

Bulgaria¹

IHF FOCUS: freedom of expression and the media; freedom of association and peaceful assembly; independence of the judiciary and fair trial; torture, ill-treatment and police misconduct; prisons and detention facilities; right to liberty and personal security; freedom of religion; conscientious objection; national and ethnic minorities, aggressive nationalism and xenophobia; asylum seekers; women's rights; rights of people with disabilities.

During 2003 Bulgaria was ruled by the coalition government of the National Movement of Simeon II (NMSS) of the former Tzar Simeon Saxe-Coburg Gotha and the Movement for Rights and Freedoms (MRF), a political party supported by the majority of Bulgarian Turks, part of the Bulgarian speaking Muslims and part of the Roma. Local elections held in October/November were free and fair.

Human rights protection in Bulgaria was successful in several spheres, mainly in the improvement of the legislative and institutional frameworks. In September, parliament adopted an Act for Protection from Discrimination. The act, effective as of 1 January 2004, is a significant advancement in combating discrimination in a number of spheres of public life. It sets up an administrative body with effective powers to investigate and punish discriminatory acts and shifts the burden of proof from the victim to the perpetrator. In May, parliament adopted the Ombudsman Act (effective as of 1 January 2004), which sets up a formal system of advocacy in cases when actions and inactions of state or municipal organs violate the rights and freedoms of individuals. In April, amendments to the Child Protection Act were passed, which introduced additional safeguards for the protection of children's interests. They guarantee that placement of a child with relatives, a foster family or in a specialized institution is carried out only with a court decision.

In several spheres the human rights situation was marked by a standstill, and in others – e.g. the right to asylum and freedom of expression there was a move backward. In 2003, the European Court of Human Rights (ECtHR) delivered ten judgments against Bulgaria, some on problems solved in the judicial system, but some concerning problems still existed in law and in practice.

Freedom of Expression and the Media

2003 was one of the most oppressive years for freedom of expression in Bulgaria. On 6 November, for the first time since the beginning of the democratic changes, the Council for Electronic Media (???) revoked the registration of a television broadcaster, effectively outlawing it and forcing it to stop transmitting.

The two most serious problems with freedom of expression were control of the authorities over media dependent on them and criminal prosecution for defamation.

On 11 December in the case of *Yankov v. Bulgaria*, the ECtHR convicted Bulgaria of violating the right to freedom of expression. The case concerned a prison inmate punished with placement in an isolation cell for seven days for moderately offensive notes about the

¹ Based on the Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2003*, March 2004. This report was written by Yuliana Metodieva, Stanimir Petrov, Krassimir Kanev, Iliana Savova, Rositsa Stoykova, Valko Stanev and Genoveva Tisheva. The Bulgarian Helsinki Committee is entirely responsible for the contents of the report.

judicial system and penitentiary administration, which he had written in a manuscript intended for publication. The prison authorities confiscated the manuscript in March 1998 before the applicant could meet with his lawyer.²

Serious problems with the regulation of electronic media continued in 2003. CEM did not fulfill its basic functions connected with issuance of licenses for private operators and failed to implement its control functions on Bulgarian National Television. The parliamentary majority tried to enforce control over the media by the adoption of a new law regulating the electronic media. In February, ruling majority MPs tabled a draft act to parliament in an attempt to remove certain people from the media regulation and bring in new ones. The new draft act was strongly criticized by media organizations, and was ultimately rejected by parliament in May.

Another problem was the revocation of the license of Den TV in November. The formal reason was the spread of ethnic and religious hatred in one of the operator's programs, "From Telephone to Microphone." The program depended on the active participation of its viewers, where differences of political, ethnic, and religious belonging prevailed. Prior to revoking the license, ??? fined the operator 15,000 BGN (€7,500)—a sum that was far too high for Bulgarian standards. The fine gave rise to severe criticism against the CEM and the ruling majority, which resulted in the imposition of a second measure—revocation of the registration. This second measure, imposed without any monitoring of the effect of the fine, was obviously disproportionate. The ensuing reactions amongst the public and in the media led CEM to repeal the measure.

The change in the management and employees of the Bulgarian Telegraph Agency (BTA) was another element of the policy of the ruling majority to control the media³. From the end of 2002 to the beginning of 2003, the new Director General, Stoyan Cheshmedjiev, started to dismiss employees without announcing any grounds for doing so. On 10 February, 200 BTA employees organized protests against the dismissals that lasted a month and a half and ended with the resignation of the BTA director general. The new management reinstated most of those dismissed.

Criminal prosecution for defamation continued to be a problem. Different courts adopted different interpretations of freedom of speech principles. In some cases the courts repealed sentences imposed on journalists by lower instance courts. This was the case with the owner of Radio Montana, Pavel Nikolov, fined by the local District Court, and with the journalist Ekaterina Djuburiya, who was acquitted in June.

In other cases, however, the courts passed heavy sentences, which had a chilling effect on freedom of speech.

- In January, the second-instance Burgas Regional Court sentenced the journalist Katya Kasabova to pay the sum of 7,472 BGN (app. €3,700) for a series of publications in the *Kompas* newspaper with allegations of corruption in school admissions' commissions in the enrolment of children with disabilities in elite schools. The court refused to acknowledge the inherent role of the media in disseminating information on problems of public interest.

² Case of *Yankov v. Bulgaria*, Application No. 39084/97, Strasbourg, 11 December 2003, at <http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=0&Action=Html&X=325170943&Notice=0&Noticemode=&RelatedMode=0>.

³ See *Human Rights in Bulgaria in 2002*, Annual Report of the Bulgarian Helsinki Committee, March 2003.

- In August, Ivan Gargavelov, secretary of the outlawed party United Macedonian Organisation Ilinden-PIRIN was fined 100 BGN (€50) by the Gotse Delchev District Court under the Decree for Combating Minor Hooliganism for insulting a Bulgarian folk singer; he had said that she sang Macedonian songs presented as Bulgarian.

Freedom of Association and of Peaceful Assembly

There were no significant changes in 2003 connected with the exercise of the right to association and to peaceful assembly. Many groups gathered peacefully and organized public events, including against government policies. As in previous years, these two rights were restricted for unpopular groups and organizations.

Bulgarians identifying as Macedonians were discriminated against in exercising their right to association and to peaceful assembly. In 2003, they were able to commemorate the anniversary of the death of Yane Sandanski on 20 April, and the anniversary of the Ilinden Uprising on 2 August.

- On 12 September in Blagoevgrad, however, the United Macedonian Organization Ilinden was prevented from carrying out planned commemorative activities in memory of the victims of the Macedonian genocide in front of the Gotse Delchev monument. The court refused to hear the appeal against the local authorities' ban on the event, and the Blagoevgrad district prosecutor issued a decree prohibiting it.
- On 15 February, the Sofia municipality banned a rally of a Kurdish group against the war in Iraq. Several of the organizers were taken into police custody, where some claimed they were beaten.
- On 11 March, Boris Naydenov, a Roma leader from Vidin, was detained and charged under several articles of the Penal Code, including for incitement of ethnic hatred, in connection with the winter protests of the Vidin Roma against electricity cut-offs.⁴ He was later released.
- In March, Sofia City Court turned down a request for registration of a new political party of Bulgarian Macedonians, the United Macedonian Community – Party for Integration, Development and Economic Progress. The court cited formal reasons for its decision.

At the end of the year, the government drafted amendments to the Meetings, Rallies and Demonstrations Act that would provide for restrictions on the right to peaceful assembly, including a ban on organizing public events of any kind around the parliament building, and such that involve the use of vehicles in populated areas and for blocking streets and roads, which “could present higher than normal problems to the other drivers”. The draft act was tabled in parliament in January 2004.

Independence of the Judiciary and Fair Trial

At the end of 2002 the Constitutional Court repealed the amendments to the Judiciary Act. During 2003, no significant legislative amendments were undertaken to overcome the problems of the structure and functioning of the judicial system. Amendments to the Constitution from autumn 2003 opened possibilities for stricter standards of accountability in the work of magistrates; legislative amendments in this connection had yet to be carried out.

⁴ See section on National and Ethnic Minorities, Aggressive Nationalism and Xenophobia.

The main problems included length of criminal and civil proceedings, low effectiveness of the execution of court judgments on civil cases, lack of an adequate information system to monitor development of cases, inadequate legal aid for civil and criminal cases, and corruption.⁵

In April and October, the ECtHR delivered judgments on the cases *Kitov v. Bulgaria* and *S.H.K. v. Bulgaria*.⁶ In both cases the ECtHR found violations of article 6 of the ECHR (fair trial); in the former, on account of excessive length of criminal proceedings, and in the latter—of civil proceedings.

The Bulgarian Helsinki Committee (BHC) survey among 620 inmates whose pre-trial proceedings had commenced after 1 September 2001 revealed some improvement in their access to legal representation during the court phase. Many defendants who ended up in prison, however, continued to participate in the proceedings without a lawyer. The survey did not reveal any improvements in the access to legal representation during the pre-trial period, where the same share as before the 2000 Penal Code amendments (50% of respondents) reported that they did not have lawyer⁷.

Legislation connected with the procedure for expulsion of foreigners was not amended after the 2002 ECtHR judgment on the case of *Al Nashif v. Bulgaria*. The ECtHR had established that the existing ban on judicial control on acts for expulsion of foreigners under the Foreigners Act violated article 13 of the ECHR.

Torture, Ill-Treatment and Police Misconduct

Torture, inhuman and degrading treatment or punishment continued to be a serious problem in Bulgaria. Bulgarian penal legislation did not treat torture as a specific crime, and courts accepted evidence received through torture.

- In November, four people were sentenced for the murder of former Prime Minister, Andrei Loukanov, on the basis of evidence, which the court itself maintained was extracted by torture in police custody, but was later confirmed before the investigating magistrate. The criminal investigation against the police officers who took part in the torture was pending at year's end.

During the year the BHC conducted comprehensive research on the disciplinary practice in places of detention and on the activities of the police.⁸ The research in places of detention established serious problems with the conditions in places for serving disciplinary measures, especially in high security zones, isolation cells and cells for serving life sentences. Almost without exception, conditions in the latter were inhuman and degrading. The material conditions in isolation cells and cells for administrative seclusion were similar. In several prisons, most notably the one in Burgas, the BHC found evidence of the use of force and auxiliary means by prison guards, which were frequently used as informal means of punishment.

⁵ See *Human Rights in Bulgaria in 2002*, Annual Report of the Bulgarian Helsinki Committee, March 2003.

⁶ Case of *Kitov v. Bulgaria*, Application No. 37104/97, Strasbourg, 3 April 2003, at <http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=0&Action=Html&X=325170821&Notice=0&Noticemode=&RelatedMode=0>; Case of *S.H.K. v. Bulgaria*, Application No. 37355/97, Strasbourg, 23 October 2003, at <http://hudoc.echr.coe.int/hudoc/default.asp?Cmd=Query>.

⁷ See also section on Torture, Ill-Treatment and Police Misconduct.

⁸ BHC, *Disciplinary Practice in Bulgarian Places of Detention*, 2003; BHC, *Human Rights and the Activities of the Bulgarian Police*, 2004 (available in Bulgarian on the BHC website, at <http://www.bghelsinki.org>).

On 11 December, in the case of *Yankov v. Bulgaria* the ECtHR found a violation of article 3 of the ECHR. The case concerned imposition of disciplinary measures (shaving of the hair and sending to an isolation cell) on a prison inmate in 1998. The ECtHR found that the measure constituted degrading treatment. It also found a violation of article 13 of the ECHR (lack of an effective domestic remedy against such measures).⁹

The BHC gathered data on multiple and various cases of torture and ill-treatment of detainees in police custody. A representative BHC survey among 620 inmates revealed a trend toward the decrease of the use of physical force and auxiliary means during arrest and inside police stations. In 2003, the share of individuals alleging use of force inside police stations was 6 percent lower than in 2002, when it was 43%. The share of individuals alleging use of force during detention had dropped by 1% to 30%. Still, the share of individuals alleging use of force remained high.

On 23 July, the Ministry of Interior adopted Instruction No. I-167 on the rules for police conduct during the detention of individuals in the facilities of the Ministry of Interior, for the equipment of police detention facilities, and the rules in them. The instruction required police officers who had witnessed excessive use of force, torture or ill-treatment, to intervene to stop it. It also set the period of detention from the “moment when the detained person’s right to freedom of movement is restricted.” The instruction contained provisions on the equipment and facilities in places of detention, and prohibited the presence of “suspicious objects” (wooden sticks, weapon imitations, etc. that could be used for violence or to create the impression of threat against detainees) during questioning. BHC visits to police facilities revealed that the practical situation was still far from the requirements of Instruction No. I-167. Detainees were informed of their rights formally but material conditions in the cells were far from those outlined in the instruction.

Access to a lawyer and to independent medical expertise in detention continued to cause serious problems for the Bulgarian criminal justice system. A BHC survey in places of detention revealed significant progress in access to legal defense during the court proceedings, but almost no progress during pre-trial proceedings (50% reported they did not have a lawyer). Detained individuals were examined by a doctor in about one fifth of the police stations visited, and only rarely by a doctor of their own choice.

On 4 December, the ECtHR found a violation of article 3 of the ECHR in the case of *M.C. v. Bulgaria*¹⁰. The case concerned the rape of a minor by two men. They were not charged because of lack of evidence of physical resistance by the victim. The court found that the requirement for proof of physical resistance had deprived the victim of adequate protection against a serious violation of her physical integrity, and that the state had violated its obligations under article 3 for adequate investigation of inhuman or degrading treatment.

Legislative and practical guarantees for the protection of the right to life did not meet international standards. In February, parliament amended article 80 of the Ministry of Interior Act, which allowed use of firearms during the apprehension of an individual carrying out or who has carried out even a minor offence, or for the prevention of the escape of an individual, detained for even a minor offence. The amendment was insignificant and failed to bring the act in line with principle 9 of the UN Principles on the Use of Force and Firearms by Law Enforcement Officials. This serious legislative problem resulted in killings and crippling of

⁹ Case of *Yankov v. Bulgaria*, Application No. 39084/97, Strasbourg, 11 December 2003, at <http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=0&Action=Html&X=325170943&Notice=0&Noticemode=&RelatedMode=0>.

¹⁰ Case of *M.C. v. Bulgaria*, Application No. 39272/98, Strasbourg, 4 December 2003, at <http://hudoc.echr.coe.int/hudoc/default.asp?Cmd=Query>.

individuals as a result of excessive use of force by law enforcement officials. Roma were over-represented as victims of such incidents.

At least two people died as a result of excessive use of firearms by the police. Both cases were not properly investigated and the law enforcement officials responsible for them were not brought to trial.

- On 26 March, 28-year-old Angel Simeonov, a Romani man, was shot and killed while cutting wood in a forest near Samokov. Although a witness identified the shooter as a forest guard, no charges were pressed against him. The criminal proceedings were terminated on 25 September by the Sofia Regional Prosecutor's Office.
- On 9 October, the regional police inspector in the town of Saedinenie, Capt. Manchev, shot and killed Petko Koshnicharski, who was schizophrenic. The man's family had called the police and doctors to take him to a psychiatric dispensary after his condition deteriorated. Koshnicharski reportedly came at the group of four policemen and two medical professionals with an axe. After firing several warning shots in the air, Capt. Manchev shot the mentally ill man in the chest; no attempts to detain him had been carried out prior to this. On 8 December, the investigative case was concluded and handed over to a prosecutor with the opinion that the firearms had been used in accordance with the law. Immediately after the killing, the then director of the National Police Service Gen. Vassil Vassilev awarded Capt. Manchev for his excellent performance.

On 18 October, 21-year-old Iliya Yordanov of Roma origin, died in detention in the Regional Investigation Service in Plovdiv. He had been detained four days earlier in the Stolipinovo Romani neighborhood for possession of drugs. In spite of warnings from his relatives and himself that he suffered from diabetes, he died as a result of inadequate medical care. Doctors who examined him twice during detention considered there was no need for hospitalization. The post mortem concluded death as a result of complications from diabetes. The criminal proceedings were terminated as the investigation concluded that the "act does not constitute a criminal offence."

The conditions in institutions for mentally disabled individuals did not change significantly in 2003. The government spent some funds on improving the material conditions in some of them.

One of the worst institutions, the one in the village of Dragash Vojvoda, was moved to a new building in another location. However, in 2003 the BHC continued to find other institutions whose residents were subjected to inhuman and degrading treatment.

- One such was the Institution for Adults with Dementia in Sofia, where 64 people—almost two thirds of all residents—died in 2003 as a result of inadequate care and inhuman treatment. Unlawful use of physical force, immobilisation and fixation continued to be standard practices in many institutions. Programs for rehabilitation and social integration were almost non-existent.

Prisons and Detention Facilities

There were 10,066 persons deprived of their liberty (including 325 accused and 1,536 defendants) in the country's prisons and labor-correctional hostels on 1 January 2004. Amendments to the Implementation of Sentences Act from 2002 increased the number of inmates serving their sentences in the labor-correctional hostels.

In spite of some positive changes, the problems with prison overcrowding remained. BHC monitoring revealed that the average space per inmate in the sleeping quarters was 1.3-2 m². Thus, in the Kremikovtzi labor-correctional hostel BHC researchers found 18-20 inmates occupying a 26 m² cell (1.3–1.4 m² per person). All inmates used the same bathroom and one lavatory. Limited corridor space had introduced the practice of keeping cells locked all day long. In December, the intolerable living conditions and the permanent locking of the cells were the main reasons behind the hunger strike staged by 19 inmates.

Lavatories were in a desperate state. Most wings for recidivists had two to four toilets per floor for 100 people. Inmates in prisons that had no lavatories in the cells had to use buckets during the night. Another problem in the prisons was the lack of adequate bed linen; mattresses, blankets, and uniforms were in a wretched state; lockers, tables and chairs were either in a bad state or missing altogether. The quantity of food continued to be meager and of bad quality, and medical care was unsatisfactory.

In 2003 the BHC published a comprehensive analysis of the disciplinary practice in Bulgarian places of detention.¹¹ The main conclusions were that the lack of any clear legal procedures connected with the establishment of violations, imposition of punishments, appeal of punishments and long-term administrative isolation of prisoners created conditions for arbitrary decisions by the prison administration. Isolation in isolation cells and long-term isolation in some prisons could be classified as inhuman and degrading treatment or punishment. The same could be said about the conditions in some of the high-security zones for prisoners serving their sentence under stricter regimes and the ones with life sentences.

Another serious problem in some prisons was the problem with ill-treatment. During the first half of 2003 in the Burgas prison the BHC established a considerably greater degree of the use of physical force and auxiliary means against prisoners than in other prisons. As a result, the Central Penitentiary Administration carried out a check that established that the prison guards admitted to having used physical force and auxiliary means, but also observed the law in every case. The inspectors did not find any documents in the prison related to the dates and specific incidents that the BHC had reported on. Cases of use of force by the guards were also established in the Boichinovtzi Minor's Correctional Institution. Only in one case a check revealed that the individual who filed the complaint had traces of violence on his body and that the guard had used a truncheon without properly registering this in a report. The guard was punished by placing him in a lower rank and giving him a warning of dismissal.

The 2002 changes and amendments to the Implementation of Sentences Act did not change the legal status of foreigners serving sentences in Bulgarian prisons. Thus, they were not eligible for, *inter alia*, placement in a labor-correctional hostel, irrespective of the length of the sentence and degree of reformation.

During the last two years, several investigation centers in Sofia, where improvement of the living conditions was impossible, were closed down alongside the detention facilities in the towns of Bjala Slatina, Belene, Svoge and Etropole. Some facilities were still located underground. The main problem in most detention facilities was the impossibility to ensure normal living conditions— natural light, fresh air, access to a toilet and running water, outdoor stay. As in previous years, overcrowding in the investigation detention centre in Plovdiv led to the use of bunk beds.

The bad living conditions in investigation detention centers gave rise to an increased number of civil lawsuits by the accused against investigation detention centers. One of the

¹¹ BHC, *Disciplinary Practice in Bulgarian Places of Detention*, 2003.

lawsuits was brought against the Varna detention facility, where a detainee had spent nine months in a cell without daylight, fresh air and bed linen.

Institutions for People with Disabilities

Although in 2002-2003 the government undertook some urgent measures to improve the material conditions in the institutions for adults with developmental disabilities and mental illness, in 2003 the BHC again established serious problems in these institutions. Residents with developmental disabilities were not separated from mentally ill residents, who were in need of specific therapeutic care. Moreover, there was no differentiation between care for people with different degrees of developmental disabilities or mental illness. The fact that institutions were located far away from larger cities prevented residents from integrating into society and gave rise to problems with the material conditions, hiring of qualified personnel, and adequate medical care. Hygiene in some institutions was deplorable. Bed-ridden residents were in the worst situation, since in most institutions they were not properly attended to. Another serious cause for concern was the medical care available to the residents. The alarmingly high rate of illness and death cases among individuals with mental disabilities continued to be a cause for concern of local and international human rights organizations¹².

As in previous years, the situation of minors in schools for children with anti-social behavior—the social-pedagogical boarding schools and educational boarding schools—did not improve. The procedure for placement in these institutions violated international fair trial standards by allowing arbitrary placements by an administrative procedure, the lack of adequate judicial control and legal defense. Most boarding schools could not satisfy the children's basic needs for food, clothes, shoes, and teaching aids. The educational process was of very low quality. In some boarding schools, placement was done for purely social, rather than educative reasons, owing to which 80 percent of the children were of Roma origin.

Right to Liberty and Personal Security

In 2003 no measures were taken to change the legislation regulating involuntary accommodation in a psychiatric institution to perform psychiatric tests to determine if a person is mentally ill, in accordance with the judgment of the ECtHR in the case of *Varbanov v. Bulgaria*. This was still carried out with a prosecutor's order. On 31 July the ECtHR delivered a judgment in the case of *Kepenerov v. Bulgaria*, where it found a violation of article 5 of the ECHR¹³.

Placement in social institutions for mentally disabled persons continued to pose serious problems from the point of view of safeguards against arbitrary restrictions of the right to personal liberty. Such placements were carried out with an administrative order, without judicial control, and they were frequently arbitrary.

In April, amendments were adopted to the Child Protection Act according to which children can be accommodated in institutions only by a court decision.

The procedure for placing children in juvenile correctional facilities was not reformed during the year. Placement was still carried out on the basis of decisions of local commissions for combating anti-social acts carried out by minors; the presence of attorneys was not allowed. In September, a draft bill on amendments to the Act on Combating Minors'

¹² See also section on Torture, Ill-Treatment and Police Misconduct.

¹³ Case of *Kepenerov v. Bulgaria*, Application no. 39269/98, Strasbourg, 31 July 2003, at <http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=0&Action=Html&X=325171201&Notice=0&Noticemode=&RelatedMode=0>.

Anti-Social Acts was tabled in parliament. It improves the procedure for placement in these institutions, but does not provide a clear definition of “anti-social acts.”

Freedom of Religion

At the end of 2002, the parliament adopted a new Denominations Act. This imposed restrictions on the right to profess a religion and set a discriminatory framework for functioning of denominations in comparison to non-religious organizations. It gave a privileged position to the Bulgarian Orthodox Church, which received its legal status by virtue of the act, while other denominations were given their status by Sofia City Court. The aim of the new law was to overcome by administrative means the schism in the Bulgarian Orthodox Church by giving official status to one of the branches in it, that of the Patriarch Maxim.¹⁴ The attempt in July to repeal part of the provisions of the Denominations Act by the Constitutional Court was unsuccessful.

In 2003 the application of the new act revealed several serious shortcomings. The Synod of Patriarch Maxim did not apply for re-registration, which would have legitimized it as the representative of the Bulgarian Orthodox Church. In September, the court terminated the registration procedure of the so called “alternative synod” on the grounds of lack of legitimacy. Thus, at the end of the year both synods remained without registration.

Irrespective of the unresolved problem with its legitimacy, the synod of Patriarch Maxim used force and other unlawful acts in its attempts to take over the property of the alternative synod. According to claims made by the alternative synod, in the period 2002-2003 representatives of the Synod of Maxim had illegally taken over at least six churches and one monastery. In the most drastic case in Varna in February, a group of guards and clerics from Patriarch Maxim’s Synod took over St. Atanasii’s Church and turned out Father Ljubomir Popov from the alternative synod. Later, the keys from the church were returned to the previous owners, but on 20 May the church was broken into again and taken over, this time for good.

The Muslim denomination did not succeed in registering the leadership with Fikri Sali as Chief Mufti, elected in December. Former Chief Mufti Nedim Gendjev, who claimed to have organized a legitimate Muslim conference on the same day and place, challenged his election before the court. The court froze the denomination’s bank account until the conflict was resolved.

The re-registration of the other denominations went smoothly. Several were registered during the year, bringing the total number to 36 (including the unregistered Orthodox denomination). Registration of the local chapters of denominations however was problematic. Although the Denominations Act did not require this, in many municipalities unlawful ordinances continued to exist, which tied the carrying out of activities to being registered locally. Thus, almost all large denominations had unregistered local chapters, which was a serious hindrance to their work.

In 2003, non-traditional denominations in Bulgaria continued to suffer discrimination.

- On 24 May an attack was carried out on the Pentecostal Evangelical Church, resulting in 17 broken windows.

¹⁴ More about the restrictive and discriminatory provisions of the new law is available in: *Human Rights in Bulgaria in 2002*, Annual Report of the Bulgarian Helsinki Committee, March 2003, at <http://www.bghelsinki.org>; Krassimir Kanev, “The New Bulgarian Religious Law: Restrictive and Discriminatory”, in: *European Yearbook of Minority Issues*, Vol. 2, 2002/3.

- In June, inhabitants of the Burgas Slaveykov district announced they were going to organize protest rallies against the building of a Jehovah's Witnesses place of worship; Jehovah's Witnesses temporarily halted its building.
- In November, a group of young nationalists beat up an American pastor in Varna. The perpetrators, who were known, were not punished.
- In December, the mayor of Stamboliiski municipality banned the Church of The Seventh Day Adventists from organizing a religious discussion in the Joachim Gruevo village on the basis of a protest letter from 41 village inhabitants against the "sect."
- The municipal police and local authorities in several cities fined Jehovah's Witnesses for organizing peaceful religious activities.

During the year, BHC received information about restrictions of the religious rights of some Muslim denominations that were not traditional for Bulgaria.

- In March, two members of the Halifat Muslim Association were arrested in the Roma neighbourhood in Pazardzhik on allegations of spreading Islamic fundamentalism. These allegations, however, did not give grounds for further criminal investigations.
- In May, the press and police reported that an "unregulated gathering of Muslims, who had fallen under the influence of a Lebanese Islamic movement" in South Bulgaria had been prevented. The BHC could not gather more information about the nature, reasons and ways of "preventing" this gathering.

Representatives of several Protestant groups complained of discrimination in paying local taxes, which were the same as for industrial enterprises, while Orthodox Churches either paid nothing or considerably less. Non-Orthodox denominations owed taxes on donations from abroad, including humanitarian assistance and books.

Conscientious Objection

In May, parliament passed amendments to the Act for Substitution of Military Service with Alternative Service. This reduced the length of alternative service from twice the length of military service to one and a half times its length. The length of alternative service cannot be increased as a disciplinary measure. The law, however, introduced some restrictions. Decisions for substitution of the military service with alternative service and imposed disciplinary punishments were excluded from judicial control. Old discriminatory provisions remained in force: inability to carry out alternative service in NGOs, prohibition of religious and atheistic propaganda, a ban on membership in trade unions and participation in trade union activities, and prohibition of standing candidates for elective posts.

National and Ethnic Minorities, Aggressive Nationalism and Xenophobia

There were no significant changes in the situation of ethnic minorities in Bulgaria in 2003. A delegation of the Committee of Experts on the Implementation of the Framework Convention for the Protection of National Minorities visited Bulgaria, but their recommendations were not published by year's end.

The Act on Protection from Discrimination, adopted in September, marked a progress in the legal framework for protection from ethnic discrimination. It set up a special body with

effective powers to investigate and punish discrimination and changed the burden of proof of discrimination in accordance with European Commission Directive 2000/43 and Directive 2000/78.

Roma continued to be subjected to discrimination in the spheres of employment, healthcare, education, housing, and the criminal justice system. In the winter of 2002-2003 companies supplying territorial electricity periodically cut off the electricity to Roma neighbourhoods. This was a collective punishment, since bill-paying customers had their electricity cut off alongside all others. Protest organisers in Vidin received heavy criminal charges for staging protests against this.

There was no progress in implementing the declared government policy of desegregation of Roma education. In 2003 several desegregation projects continued to work, financed with donor funding, not state funds.

In September, the government announced its Action Plan on the Framework Programme for Equal Integration of Roma in Bulgarian Society, which specified its engagement in several areas. The funds set aside for regulation of Roma neighborhoods and houses in them were not sufficient to address the scope of the problem. In addition, the action plan did not provide for the opportunity to pay for the transport of Roma children who travel to integrated schools outside Roma neighborhoods.

During the year, in several large cities, including Sofia, radical racist youth groups committed acts of violence against Roma and colored foreign citizens.

Asylum Seekers

All aspects of the right to asylum deteriorated during 2003. This was partly due to the entry into force in 2002 of the Asylum and Refugee Act, which revoked the responsibility of border police to carry out accelerated procedure. The National Border Police terminated BHC's access to the places for detention of foreigners who had entered the country's territory illegally, thus banning the possibility of offering assistance to detained individuals. In this way, the state violated the rights of asylum seekers to have access to a refugee determination procedure. Sending them back violated the principle of *non-refoulement* of the 1951 Geneva Convention on the Status of Refugees.

The BHC received information of asylum seekers returning uncontrolled on a daily basis to the country or to the borders of the country they were fleeing from.

- In January, the National Border Police Division – Port of Varna turned back several Iraqi refugees; they later received refugee status in Romania.
- In April, a Georgian family was kept for four days together with their small child between the Bulgarian and Turkish borders, and were not allowed onto the territory of the country in spite of having filed asylum applications. They were returned to Turkey, and given refugee status in Hungary two months later.

The state administration made some efforts to carry out accelerated procedure at the centers for administrative detention of foreigners in Sofia. This practice was outlawed by the courts.

- Nevertheless, in August 2003, an Iranian couple seeking asylum – Tairebe Pairadvand Sabzali and her husband Gasseem Akbari – who were fleeing Iran because

of prosecution for adopting Christianity, were sent back to Iran, irrespective of having lodged asylum applications at the State Refugee Agency. Since their return there was no news as to their whereabouts and there was serious ground to assume that they were executed or punished harshly according to the law in the Islamic Republic of Iran.

The registration of asylum applications at the State Refugee Agency continued to be carried out only from Monday to Wednesday. During the two remaining work days and on weekends, newly-arriving asylum seekers in Bulgaria were not able to register and ran the risk of being detained and even taken away to the border in violation of the principle of *non-refoulement*.

In 2003 the State Refugee Agency stopped offering protection to refugees from Afghanistan on the assumption that democratic changes had taken place there guaranteeing the life and security of its citizens. Applications from Palestinians, individuals of Kurdish origin fleeing Turkey, and Iranians were treated in a similar manner. However, the Supreme Administrative Court established rules in one case that Palestinians were *ipso facto* refugees and should be given protection in all cases. Another positive precedent was set by the Sofia City Court in a judgment that women without the support of a male family member were at risk in Afghanistan and should not be returned.

The system of refugee protection demonstrated its inadequacy during the year also with the revocation of refugee status in one case.

- In May, the State Refugee Agency withdrew refugee status from the Ethiopian, Feisa Yoldu Reffu, which had been granted in 1996. This was done on the basis that he had acted against the principles of the United Nations and carried out crimes against peace and humanity in violation of article 1F(a) of the Convention on the Status of Refugees for belonging to the Ororo Liberation Front and for inciting ethnic hatred to other members of the Ethiopian Refugee Community in Bulgaria. Reffu's conflicts with Ethiopian refugees were of an ideological, political and household nature and in no way constituted crimes against humanity. This application of one of the convention's excluding clauses was accepted by two panels of the Supreme Administrative Court where the case was appealed.

Women's Rights

The government had still not prepared reports for the respective UN bodies on the implementation of the Convention for the Elimination of All Forms of Discrimination Against Women and the Beijing Platform for Action.

The second and third consolidated reports under the convention were presented in 1998 and the government was obliged to report on the implementation of the convention and the committee recommendations after this period. In addition, the Bulgarian state had undertaken the obligation to present a report on the implementation of the Beijing Platform for Action in connection with the upcoming review under the UN convention. The only adopted documents relating to women's rights continued to be a Decision of the Council of Ministers of July 1996 for adoption of a national action plan and the respective measures of the government for implementing the Beijing Platform for Action.

The Bulgarian government was also obliged to implement the obligations under the Revised European Social Charter. In the summer, the first highly critical report of the Committee of Experts was received, which included criticism of areas such as equal pay for men and women and sexual harassment at work.

During 2003, the following achievements in the sphere of legislation and to a certain degree in the sphere of equality policies were achieved:

- The adoption of an Act for Protection from Discrimination in September 2003, which provided for the setting up of a commission for protection from discrimination, including gender discrimination;
- The adoption of an Act for Combating Trafficking in People, effective as of January 2004;
- NGOs proposed a draft law against domestic violence, which was to be discussed in parliament;
- Bulgaria joined the Framework Strategy of the Community for Gender Equality (2001-2005);
- A Consultative Commission for Equal Opportunities between Men and Women and Vulnerable Groups in the Sphere of Employment was established at the Ministry of Labor and Social Policy; it was made up mainly of women's NGOs. In addition, the government adopted a National Employment Plan, focusing, *inter alia*, on encouraging equal opportunity policies between men and women.

However, women continued to suffer discrimination in many sectors of public life, including limited access to some spheres of employment. Trafficking continued to be a serious problem, and the corruption of law enforcement authorities continued to hinder any successful attempts to address the issue. Almost no marked success was achieved in combating domestic violence.

Rights of People with Disabilities

Although 2003 was the European Year of People with Disabilities, discrimination against them continued. The most serious problem was that of individuals placed in institutions run by the Ministry of Labor and Social Policy (MLSP). Many of these places were warehouses for people located in far-off locations with no meaningful activities or adequate medical and other care.

BHC visits to these institutions during the year also revealed a lack of adequate medical care and abuses in the care of both relatives and directors of the institutions. During the year, the routine practice to place residents under guardianship on the basis of a 1999 letter from the MLSP continued. No changes were made to the legal framework regulating the means of physical restraint. As a result, this practice of illegal seclusion continued in some institutions.

People with physical disabilities were faced with serious problems in accessing many public areas. The inability to use public transport, to go to work or school, inaccessible pavements and lifts, etc., drove them to isolation and severe emotional trauma. The larger part of disabled people could not vote in local elections because voting stations were inaccessible. Thirty lawsuits were filed in 2003 in connection with inaccessibility to public areas.