pursuit of people, suspected of having committed a crime, or in attempted escapes of detainees;
2. Physical violence by police officers during the 24-hour police detention of crime suspects for the purpose of impromptu punishment or for extorting evidence or for purely discriminatory reasons, especially against Roma;
3. Physical violence under conditions of detention after charge or imprisonment for the purpose of extorting evidence or for punishment.

In January and February the BHC distributed a standardised questionnaire in prisons in which, among others, prisoners were also asked a number of questions linked with the use of physical force during arrest, inside police stations and during the preliminary investigation. 51% of the respondents reported that physical force had been used against them during arrest, 53% responded that they suffered physical

³ See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1997*, *Obektiv*, February 1998.

⁴ See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1998*, *Obektiv*, February 1999.

violence inside police stations, and 37% - that physical force had been used against them during the preliminary investigation. The proportion of the interviewed Bulgarian Turks and Roma among respondents reporting the use of physical force was much higher than that of Bulgarians.

In late 1999, the Bulgarian Helsinki Committee conducted a check in military prosecutor's offices and military courts concerning cases of illegal use of force and firearms by law enforcement officials from 1997 to 1999 known to BHC. The check showed that indictments had been prepared, proceedings instituted or sentences passed in only 23% of the total 152 checked cases. The remaining cases were at different stages of investigation (which in some cases has been dragging on for over two years) or else the preliminary proceedings had not been instituted, the instituted preliminary proceedings had been terminated, or the accused had been acquitted by the courts. Some of the passed sentences are amazingly lenient. (For example, for torture which caused a detainee to jump from the third floor window of a Precinct Police Department, breaking his arm, leg and spine, the indicted Interior Ministry official received a five-month suspended sentence).

Reports by the organisation Human Rights Project also allege of routine use of illegal violence and other illegal methods by the police against Roma and the inactivity of the Prosecutor's Office in such cases. Of the total 24 complaints against police brutality filed by Roma with the Military Prosecutor's Office with the help of the Human Rights Project in 1999, only five preliminary proceedings were instituted. Three of them were later dismissed without any charges being brought.

Domestic abuse of women and children continued to be a serious problem in 1999, too. In January a daily newspaper reported the results of a study according to which women in every other Bulgarian family are battered at least once a year.⁵ Criminal prosecution in the huge majority of these cases is initiated by a private complaint of the woman, without the participation of a prosecutor, which places a heavy financial and moral burden on the victim. Child abuse continues to be a widely accepted and widespread phenomenon in the Bulgarian family.

3. Independence of the Judiciary and Fair Trial

In its resolution of 26 January 2000 with which the Parliamentary Assembly of the Council of Europe closed its monitoring procedure on Bulgaria, "the influence of the governing party over the judiciary through the change of the composition of the Supreme Judicial Council" was noted with concern. This refers to the termination with the *Judiciary Act* of November 1998 of the constitutionally established mandate of the Supreme Judicial Council and the election of a new Supreme Judicial Council shortly after the act's entry into force. The parliamentary quota was made up almost entirely of people loyal to the government. On 17 January, the Constitutional Court, after being approached by the opposition, surprisingly confirmed the changes to the act and, respectively, the new election. With this clearly politically motivated decision the Constitutional Court reversed its jurisprudence of 1994 when it did not allow the termination with an ordinary law of the constitutionally established mandate of the Supreme Judicial Council. Serious doubts of political pressure on the judiciary were voiced in several cases during the year, including when the Euroleft MP Tsvetelin Kanchev, who is also the Chairman of the Roma association Euro-Roma, was deprived of his immunity and charges were brought against him.

A reform in the *Code of Criminal Procedure* was also carried out in July. Many of the amendments brought the criminal justice system in line with the requirements of the *European Convention on Human Rights* for fair trial. In particular, they included the remand in custody and the termination of preliminary proceedings by the court, as well as the introduction of mandatory legal defence when "the defendant is unable to pay for legal assistance, wishes to have a defence counsel and when the interests of justice so require". The latter provision is assumed to somewhat improve the state of indigent accused and indicted and to reduce the share (currently around 50%) of defendants who take part in pre-trial proceedings, including preliminary investigation, without a lawyer. But the provision is formulated far too generally and, more importantly, the reform did not change the system of the official appointment of lawyers, rendering its results questionable.

⁵ 24 *Chassa* from 16 January, 1999.

The reform of the *Code of Criminal Procedure* of July also introduced pre-trial police proceedings for a large number of minor offences which do not present any factual or legal difficulty. In future, these crimes will be investigated by the police under supervision of the Prosecutor's Office and not, as hitherto, by the investigation which is part of the judiciary system. Although this reform, the way it was realised, does not pose any problems with regard to conformity with the norms of international law for fair trial, its application, together with a number of accompanying factors, could negatively affect some categories of defendants in Bulgaria. These factors include the by now traditionally bad relations between the Roma and the police, as well as the widespread absence of legal defence during pre-trial proceedings, especially in the case of indigent defendants who are Roma. This creates prerequisites for the illegal use of physical force in extracting confessions.

On 30 September, the Constitutional Court declared unconstitutional a number of provisions of the *Code of Criminal Procedure*, concerning criminal proceedings against military servicemen. These provisions made the criminal prosecution of this category of accused and indicted dependent on the decisions of military commanders, thus ensuring their greater protection against criminal prosecution.

The legal framework of Correctional Boarding Schools (the former Labour Educational Schools) was not changed during the year either. Underage offenders continued to be confined to them without their cases being heard in conformity with the principles of fair trial.⁶

4. Freedom of Thought, Conscience, Religion and Belief

Compared to 1998, no significant changes were observed in guaranteeing the right of Bulgarian citizens to profess a religion or belief in 1999. No changes were introduced to the legislation regulating the existence and activities of religious organisations in Bulgaria. Some administrative decisions, discriminatory for most religious organisations, were taken in order to regulate relations between churches and some institutions such as prisons, for example. With an order issued in September, Orthodox priests were appointed in prisons, but the access of representatives of other religious organisations to prisoners is systematically being impeded.

No progress was made during the year in cases against the refusal to register a number of churches as religions. One of them is the case of Pastor Angel Ralev's International Christian Church in Krichim. The action brought by the Roma Church in Bulgaria against the Council of Ministers for its silent refusal to recognise it was not moved forward either. The analogous case of the Unification Church (Moonies) is also in a deadlock. In all these cases the courts are doing all they can to delay the hearings in substance. At the end of the year it was revealed that the Church of the Nazarene had been trying in vain to be accorded the status of juristic person throughout the last five years.

The other main violations of religious rights may be grouped as follows:

1. Arbitrary expulsions of preachers from the country;
2. Attempts to adopt a new, essentially repressive Denominations Act;
3. Discriminatory provisions in ordinances of municipal authorities, affecting religious organisations, as well as discriminatory administrative measures of local authorities against religious communities;
4. Labour discrimination, based on religious affiliation.

The main violations of religious rights during the year were undoubtedly the arbitrary expulsions of preachers. On 5 July 1999 the 32-year-old Daruish al-Nashiff, a stateless person, was expelled for "having endangered the security or the interests of the Bulgarian state with his actions". The said actions being that he organised the teaching of Islam for underage children in the town of Smolyan, took part in the "illegal" Islamic seminar in Narechenski Bani in August 1997 (brutally dispersed by the police)⁷ and, in addition, tried to organise an Islamic training centre in Smolyan in 1995. Daruish al-Nashiff, the father of two children, born in Bulgaria and Bulgarian citizens, was expelled on the grounds of the provisions of the new act for residence of aliens in the Republic of Bulgaria (Article 40,

⁶ See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1997*, *Obektiv*, February 1998.

⁷ See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1997*, *Obektiv*, February 1998.

paragraph 1, in connection with Article 10, paragraph 11, indent 1) which excludes the possibility of judicial review of expulsion orders motivated by considerations linked with national security. In this case the protest of the Chief Mufti's Office of the Muslims in Bulgaria was completely ignored, despite the official declaration that Daruish al-Nashiff had carried out his activities with the approval of the District Mufti's Office in Smolyan and that he had conducted his teaching in complete conformity with the requirements of the Statutes of Muslims in Bulgaria which are registered by the Bulgarian state.

In two other similar cases in 1999 and early 2000, foreigners were expelled from Bulgaria under the formal pretext of endangering national security, but in actual fact because of the peaceful preaching of their religion. Abdullah Mohammed, the former executive director of the Taiba Foundation, was expelled in August for presenting a "threat to national security". For nearly two years the foundation has been in the focus of police and media attention for allegedly serving as a cover for "Islamic fundamentalism". The interpretations of this term disseminated by the police and media abound in anti-Muslim prejudices and cover a wide range of beliefs and practices which are an inseparable part of the standard profession of Islam and has nothing in common with any fundamentalism. On 8 January 2000, it was reported that a group of six Islamic preachers was expelled from the region of Shumen. According to police information, they preached without a permit by either the Directorate of Religious Affairs of the Republic of Turkey or the Bulgarian Directorate of Religious Affairs. They were further qualified as "sectarians, belonging to the Pakistani sect of the Ahmadis". The absence of a permit by the Directorate of Religious Affairs in Sofia is a violation of Articles 22 and 23 of the *Denominations Act* of 1949. But with *Decision No. 5* on Constitutional Case No. 11 of 5 June 1992, the Constitutional Court explicitly mentioned that, among others, both Article 22 and Article 23 of this act are unconstitutional. Consequently, the absence of a permit by the Bulgarian Directorate of Religious Affairs cannot provide a reason for the expulsion of foreign clergymen from Bulgaria.

In June, the parliamentary Committee on Human Rights and Religious Denominations launched the discussion of three bills on religion⁸. A telling detail of the committee's attitude to the opinion of religious organisations is that they were given only one week to present their views on the bills. Due to the sluggish postal administration, some religious organisations had only a couple of days to prepare their positions. At a conference held on 8 July, more than 40 religious representatives, including the two largest religious minorities – Muslims and Catholics – voiced their dissatisfaction with the bills tabled to the National Assembly and urged the members of parliament to adopt a law which excludes any kind of administrative interference in their internal organisational life and discrimination.

A common features shared by the three bills is that they revive the spirit, and in some respects even the letter, of the *Denominations Act* of 1949. All three bills embody the idea that the state should exercise tight control on denominations and that, in contrast to other non-profit organisations, religious organisations should be kept under special and thorough-going supervision.

Since the Pindikov and Hristov bill stands the highest chance of becoming a law because it enjoys government support, we will briefly summarise its basic ideas. First, as before, the granting of the status of juridical person to a religious organisation is stipulated as an obligation of the executive, which is formed politically, rather than of the independent court, as in the case of all other non-profit organisations. Second, the public practice of religion is tied to registration. If conducted without a registration, a special governmental body established by law, the Directorate of Religious Affairs, can impose a fine of 500 to 1,000 leva (500 - 1,000 DM). In other words, if a new denomination wants to establish itself in Bulgaria, it may not engage in any religious activity prior to its registration. In addition, if the religious group has already engaged in public religious activity without a permit, the Council of Ministers can refuse registration altogether. Third, mayors are given the right to monitor whether a religious institution is observing its rituals and practices, which it has to describe in detail during its registration and, if any violations are found, huge fines could be imposed. Fourth, until now the building of new houses of prayer depended solely on the local authorities. According to the bill, from now on, a permit will also be required from the Directorate of Religious Affairs. No places of

⁸ Tabled by UtDF MPs Pindikov and Hristov (it is officially admitted that the Directorate of Religious Affairs, i.e. the Council of Ministers, backs this project), by a group of MPs from the BSP and by a group of IMRO MPs.

prayer may be opened in buildings that are used as housing. If any places of prayer are opened in buildings used for public purposes (cultural centres, libraries, cinemas, etc.) they must have a separate entrance. This practically means that most of the small denominations which rent public buildings for their needs, will have to vacate them because they only have one entrance to the assembly hall. Fifth, Article 14, paragraph 1 of the bill requires religious institutions to include a "detailed description of their faith, liturgical and ritual practice" in their statutes, whilst the authorities are given the right to cancel the status of juridical person and to impose fines of 1,000 to 5,000 leva (1,000 - 5,000 DM) on groups which practise faith, liturgies and rituals that are not set down in their statutes. Sixth, but just as important, is the requirement "to create only one religious institution on one religious basis". Whether the "religious basis" of religions of a similar creed is the same or whether they are different is not decided by the religious organisations, but by the administration, i.e. by the Directorate of Religious Affairs, and in some cases even by the mayors. This creates prerequisites for administrative arbitrariness and the forced unification of religious organisations with similar creeds. In addition, religious organisations are allowed to set up only one foundation for the purpose of religious education, whereas current legislation does not restrict their number. The bill also repeats some of the restrictions of the current legislation. Thus, by requiring the central bodies and general meetings of religions institutions to present their decisions to the Directorate of Religious Affairs, Article 35 creates prerequisites for the exercise of censorship.

The Bulgarian Socialist Party bill resembles very much the one above, and the bill of the Internal Macedonian Revolutionary Organisation is even more restrictive. All three bills show that the political class in Bulgaria has not relinquished the idea of maximally restricting the religious rights of the individual.

In October, the Tolerance Foundation, the Bulgarian Helsinki Committee and the Bulgarian Human Rights Centre presented their own draft of a denominations act, which is in complete conformity with international standards relating to the freedom of thought, conscience and religion. On 11 October, a large group of leaders of religious organisations supported this draft and shortly afterwards a group of MPs from the Alliance for National Salvation tabled it to the National Assembly. On 16 November, however, the Committee on Human Rights and Religious Denominations unanimously rejected it with the argument of it being "one-sided and incomplete, as well as not conforming either to constitutional texts or to the religious situation in the country at the present moment".

In February, the Sofia Municipal Council adopted an *Ordinance on the Activities of Religious Communities on the Territory of Sofia*. Some of the articles of this ordinance are discriminatory. For example, it prohibits religious organisations not registered by the Directorate of Religious Affairs from being active in the city. In order to take part in any religious activity, persons under the age of 16 must have the written consent of their parents. Religious communities are not allowed to use "substances ... leading to a change in human consciousness" or "methods of hypnosis", without specifying even by way of an example what these substances are and what the "change of consciousness" could be. The "advertisement of 'miraculous', 'curative' and 'healing' methods, as well as the use of manipulative techniques in the activities of denominations..." are also banned. Some widespread practices used in the Pentecostal Church, the Bulgarian Church of God and the United Church of God, for example, could easily fall within the scope of this ban.

Restrictive ordinances hampering the activities of religious communities were also issued in several other municipalities in Bulgaria. In May the Burgas Municipal Council decided not to register Jehovah's Witnesses even if they received registration at national level. In January 1999, Burgas Municipality refused registration of Jehovah's Witnesses after they had been registered by the Directorate of Religious Affairs. In October the Municipal Council in the town of Septemvri adopted an ordinance prohibiting municipal registration of a denomination prohibited in at least one European Union country. In January 1999 the local branch of Jehovah's Witnesses was required to prove that they had not been banned in any European Union country before being registered with the Septemvri Municipality. A similar ordinance is under consideration in Burgas. Under IMRO pressure it also includes the requirement not to recognise religious communities not recognised in a European Union country.

At the end of the year it was revealed that the local authorities in Pernik, Burgas, Stamboliiski, Dimitrograd and Plovdiv had refused - 15 months after the official recognition of Jehovah's Witnesses

– to register the local branches of this religious organisation. The appeal of the administrative fine, imposed in 1998 by the officials in Plovdiv was rejected and Mr. Hans Amon, a Jehovah's Witnesses activist, had to pay a 500 leva fine for "illegal religious activity"⁹.

Discriminatory actions of public officials, as well as of private individuals and groups against religious organisations undeterred by the authorities were also revealed during the year. It was repeatedly reported that the police in the town of Kotel had banned the activities of the local branch of the White Brotherhood. Most of the followers of this small religious group in the town are Roma. In July police officers in the city of Stara Zagora interrupted a mass of members of the Church of Jesus Christ and the Latter Day Saints (the Mormons) and wanted to check the IDs of the participants in the mass. On 10 October Mr. Eric Verteen, a representative of the Lutheran Church in Kotel and his two children, as well as another two women were chased out of the house they occupied by a group of youths, claiming to be IMRO activists. On 10 December the house of prayer of the Zion Christian Church in Stara Zagora was desecrated with abusive graffiti ("Sects – Out", "Don't go in here, Satan is inside"). On 28 December the church windows were smashed with stones. There is no information of the police and/or prosecutor's office taken any actions to track down and punish the culprits in any of these offences.

Several cases of labour discrimination on religious grounds were recorded during the year. The most flagrant one was the case of Ms. Tsanka Petrova, a school teacher in the town of Gabrovo. Due to being a member of the United Church of God, in March Ms. Petrova was forced to give up her job as a teacher. She had earlier been punished with a "final notice". A genuine campaign was waged against Ms. Petrova by the local press. She was accused of "brainwashing pupils", "separating children from their parents" and "splitting the personality of children". The papers *Sto Vesti* and *Sto Vesti TV* called her "mad" and other insulting names. At the moment Ms. Petrova has filed two suits: for "disregarding agreement in terminating the contract of employment" and for libel. She has already won her first suit – against the illegal termination of her employment.

The *Alternative Service Act* adopted in 1998 was not applied in 1999. Not a single youth opting for alternative service was registered and directed to such service. The possibility for alternative service was not announced publicly, nor was an adequate infrastructure created for hearing of the cases of objectors.

5. Freedom of Expression, Freedom of the Media

On the whole, no serious changes occurred in the freedom of expression and the access to information in Bulgaria in 1999. In some respects, like the control over the national electronic media, the situation even deteriorated. The main problems remained the same as in previous years: government control over the national electronic media, criminal prosecution for insult and libel of public officials, and illegal confiscation of printed publications of unpopular groups. Added to these were the intimidations of journalists by law enforcement officials in their attempt to publish politically sensitive materials, as well as the significantly increased attacks against journalists by private persons and groups. Two contradictory attempts for a reform in legislation were made during the year, linked with the criminal prosecution of insult and libel and the access to information. Neither was completed by the end of the year.

The adoption of the new *Radio and Television Act* in November 1998 led to the election of a new National Radio and Television Council (NRTC) composed of people close to the parliamentary majority. On 22 February the NRTC elected a former journalist from the *Demokratiya* daily, the party daily newspaper of the ruling UDF, as General Director of Bulgarian National Television (BNT), the most influential media in the country. This was followed by a restructuring of the BNT's programme scheme, as well as by staff changes. As a result, it became even more partial to official policy and the range of expressed opinions was narrowed down still further. Fear and self-censorship reigned among journalists.

⁹ See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1998*, *Obektiv*, February 1999.

On 25 June the Constitutional Court pronounced itself on the petition of a group of MPs to rule unconstitutional a number of texts in the *Radio and Television Act*. In particular, the petition disputed the entire procedure of the constitution of the National Radio and Television Council as providing possibility for political control over the electronic media. According to the Act, five of the NRTC members are elected by the National Assembly, without this being proportional to the share of the different parliamentary groups, and four are appointed by the President who is elected directly by the people according to the principle of political competition. The petition also wanted the “lustration” provisions of the act to be ruled unconstitutional, which bar former salaried and non-salaried collaborators of the communist State Security from being members of the NRTC. With its decision the Constitutional Court ruled unconstitutional a number of texts of the *Radio and Television Act*, but, contrary to expectations based on its past jurisprudence, refused to rule unconstitutional the provisions on the constitution of the NRTC, as well as the “lustration” provisions. The decision of the Constitutional Court ruled that the “criteria for constituting the NRTC are not political in nature” since they provide sufficient guarantees for its independence.

The other serious problem with freedom of expression during the year continued to be the criminal prosecution for insult and libel. The old criminal legislation, providing for up to two years effective imprisonment for insult and for up to three years for libel continued to be in force throughout 1999. In addition, the *Penal Code* provides for a discriminatory procedure for criminal liability: in case an ordinary person is libelled, criminal responsibility is carried by a private complaint, but if a “public official” is defamed, the Prosecutor's Office takes action on behalf of the victims. During the year journalists and human rights activists repeatedly drew attention to the extremely negative effect of these provisions on the freedom of speech. They continued to be applied, however. In January, the Vratsa District Court sentenced Vesselin Angelov from the *Chance Express* paper to a one-year suspended sentence and a fine of 10,000 leva (10,000 DM) for having published a letter of workers against their employer, accusing him of immoral actions. Also in January, Georgi Popov, editor-in-chief of the Sliven newspaper *Sedmitsa* was sentenced to pay 300 leva (300 DM) for damaging the reputation of a local prosecutor. On three occasions, in April, July and October, the District Court in Nova Zagora each time sentenced the journalist from the *Starozagorski Novini* daily Yovka Atanassova to a five months suspended prison sentence. These were just one part of the many suits filed against her.¹⁰

The PACE rapporteurs in turn criticised the *Penal Code* provisions of insult and libel, underscoring the chilling effect of their application on freedom of speech. On 26 January 2000, with Resolution 1211 PACE even demanded the decriminalisation of these provisions, leaving responsibility to be sought only through civil procedure.¹¹ On 22 July 1999 Parliament adopted changes to the *Penal Code* in its first reading, retaining insult and libel as criminal provisions, but making them offences of a private nature in all their manifestations. It also changed the punishment for insult and libel from imprisonment to fines. The fines were absurdly high, however, reaching up to 30,000 leva (30,000 DM) – amounts beyond the means not only of individual journalists, but of most publications in Bulgaria as well. Some of the provisions also set lower limits for the fines, enabling the courts to impose sanctions below the minimum only in exceptional cases, precisely specified by the law. In addition, the differentiation of provisions was also retained in the *Penal Code*, among others, also according to the official position of the perpetrator or the victim; greater sanctions are envisaged for insult or libel of a “public official”. The heated public debate on this reform in penal legislation continued until the end of the year.

Threats and attacks against journalists and the media by private persons and groups increased in 1999. Three such incidents occurred in January alone. A bomb exploded in the office of the *Sedmitsa* newspaper in Sliven. The journalists themselves linked the explosion to publications against a local prosecutor and a private security company. In another incident, the editor-in-chief of the *Zlatogradski Vestnik* Efim Eshev was beaten up in his office for a publication commenting the merger of two neighbouring municipalities. In the third incident, Georgi Spirov, a journalist from the *Pleven za Pleven* newspaper, was brutally battered by two unknown persons, probably for a publication about a UDF candidate for regional governor about a week earlier. In June three unidentified persons brutally beat up

¹⁰ See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1997*, *Obektiv*, February 1998.

¹¹ Resolution 1211 (2000) – Honouring of obligations and commitments by Bulgaria, at: <http://stars.coe.fr/ta/ta00/eres1211.htm>.

Alexei Lazarov, journalist from the Sofia weekly *Kapital*, outside his home. He was stabbed five times and suffered a broken leg. Publications about the involvement of high-ranking politicians in shady business were thought to be the motivation for the attack. In December four unidentified persons beat up radio journalist Russi Borissov in Nova Zagora, probably because he opposed the decision of the Municipal Council to close the local radio centre.

The illegal confiscation of literature in 1999 was confined to Bulgarian citizens with Macedonian self-identification. On several occasions, Bulgarian Macedonians travelling to or returning from the Republic of Macedonia, reported the illegal confiscation and copying of literature and personal documents at the border checkpoints.

In a sensational case in September a group of journalists was summoned to the police station in Lovech in the middle of the night to prevent them from publicising a scandalous political instruction for fellow party members by the Foreign Minister, a copy of whose recording they had got hold of. Some of the journalists were detained for almost 24 hours. They were asked to voluntarily give up the cassette recordings and to write an explanation. Later the journalists, together with the participants in the scandalous meeting, were called as witnesses in the preliminary proceedings instituted by the Prosecutor's Office for unauthorised possession of special technical means and the illegal dissemination of information gained with special surveillance means.

In September Parliament adopted the bill on the access to public information in its first reading. In its original version it contained a number of shortcomings which were criticised by local and international human rights observers. Most importantly, the bill does not contain the explicit obligation of specific state services to provide information of public interest. Its restrictions are vaguely and broadly formulated, contain terms not specified by the law and provide possibilities for administrative arbitrariness. The procedure for providing public information contains internal contradictions which render it meaningless. On the other hand, the bill obliges private associations, the media and even individuals to provide information. It was not tabled for second reading by the end of the year.

6. Freedom of Association and of Peaceful Assembly

Some, albeit modest, progress was made in guaranteeing the right to freedom of association in Bulgaria in 1999. On 12 February, the Sofia City Court registered the United Macedonian Organisation (UMO) "Ilinden" – PIRIN (an acronym of the Bulgarian for 'Party for Economic Development and Integration of the Population') as a political party. The group consists of representatives of the moderate wing in the movement of the Bulgarian Macedonians. The registration sparked a heated public debate, especially after the party decided to run in the local government elections in October. On 25 August the Central Local Election Commission refused to register the party for participation in the elections, but the decision was repealed five days later by the Supreme Administrative Court. According to the officially announced local election results, a total of 5,838 voters (including voters voting twice in both rounds of the elections) voted for candidates of UMO "Ilinden" – PIRIN (municipal councillors, mayors of municipalities and mayors of mayoralties) in the first and second round of the elections, as a result of which five of its candidates were elected to different local government bodies. Despite this, in March 61 MPs, mainly from the BSP, petitioned the Constitutional Court to rule UMO "Ilinden" – PIRIN an unconstitutional party because its activities allegedly threatened "the sovereignty and territorial integrity of the country and the unity of the nation". The Constitutional Court had not taken a decision by the end of the year.

As in previous years, the right to peaceful assembly of the Bulgarian Macedonians was violated on several occasions when the celebrations of their traditional anniversaries were banned. On 25 April the Blagoevgrad District Prosecutor prohibited, and the police kept a group of UMO "Ilinden" activists from celebrating the anniversary of the death of Yane Sandanski near the Rozhen Monastery. A group of about 40 persons travelling in private cars and taxis was stopped by the police close to the Grill Inn, some 2 km from the town of Sandanski. Many of the drivers had statements drawn up for technically faulty vehicles. Later, after returning to town and deciding to lay a wreath and flowers at the bust of Yane Sandanski, they were stopped by policemen who confiscated the wreath and flowers. Another two groups which set off from Gotse Delchev and Petrich were also stopped along the way by police cordons. On the day preceding the celebrations, a number of activists were visited in their homes by police officers and forced to sign warning notices that the event had been banned.

The right to peaceful assembly of Bulgarian Macedonians was also violated in two other similar cases during the year. On 4 May, a prosecutor from the Prosecutor's Office in Blagoevgrad banned a group of about 20 UMO "Ilinden" activists from celebrating the anniversary of the death of Gotse Delchev. The monument to Gotse Delchev in Blagoevgrad was cordoned off by the police at the presumed starting hour of the celebrations, making them impossible. On 1 August, a prosecutor from the District Prosecutor's Office in Blagoevgrad banned a group of UMO "Ilinden" activists from celebrating the anniversary of the Ilinden Uprising in the Samuilova Krepost locality near Petrich. Access to the locality was effectively blocked by a dozen policemen.

All three cases of restricting the right to peaceful assembly took place with the active participation of members of the National Security Service (NSS). Their representatives were overtly present during the police blockades. According to the accounts of victims, NSS officials frisked and confiscated the documents of activists of Macedonian organisations crossing the Bulgarian–Macedonian border.

Two decisions refusing UMO "Ilinden" juridical person status were passed during 1999. On April 28 the Sofia Appellate Court dismissed a UMO "Ilinden" complaint against a decision of a Blagoevgrad court from 2 November 1998 which turned down their motion for registration. In its motives, the Appellate Court argued that registration could not be given on the grounds that the organisation's statute was not signed, without stating in what manner it had to be signed (the founding members subsequently introduced a declaration to the effect that they agree with and sign the statute). The Court also reasoned that the provision that "Macedonian individuals" could be members in UMO "Ilinden" contradicted Article 6, paragraph 2 of the *Constitution* which prohibits discrimination. In this case, the Court did not take into consideration the fact that the same provision in the statute allowed "individuals with another national belonging" to be members of the organisation. The Court also reasoned that the association had political aims and by requiring autocephally for the Orthodox Church in Pirin Macedonia was conducting religious and religious educational activities, thereby obliging it to ask for permission from the Council of Ministers under the procedure set out in Article 133A of the *Persons and Family Act*. On 12 October the Supreme Court of Cassation ruled that the decision should remain in force and entirely reconfirmed the Court's motives.

Besides Bulgarian Macedonians, members of unpopular political and religious groups, generally stigmatised in Bulgarian society as "sects", were also restricted in their right to association and peaceful assembly. On 10 March the Plovdiv Appellate Court rejected the complaint of the monarchist group "Civic Association for Bulgarian Interests, National Dignity, Unity and Unification - for Bulgaria" against the decision of the Plovdiv District Court which had turned down the association's motion for registration. The court's motives argued that a number of provisions of the association's statute contradicted the *Constitution*, like for example, the petitions to restore the coat of arms of the Kingdom of Bulgaria, to change the form of government from republican to monarchist and to abolish the border between Bulgaria and the Republic of Macedonia. Although the association's statute provided that such aims shall be achieved in a peaceful manner and with lawful means, the Appellate Court confirmed the refusal for registration only on the grounds of the contradiction between the association's ideas with the provisions in the *Constitution*. On 29 September the Supreme Court of Cassation reconfirmed the refusal of the Appellate Court entirely accepting the court's motives. With this, irrespective of the fact that in Bulgaria dozens of monarchist parties and associations have been registered and functioning for years, a dangerous precedent was put forward that in cases of registration as legal entities, the courts seek compliance with the *Constitution* not of the activities, but of an association's ideas. In several cases the local branches of registered religious communities were refused registration in the municipal registers (see **Freedom of Thought, Conscience, Religion and Belief**). On several occasions during the year the police in Kotel banned the activities of the local branch of the White Brotherhood.

During its session in May-June, the Committee on Freedom of Association of the International Labour Organisation (ILO) considered the complaint of the Trade Union of Railway Engine Drivers in Bulgaria in connection with the violation of their right to strike and their right to association due to repressive government measures in 1998.¹² The Committee adopted intermediate conclusions and recommendations, expressing concern over the anti-trade-union measures and the hope that the

¹² See Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1998, Obektiv*, February 1999.

government would reinstate the dismissed workers and initiate a reform of the *Settlement of Collective Labour Disputes Act* which was assessed as not conforming to ILO standards in many respects. These recommendations were left without a government reaction.

7. Conditions in Places of Detention

In 1999, the Bulgarian Helsinki Committee continued to monitor all prisons and places of detention in Bulgaria. In contrast to previous years, however, the monitoring also included pre-trial detention facilities. At the end of 1998 they were transferred to the Ministry of Justice and Legal Euro-Integration, and in early 1999 BHC was allowed access to the country's 89 pre-trial detention centres. As at 1 January 2000, there were a total of 10,147 detainees, including 8,034 convicted, 635 accused and 1,478 indicted, in the Bulgarian prisons. About 1,000 detainees kept in the 89 detention facilities of the General Directorate of Pre-trial Detention Centres and in the Interior Ministry lock-ups under "administrative detention", as well as about 700 juvenile delinquents placed for "mandatory education" in Correctional Boarding Schools, should also be added to these figures.

The findings after visits to dozens of detention facilities, confirmed the conclusion of the European Committee for the Prevention of Torture of 1995 that "almost without exception, the conditions in the NIS detention facilities visited by the CPT's delegation could fairly be described as inhuman and degrading." According to the report of the Committee at the time "very often these conditions are appalling, without any activities programme worthy of the name". The BHC monitoring does not warrant a change of this assessment at present either. An extremely alarming fact is that many detention facilities are still housed in basements and individuals are detained for long periods of time (several months, and occasionally even for more than a year) in semi-darkness, without fresh air and deprived of movement. In January the Ministry of Justice presented general information about pre-trial detention facilities. According to it, of the total 89 pre-trial detention centres, 27 are housed underground, and only three conform to European standards. Detention cells lack tables and chairs and sanitary conditions continue to be appalling. The BHC monitoring revealed that ever since 1995 the responsible institutions have failed to take account of the CPT recommendation to place all accused persons in prison conditions in order to detract from the practice of keeping persons under preliminary investigation in conditions which are virtually the same as in police stations. The statutory framework for the functioning of detention centres is provided by the new *Ordinance No. 2* of the Ministry of Justice, adopted on 19 April 1999. It provides that all persons on remand, including those in pre-trial detention centres, shall enjoy the same rights as convicted persons: correspondence, walks, visits, parcel post, etc. According to the BHC findings, however, confirmed by detention facility officials, this document, although relevant to the conditions of all defendants, is practically only applied to conditions in prisons in which the accused and indicted are kept, but is inapplicable to conditions in pre-trial detention facilities, with little or no chance of this ordinance becoming the norm in either the near or distant future. During the year the Bulgarian Helsinki Committee also received information about cases of the use of threats and the illegal use of physical force for extorting evidence by detainees about allegedly committed crimes.

The conditions in prisons and Labour Correction Hostels are considerably better than in pre-trial detention centres. Nevertheless, some of them were extremely overcrowded. In some institutions, such as the Atlant Labour Correction Hostel in the town of Troyan, for example, some 50-60 inmates sleep in the same dormitory. Use of the toilet is allowed only during the day. At night inmates are forced to use two buckets for the needs of nature. Overcrowding proves to be the biggest problem in hostels of a closed type, in some of which it is impossible to adhere to the requirement of separating the different categories of inmates. As in previous years, the quality and quantity of food gives rise to serious concern, and as regards sanitary requirements, Justice Minister Gotsev himself admitted after a visit to the Lovech Prison that even a mouse would die in the conditions in which inmates are placed.

In their vast majority prisoners' complaints allege bad organisation and quality of the medical services. Although the spread of tuberculosis in prisons was partially curbed in 1999, problems emerged in connection with the lack of medicines and the possibility for specialised treatment, as well as due to the refusal of prison doctors to issue certificates to victims of excessive use of physical force and auxiliary means of restraint by wardens. Another serious problem in 1999 was caused by the spread of toxicomania and the dependence on medicines. In at least one case reported in the press, a warden was caught smuggling cannabis into prison.

In connection with the cases of excessive use of physical force, according to the Ministry of Justice 219 complaints were filed by prisoners during the first half of 1999 alone. They led to the punishment of 10 officials, six of whom were dismissed. Outrageous cases of violence and ill-treatment by wardens in the prison in Belene were also reported during the year. These included crucifixions, inmates being forced to run before motorcycles and dogs being set against prisoners. The practice of maintaining discipline through ill-treatment and threats still exists in some prisons and the procedure of filing complaints against wardens does not function effectively.

The problem of corruption in prisons, linked with the conditions of release on early parole, leave, work and transfer to hostels of a transitional type emerged distinctly during the past year. The National Conference on Legality and Protection of Human Rights in Prisons held in mid-1999 revealed cases of bribery for ending punishment. The frequent staff changes in the system were explained with the need to stop the illegal actions of the penitentiary administration.

In 1999 too, the oversight of legality in prisons in accordance with Article 127, paragraph 2 of the *Constitution* of the Republic of Bulgaria was ineffective. In most prisons and pre-trial detention centres the visits of prosecutors were found to be rare and ineffective – non-conformity with statutory requirements is not being observed and no findings and recommendations are recorded.

Despite the introduction of legal barriers against the excessive length of preliminary detention, concern is caused by the number of defendants detained for more than six months without an indictment – ten altogether in the reform school for juvenile delinquents in Boichinovtsi.

According to Article 26 of the *Penal Code*, punishments for crimes which present a dangerous recidivism are served separately. Two years after this amendment was voted it was established that one of its possible outcomes is the accumulation of a multitude of short sentences, without a possibility to impose a general punishment. Thus, minor offences could result in a general sentence which considerably exceeds the normal life span. A good illustration of this is the case of the Rom D.M. in the Plovdiv prison whose five sentences for minor offences add up to 83 years in prison with another two cases pending.

The BHC findings linked with the placement of children in Correctional Boarding Schools concerned deteriorated living conditions and the unsatisfactory medical services in many of them. Essentially, placement in this type of schools is a punitive rather than educational measure, depriving children of the right to freely leave the premises. Game and leisure facilities need to be significantly improved to compensate for this restriction. Violation of the rights of children in some schools in 1999 included illegal punishments, such as forced labour, shaving the children's heads, forcing them to do crouches and front supports, and different forms of ill-treatment. The procedure of the placement of pupils, regulated with the 1958 *Juvenile Delinquency Act*, continued to present another serious problem. It was established that in many cases of imposing educational measures the local committees either did not hold a meeting or else functioned merely formally. Even when meetings are held according to the procedure established by law, it is not adversarial due to the explicit prohibition of the child or its parents engaging a lawyer. As a rule, the district courts confirmed the "placement in Correctional Boarding Schools" measure solely on the basis of presented documents.

During the year the BHC continued to monitor the conditions in the country's psychiatric establishments where individuals may be placed for forced treatment or certification. In addition to the poor living conditions found to exist in many of these institutions, the need for a change of different provisions in Bulgarian legislation, regulating compulsory stay, also became apparent. A gross, and apparently widespread, discrepancy was also established between the adopted laws and their local application in connection with extending the length of detention for forced certification, "informed consent" for voluntary treatment, etc. Some places continued to use unmodified electro-convulsive therapy, i.e. without an anaesthetic or relaxant – which without any doubt qualifies as cruel treatment.

8. Protection of Minorities, Aggressive Nationalism and Xenophobia

The key event during the year in the sphere of the protection of minorities was the ratification by Bulgaria in May of the *Framework Convention for the Protection of National Minorities* of the Council

of Europe. This happened with a declaration which in a slightly modified form reiterates the provision of Article 21 of the Convention, prohibiting activities which violate the territorial integrity and sovereignty of the state, its internal and international security. By year's end, however, no legislative measures had been taken to bring Bulgarian legislation in line with the provisions of the Convention. In November, the government even cut the salaried staff of the National Council for Ethnic and Demographic Affairs, the only government agency dealing with ethnic minorities. No significant changes took place in practically guaranteeing the cultural, religious and linguistic rights of minorities. Nor was any progress made in the introduction of the mother tongue education by the Bulgarian Roma and some other well established ethnic minorities in the country.

On 7 April, Deputy Prime Minister Vesselin Metodiev signed a Framework Programme for the Integration of Roma in Bulgarian Society on behalf of the government. On 22 April, it was formally adopted by the government with a decision of the Council of Ministers. The Framework Programme provides for a number of legislative and political measures, some of which had to be implemented by the government within fixed terms. They include: adopting an anti-ethnic discrimination law and setting up a state body for the fight against discrimination with broad powers, including the imposition of administrative sanctions; the introduction of civic control and citizens participation in the investigation of cases of illegal use of force and firearms by police officers; desegregation of Roma schools; regulation of Roma-populated neighbourhoods to enable their inhabitants to acquire regular property documents and for their urban development; stimulating employment of Roma through various forms of direct and indirect state support, etc. Yet although the Programme was highly assessed by local and international human rights observers, by year's end the government had not implemented any of the measures required to enforce the programme.

Inter-ethnic relations and especially the attitude to Roma did not improve significantly in 1999. As in previous years, the Roma were subjected to discrimination and racist motivated outrages, including by law enforcement officials. Some of them led to the death of innocent people. The Human Rights Project documented several dozens such cases. On 15 June, four teenage boys beat to death the 33-year-old Roma beggar Nadezhda Dimitrova in a Sofia suburb. She was killed extremely cruelly by being kicked and hit for a long time. In another case in February, a villa owner in the village of Sotirya near Sliven shot dead the 16-year-old Rom Nikolai Georgiev who together with two other Roma children had sought shelter under the villa's eaves.

9. Political Asylum

At the end of May Parliament adopted the long expected *Refugee Act* which entered into force on 1 August. While still under discussion in the parliamentary committees, the BHC made an attempt to help improve the final version. In February the committee prepared a statement with which it appeared before the Parliamentary Committee on Human Rights, criticising some of the bill's shortcomings such as, for example, narrowing the scope of the definition of refugee in comparison with the definition in the *Convention Relating to the Status of Refugees*, the new length of duration of the granted status, the high standards of recognition which largely exclude the benefit of the doubt in the interest of refugees, the selective approach to the issue of identity papers, and the short term for appealing a negative decision of the administrative body.

The final version of the act retained many of its original shortcomings, including narrowing of the definition compared to the definition of the *Convention Relating to the Status of Refugees*, as well as almost all initial bureaucratic obstacles in the way of recognising refugee status. The possibility was also retained to terminate the procedure for granting refugee status due to various petty offences committed by the applicant, some of which could also have been committed due to ignorance. The period of appeal, cut in half compared to the previous procedure, was also retained. The Bulgarian government adopted some of the restrictive western concepts of "third safe country" and "first country of asylum" and incorporated them in the new law. A list of "third safe countries" is currently being compiled. Previous experience shows that this list will probably be used to seriously restrict the number of applicants, as well as the number of recognised refugees.

The new *Refugee Act* also contains some new elements. Thus a rapid procedure and summary rejection of "clearly unfounded" applications are introduced for the first time. The term for appeal in these cases is only 24 hours. This will additionally hamper the access of asylum seekers to adequate presentation of

their cases. There is still no proper infrastructure at border checkpoints (including the possibility for free legal assistance), ensuring minimum guarantees for fair procedure. The practice of detaining asylum seekers, especially at border checkpoints, continues to be applied, although it decreased during the year thanks to the increased monitoring of human rights organisations.

The government's restrictive approach was demonstrated particularly eloquently during the Kosovo crisis when, at the height of the deportations from the region, on 8 April the Bulgarian government closed the border to Yugoslav citizens, including Albanian refugees, and did not reopen it until the end of the war. Although the government supported the NATO actions, it stated explicitly that refugees are not wanted in the country, accusing the Kosovo Albanians of drug-trafficking, trafficking in women and terrorism. Following criticism by local and international human rights observers the government softened its position, but the border with Yugoslavia remained closed.

10. Discrimination Based on Political Opinion

On 21 January, the Constitutional Court ruled unconstitutional a number of "lustration" provisions of the *Administration Act* which prohibited persons who had occupied leading positions in the political and administrative apparatus of the Bulgarian Communist Party, as well as collaborators of the communist State Security, from being appointed in the state administration for a period of five years. Persons who occupied leading positions in the administration were obliged to present a declaration that they conform to the requirements of the law within a term of 30 days. In January 2000 the two rapporteurs of the Parliamentary Assembly of the Council of Europe, MM. Atkinson and Gjellerod, stated that the decision of the Constitutional Court had not prevented political purges in the state administration. They also voiced concern over political purges in some other institutions such as, for example, the Ministry of the Interior, some of which had already been declared illegal by the Bulgarian courts.

Acknowledgments

Emil Cohen, Krassimir Kanev, Stanimir Petrov and Tanya Marincheshka worked on the preparation of this report. Materials from Human Rights Project and the Tolerance Foundation have also been used.

Recommendations of the Bulgarian Helsinki Committee to the Government of Bulgaria

The Bulgarian Helsinki Committee makes the following recommendations to the Bulgarian government and the other state institutions in the Republic of Bulgaria with a view of encouraging an improvement in the human rights situation in the country.

We appeal for:

I. Accession to International Human Rights Instruments

- The process of accession to international human rights instruments should continue. The list of international human rights instruments the accession to which will produce a long-lasting positive effect on the country's domestic and international situation is still long. The signing and ratification without reservations of several of these treaties should be considered as a matter of priority. These instruments include:
 - All Protocols of the *European Convention on Human Rights and Fundamental Freedoms* that have not been signed and ratified yet by Bulgaria;
 - The *European Social Charter*;
 - The *European Charter for Regional and Minority Languages*;
 - The *Statute of the International Criminal Court*;
 - The 1993 *Hague Convention on Protection of Children and Cooperation in Respect to Inter-country Adoption*.

II. Prevention of Torture, Inhuman and Degrading Treatment or Punishment

In order to effectively curb any possibility for torture, excessive use of force and all other forms of violence by law enforcement officials, and to bring Bulgarian legislation in line with the relevant norms of international human rights instruments, it is necessary to:

- Introduce amendments to the *Code of Criminal Procedure* which provide for effective participation of a counsel for the defense (including appointing one if the defendant cannot afford it) from the moment of detention or charging, by providing for the establishment of a legal aid system for indigent criminal defendants. The possibility for immediate notification of the detainee's relatives about his/her location and the conditions of detention should be legally guaranteed. Access to independent medical expertise upon detention, including by a doctor of the detainee's choice, should also be legally guaranteed.
- Ensure that all reports of unlawful use of physical force and firearms by law enforcement officials are quickly and effectively investigated by the Prosecutor's Office and all other state bodies carrying out pre-trial proceedings.
- Establish an independent body to supervise the law enforcement authorities, which is authorised to receive and investigate individuals' complaints. This body will guarantee that investigations of unlawful use of force by law enforcement officials are conducted speedily and effectively, and that the findings are made public. The existing system for self-control at the Ministry of the Interior should also be improved.
- Article 80 of the acting *Ministry of the Interior Act* should be amended by ruling out the possibility for use of firearms by the law enforcement authorities in all cases of apprehension of an individual suspected in committing even a minor offense, as well as for the prevention of an escape of an individual, suspected in committing even a minor offense.
- Ensure passing of legislation which gives women victims of domestic abuse adequate access to justice and rehabilitation, like for example:
 - introducing amendments to the *Penal Code* which provide for prosecution of domestic violence as a crime of a general nature;
 - establishing or supporting the existing homes and centres for rehabilitation of victims of domestic abuse.

III. Independence of the Judiciary and Fair Trial

Irrespective of the amendments introduced to a number of acts, the problems relating to fair trial remain.

- The independence of the judiciary can be safeguarded only through a new reversal of the jurisprudence of the Constitutional Court, which would guarantee that the constitutionally established mandate of the Supreme Judicial Council cannot be changed with a law.
- There is a pressing need for legislative reform aimed at speeding up the process of administration of justice in both civil and, to a higher degree, criminal cases. In order to overcome the unnecessary lag, it is necessary to introduce amendments to acting procedural laws and to adopt a full set of measures aimed at improving the organisation of the judiciary and the motivation of those engaged in it.
- Obsolete acts such as the *Decree on Minor Hooliganism* and the *Juvenile Delinquency Act* (despite the amendments from late 1996) should be overhauled.
 - Detention for up to 15 days under the *Decree on Minor Hooliganism* should be treated as deprivation of freedom, and not, as presently, as an administrative punishment. Accordingly, legislative amendments should be introduced to bring the administration of justice in line with the requirements of the *European Convention on Human Rights and Fundamental Freedoms*, including in the part dealing with the time and possibility for effective acquaintance with the charges, preparation of the defense, confronting of witnesses, etc.
 - Confinement of children to correctional boarding schools (formerly known as ‘labour educational schools’) should be considered as deprivation of freedom. Accordingly, a judicial procedure for confinement in such schools should be introduced, which was explicitly requested by the UN Committee on the Rights of the Child in para. 34 of its Recommendations to Bulgaria from January 1997.

IV. Freedom of Expression and Access to Information

The right to freedom of expression in Bulgaria is in need of additional encouragement. As far as the right to access to information is concerned, the country has yet to introduce basic legislative safeguards. For this purpose:

- We insist that an adequate act regulating the national electronic media, which will finally curb the possibility for political control over them, is passed. This act should also regulate the status of the Bulgarian Telegraph Agency (BTA). Bulgarian National Television, Bulgarian National Radio and the BTA should be run by independent management boards, composed of professionals, nominated by educational establishments, professional bodies and other interested civic groups.
 - The independence and political impartiality of the executive body should be guaranteed by the composition of the managing bodies.
 - The labour relations of the journalists working in the national electronic media and the BTA, and the disciplinary sanctions, should be regulated as to provide them with security, autonomy and freedom of expression.
 - At the same time, legislative safeguards should be introduced to ensure that all types of public interest are expressed in a non-discriminatory manner in the national electronic media.
- We insist that the discriminatory provisions of the *Penal Code*, which - in violation of international human rights law - provide for a privileged and higher degree of protection to “civil servants” in cases of defamation are repealed. Amendments should be passed which decriminalize the present general defamatory provisions, and introduce civil liability for inflicted damages.

- We insist that a law which adequately guarantees the right and the procedure for providing of information of personal and public interest by the state institutions is passed.

V. Freedom of Thought, Conscience, Religion and Belief

The freedom of thought, conscience, religion and belief, particularly during the last few years, has been one of the most discussed human rights problems in the country. Legislative reform in almost the entire body of legislation dealing with the freedom of thought, conscience, religion and belief, is necessary.

- The legislation regulating church-state relations is in pressing need of radical reform. It is inconceivable how ten years after the start of the democratic reforms this right can still be regulated by the 1949 *Denominations Act*, passed to subjugate the religious denominations to the totalitarian government, rather than guarantee religious freedoms.
- The new law should ensure conditions of equality between the denominations themselves, on the one hand, and between the denominations and other organisations, established on non-religious beliefs, on the other, in all spheres of public life, including during the process of acquiring of juridical person status.
- The discriminatory Article 133A of the *Persons and Family Act*, passed with the aim to restrict the freedom of association and the freedom of religion of minority religious communities, should be repealed.
- The *Alternative Service Act* should be amended to reduce the length of the alternative service and to widen the scope of organisations, which are entitled to submit applications and to hire individuals serving alternative service, by including non-profit organisations in this group. Amendments should also be passed to ensure that substitution of military service with alternative is possible at all times, including during the serving of the military service itself.

VI. Freedom of Association.

The Bulgarian *Constitution* and legislation contain a number of provisions, which unreasonably restrict and are openly discriminatory to freedom of association. We insist on legislative initiatives, which affect:

- The provisions, which prohibit the formation of political parties along ethnic and religious lines. In several cases, Bulgarian courts, including the Constitutional Court, have given a very restrictive interpretation of these provisions. Moreover, over the last years, these provisions and practices can give rise to tension in the internal organisational life of civil society, and have solicited the attention and justified concern of many international organisations.
- The current obsolete and heavily bureaucratized system for acquisition of juridical person status by civic organisations, which is in need of reform. This could be done either by introducing an administrative procedure, or by introducing short terms for consideration of the applications by the Company Registration Departments of the courts.
- The acting system of taxation of donations which hinders the establishment of sustainable civic associations in Bulgaria.

VII. Protection from Discrimination on Political Grounds

For over a decade since the beginning of the democratic changes in the country, the problem with discrimination on political grounds and political participation is as acute as ever. Political appointments and political dismissals at all levels of the administration and the civil services have and continue to take place with every change of the political power in the country. Some openly discriminatory laws have been passed, which provide for exclusion from particular positions in society of certain groups of people on account of their affiliations.

- A mechanism for supervision of and counteraction to political discrimination, including by means of an effective system for considering individual complaints, should be established.

VIII. Protection of Refugees and Asylum Seekers

In spite of the progress made over the last few years, there is still much to be done in this sphere.

- We insist that amendments to the acting *Refugee Act* are passed, which will bring it in line with the standards of the 1951 *Convention Relating to the Status of Refugees* and its 1967 *Protocol*.
- We insist that agencies empowered to resolve all refugee and asylum seeker problems, other than the status determination procedure, are created.
- We insist that the Ministry of Justice urgently organises diverse and effective forms of training of judges in refugee law.

IX. Prohibition of Ethnic Discrimination and Protection of the Ethnic Identity of Minority Groups

We insist that progress is made in the further protection from ethnic discrimination and in the reinforcement of the ethnocultural rights of minorities.

- Many spheres of public life are not regulated by any anti-discriminatory provisions apart from the broad provisions of the *Constitution*. Other spheres contain no mechanisms for enforcement of the existing provisions. No bodies or institutions have been set up to deal with the problem of ethnic discrimination. The country's state institutions have even failed to acknowledge the existence of these problems. In this regard:
 - It is necessary to pass a general anti-discriminatory law to ensure effective protection from ethnic discrimination in all spheres of public life;
 - It is necessary to improve the existing procedures and court practices for protection from ethnic discrimination.
- The government should recognise on a non-discriminatory basis the existence of civic groups and associations, which should be able to freely declare their belonging to a particular minority.
- Further progress is needed in guaranteeing mother tongue education for members of ethnic minorities, and particularly regarding the instruction in Romanes.
- It is necessary to start the process of effective desegregation of Roma schools and improving the quality of education for the Bulgarian Roma.

X. Right to Privacy, Inviolability of the Home and the Correspondence

The right to privacy, inviolability of the home and the correspondence should be safeguarded against government interference. The security services currently act in a manner which is non-transparent both for the public and for the very bodies and institutions which in a democratic society should control them.

- Legislation should be passed to guarantee adequate judicial and parliamentary control over the activities of the security services and especially those aspects which are connected with possible infringements of the right to privacy.

XI. Protection of the Rights of the Child

As the UN Committee on the Rights of the Child noted in its concluding observations from January 1997 in connection with the Report by Bulgaria on its implementation of the requirements of the *Convention on the Rights of the Child*, a number of legislative measures ought to be implemented in order to guarantee more adequate protection against violations of the rights of the child. Besides the need to ratify the *Hague Convention* and to introduce radical reforms in the system of administration of juvenile justice, it is necessary:

- To establish a national system for monitoring the status of all children in Bulgaria with particular attention to children from risk groups.
- To establish specialised bodies dealing with children which would as a matter of priority deal with the issue of effective exercise of children's rights.
- To ban and effectively combat all forms of corporeal punishment.
- To intensify and make effective, including by means of setting up specialised agencies, the control against sexual exploitation and drug abuse among children.
- To take legislative and other measures to keep children in school, including by motivating the work of teachers in schools, where the problem with dropping out is particularly acute.
- To guarantee effective protection from exploitation of child labour by passing the necessary legislation and by a more effective system of administration of justice.