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Bulgaria 1

IHF Focus:

Freedom of expression and the media; freedom of association and peaceful assembly; independence of the judiciary and fair trial; lustration law; torture, ill-treatment and misconduct by law enforcement officials; conditions in prisons; religious tolerance; conscientious objection; freedom of movement; protection of ethnic minorities; protection of asylum seekers and immigrants.

Throughout 1998 Bulgaria was ruled by a government consisting of the United Democratic Forces (UtDF), formed after the elections of April 1997. In contrast to previous years, 1998 was not marked by political or economic upheavals. The government continued its policy of reform and reiterated its willingness to abide by European human rights standards. This created a favorable public climate both for legislative reforms as well as for NGO activities.

However, the actual development of the human rights situation in Bulgaria in 1998 was contradictory. While authorities continued their dialogue with human rights NGOs and carried out investigations into past abuses, sentences for human rights violations were very mild.² On the whole, in most spheres of human rights the situation did not change, in some a setback was observed.

Freedom of Expression and the Media

Government control over the national electronic media as well as pressure by local governments and economic groups continued. Journalists were prosecuted for insult and libel of public officials, and the police illegally confiscated publications of unpopular religious minorities.³

The hope that the new Radio and Television Act, passed in November, would weaken government control over the management of the national electronic media proved to be in vain. The new act stipulated that the National Assembly elect five members of the National Radio and Television Council (NRTC) and the president four. Public interest groups gained no participation in the procedure. In December the NRTC was purged of its last few members whose loyalty to the government was under doubt.

The IHF has consultative status with the United Nations and the Council of Europe.

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COOPERATING ORGANIZATIONS:

The European Roma Rights Center – Human Rights Without Frontiers – Mental Disability Advocacy Center

The two largest electronic media, Bulgarian National Radio (BNR) and Bulgarian National Television (BNT), continued to broadcast programs that were strongly pro-governmental. According to ACCESS association, an independent media monitoring group, between March and September the relative share of criticism against the government on the BNR and the BNT was 2- 5 percent, compared to 30- 60 percent in the print media.

- On 10 January the popular "Hushove" program, which caricatured government figures, was dropped by BNT, due to "unclear advertisement contracts". The show's producers switched to several private television channels but remained under pressure from pro-government circles. On 29 April the director of the Drama Theater in Pleven refused to provide a hall for their show, reportedly because the Ministry of Culture had prohibited this. In July the economic police in Burgas checked the cable operator that screened "Hushove" and forbade the station to air a number of foreign programs because it did not have a license. Other local cable operators which did not have a license either were neither checked nor censored.

Harassment of Journalists

1998 started with a serious public debate concerning the criminal prosecution of journalists, including Yovka Atanassova, Karolina Kraeva, Lybomira Kalpachka, Krassimir Shahpazov, Vassil Berchev, Diana Rainova, and Plamen Kamenov. The charges were based on articles 146, 147, 148 of the penal code, which provided for up to two years' imprisonment for insult and for up to three years for libel and slander. In addition, the penal code provided for a discriminatory procedure for criminal liability: a libel case against an ordinary person had to be initiated by the victim, but if a "public official" was defamed, the Prosecutor's Office took action.

In May over 40 Members of Parliament from different parliamentary groups proposed a moratorium on the execution of the sentences faced by journalists, but it was immediately rejected. On 14 July the Constitutional Court turned down the proposal for a declaration that imprisonment for libel and the discriminatory procedure for

criminal liability violated both the constitution and international standards.

A number of journalists were sentenced for insult and libel, but received either suspended sentences or fines:

- Yovka Atanassova from the daily Starozagorski Novini was sentenced four times for libel.

- In March Diana Rainova from the Dobrich paper Nova Dobroudjanska Tribuna received a three-months suspended sentence for libel, the plaintiff being the chief of the Regional Directorate of Internal Affairs.

- On 8 October Karolina Kraeva, editor-in-chief of the Istina paper in Vratsa, received a one year and four months suspended prison sentence plus an order to pay 2 million leva (approximately US\$1,10) for libel and hooliganism. The chief of the Precinct Police Department in Vratsa, Colonel Georgi Assenov, had accused her of having "asked inconvenient questions" in an interview that was published.

Several journalists were dismissed or removed from the air for criticizing the government:

- On 4 March the managing board of the BNR took national radio journalist Diana Yankulova off the air for three months for the distribution of anonymous information about the minister of the interior, Bogomil Bonev.

- On 5 March Svetoslava Tadarakova was dismissed from national television because her statements "tarnished the reputation of BNT."

In the most scandalous case the BNR leadership dismissed three journalists, Viza Nedyalkova, Antoaneta Nenkova, and Emil Ivanov from the "Hristo Botev" program citing "violations of technological discipline." All three reporters were known as supporters of the political opposition.

Freedom of Association and Peaceful Assembly

The rights of ethnic and religious minority groups as well as trade-union activists to association and assembly were restricted. The only positive development was the government's June decision to register the moderate Macedonian culture-based organization TMO-IMRO, led by Georgi Solunski.

Regardless of the fact that the government finally registered the Jehovah's Witnesses, authorities on several occasions restricted the right of local groups of Jehovah's Witnesses to assemble. Also, the ethnic Macedonians' right to assembly was violated.⁴

In March and April 1998 the government reacted severely to protest rallies of striking engine drivers, who demanded higher wages. The strikes were declared illegal by several Bulgarian courts, each time on different grounds. This gave the management of the railroad company the opportunity to dismiss all officials of the Trade Union of Engine Personnel - even those who had not been charged with anything- on a disciplinary basis, which was in violation of the Labor Code. Following appeals, the courts reinstated some workers. The trade union filed a complaint with the International Labor Organization for violation of the right to association.

Independence of the Judiciary and Fair Trial

The reform of the judiciary continued in 1998. A number of new acts increased the guarantees of access to court and a fair trial. In March the Decree on Minor Hooliganism was changed. Defendants in cases of minor hooliganism thus gained the right to legal counsel at their hearing.

In April the Constitutional Court rejected the proposal that criminal trials should not proceed in the absence of a defense lawyer. The November amendments to the Judiciary Act deprived the Prosecutor's Office of the possibility to terminate or suspend criminal proceedings and ruled that only the court may do so. However, the criminal procedure code was not changed to give effect to these provisions.

The February amendments to the criminal procedure code allowed the reopening of criminal cases on the basis of decisions of the European Court of Human Rights. In May the parliament passed the Social Assistance Act, which enabled citizens to appeal decisions of the Regional Social Assistance Service in court.

However, the reform did not affect the other problematic spheres of penal legislation. They included the provisions on the general administration and supervision of the investigation by the Prosecutor's Office, mandatory defense and legal counsel for indigent defendants, and participation of crime victims in the criminal procedure. The legal framework of "correctional boarding schools" (formerly "labor educational schools") was not changed either. Underage offenders continued to be confined to them without a chance that their cases be heard in conformity with the principles of fair trial.⁵

Despite the above-mentioned positive changes, the independence of the judiciary in Bulgaria was put to a serious test. On the basis of clause 11 of the Transitional and Final Provisions of the Judiciary Act a new Supreme Judicial Council, the supreme body controlling the judiciary, was elected before the expiration of its five-year mandate. This act clearly violated the constitution. Furthermore, those judges that the parliament proposed as members for the Council were mostly pro-government. With a clearly politically motivated decision of 17 January 1999, the Constitutional Court confirmed the new election.

Lustration Law

In October the parliament passed the Administration Act. For a period of five years it prohibited to employ people who had occupied leading posts in the political and administrative apparatus of the Bulgarian Communist Party or collaborators of the Communist State Security in the state administration. Persons who already occupied leading posts in the administration were obliged, within a period of 30 days, to present an affidavit that they satisfy the requirements of the act. In January 1999 the Constitutional Court declared the act unconstitutional deeming it discriminatory.

Torture, Ill-Treatment and Misconduct by Law Enforcement Officials

Excessive use of force, torture and ill-treatment by law enforcement officials continued. While police violence during detention (aimed at extracting "confessions") was sporadic, it was virtually systematic at the moment of apprehension. In addition, police violence was discriminatory regarding the Roma minority whose numbers among victims were disproportionately high.⁶ Despite amendments to the criminal code and criminal procedure code, detainees still did not have the right to legal

counsel from the beginning of their detention, or access to a physician of their own choice, both facts facilitating ill-treatment. In addition, the expansive, legal use of firearms by the police led to deaths and injuries. Unlike previous years, this problem received wider publicity in 1998, even at the highest governmental levels.

On 28 October the European Court of Human Rights ruled in the case of Assenov and others v. Bulgaria. It decided that Bulgaria had violated article 3 of the European Convention, which prohibits torture, ill-treatment and other forms of degrading treatment or punishment. The complaint was submitted by an underage Rom from Shoumen who had been ill-treated by police officers while in detention.

Bulgarian law allowed law enforcement officials nearly unrestricted powers to use firearms. Article 80 of the Ministry of the Interior Act allowed them to use firearms during the apprehension of a person who was in the process of committing or had committed a crime, or in order to prevent the escape of a suspect. These regulations contradicted UN Principles on the Use of Force and Firearms by Law Enforcement Officials because they allowed for the arbitrary use of firearms. Several clashes between police officers and civilians suggested that the police also exceeded their legal powers. At least eleven people died and many others got injured under suspicious circumstances due to the excessive use of firearms.

- On 30 January 1998 a policeman shot and killed the 17-year-old Rom Tsvetan Kovachev in Kostinbrod.

- On 28 March a policeman shot dead 26-year-old Ivan Markov after a domestic quarrel in the village of Bunovo, near Pirdop.

In May 1998 Chief Prosecutor Ivan Tatarchev and Director of the National Investigation Service (NIS) Boyko Rashkov presented a report on the illegal use of force and firearms by police officers between January 1997 and March 1998. However, the report did not include all cases brought to the attention of the Prosecutor's Office. Many others were either not investigated at all or were subsequently suspended.

The reactions of the minister of the interior to police brutality were contradictory. On the one hand, he criticized the habit of the police to "shoot at everybody and everything," on the other he claimed that the problem was greatly exaggerated and used as a political weapon by government critics.

Police officers also resorted to other unnecessary and excessive use of force:

- On 24 March police officers in Pleven beat many protesting workers, including women, at the local petrol refinery "Plama." The act was justified by the necessity to secure free access to the enterprise for administrative personnel, but obviously not in any proportion to the stated aim. Seven workers were hospitalized for emergency medical treatment. The Pleven police department stated that the police officers had not exceeded their power. The investigation initiated by the Prosecutor's Office was later suspended.

Accountability

Little progress was made to investigate the complaints made to Prosecutor's Offices regarding ill-treatment and excessive use of force by law enforcement officials. Most of the 1997 cases were still at the stage of preliminary investigation, suggesting little genuine interest on part of the authorities to clarify them. Many other investigations were suspended.

- The prosecutor suspended the investigations into the murders of Kolyo Todorov and Elin Karamanov on the grounds that the police had used firearms lawfully. Todorov, arrested for theft, was killed by a police officer in May 1997 when he tried to escape. Karamanov was killed by a traffic police officer in February 1997 while collecting scrap iron on the banks of the Maritsa river.

- In June the investigation into a mass beating in the Neron-2 Club was suspended, without charges being brought against a single law enforcement official. The special police forces of the Metropolitan Directorate of Internal Affairs raided the disco on 28 June 1997, forcing those present to lie down on the floor, and kicking and beating them randomly. Fifty-one victims filed complaints.

Few investigations were completed and the perpetrators convicted:

- In February a police officer was sentenced to nine years' imprisonment for the murder of Emil Petrov-Germanetza, who had been shot dead on 20 March 1997 during a dispute.

In July another police officer received a 1.5 years' suspended sentence for the murder of Angel Bozhkov. Bozhkov was shot dead on 10 December 1997, while driving his own car, which had earlier been reported stolen and later returned. He had failed to report this immediately to the police.

Conditions in Prisons

The Bulgarian Helsinki Committee was granted the right to visit all prisons and detention facilities under the jurisdiction of the Ministry of the Interior (with three-day notice) and correctional boarding schools (without notice), but – like in previous years - was not allowed access to pre-trial detention facilities of the National Investigation Service (NIS).

As of the end of 1998 Bulgarian prisons accommodated a total of 11,237 inmates, 808 of whom were in pre-trial detention. In addition, some 1,000 detainees were held in 89 NIS pre-trial detention centers, in "administrative detention" for hooliganism, and about 800 juvenile delinquents were placed for "mandatory education" in correctional boarding schools. The relative number of those not yet indicted in pre-trial detention decreased due to the 1997 reform that limited the detention period during the preliminary investigation. However, it remained a common problem for those indicted because no time limit applied to them. In the prison for juvenile delinquents in Boichinovtsi, 61.7 percent of the inmates were still in pre-trial detention.

Some human rights violations in prisons could be attributed to poor material conditions, including a shortage of mattresses, blankets and sheets, as well as poor quality of food. Some prisons and labor correctional hostels were overcrowded, even three to five times over the admissible figure in Europe. Inmates were sometimes accommodated in cells with three-bed bunks, with insufficient living space and inadequate airing. Due to overcrowding, remand prisoners were often not separated from those convicted.

Ill-treatment was a serious problem in some prisons. Wardens beat prisoners with clubs and verbally abused them to maintain order and discipline. In only one case did the Prosecutor's Office institute proceedings against a violent official. In addition, prisoners' correspondence was stopped, some were held in detention after their term had expired others were denied access to a psychologist, and their personal belongings were confiscated. Poor hygienic conditions and lack of medicines facilitated the spread of tuberculosis and other diseases.

Conditions in pre-trial detention facilities were even worse, amounting to inhumane and degrading treatment. As of November 1998, with the adoption of the Act to Amend the Judiciary Act, pre-trial detention facilities were transferred to the control of the Ministry of Justice and Legal Aspects of Euro-Integration.

Religious Tolerance

Bulgaria made some progress in the field of freedom of thought, conscience, religion and belief. After years of refusal, it recognized the Jehovah's Witnesses; guaranteed all religious communities equal access to the broadcast media, and passed a long overdue law on alternative service to military service.

On 9 March the government and the Jehovah's Witnesses reached an amicable agreement ratified by the European Commission of Human Rights,⁷ and on 7 October Bulgarian authorities recognized the minority as a church. The Jehovah's Witnesses had filed a complaint against Bulgaria before the European Commission of Human Rights because of the July 1994 ban on their activities, based on the notorious article 133A of the Persons and Family Act. However, the article still remained in force, as did the archaic Denominations Act of 1949, both of which could be used as a legal basis of discrimination.

Article 53(1) of the new Radio and Television Act granted both to the Bulgarian Orthodox Church and the other officially registered religions equal access to the broadcasting media. At the same time, fierce media attacks and police violence against the so-called "sects" abated considerably. Still, certain circles within the ruling majority suggested more restrictive provisions, and the government continued to interfere in the internal affairs of the largest religious communities.

- The government did not acknowledge the decisions of the All-Orthodox Council, convened in early

October, which reconfirmed Patriarch Maxim and the Holy Synod headed by him as the legitimate leadership of the Bulgarian Orthodox Church. Instead, it did everything to help the church council, convened by Maxim's opponents on 6 and 7 November, which declared the patriarch and his synod illegitimate.

In November the nationalistic IMRO (the Internal Macedonian Revolutionary Organization), which was part of the governing coalition, declared that it considered the fight against "foreign" religions as its paramount task. IMRO experts reportedly prepared a new draft Denominations Act, which would declare Orthodoxy the official religion in Bulgaria and would allow for the registration of those religions only, which were registered in 1908.⁸ Other religious communities would have to undergo a trial period and prove a large membership in order to operate legally.

The primary target of IMRO members were the Jehovah's Witnesses, and Plovdiv became a center of harassment.

- On 25 April IMRO activists surrounded a private home where Jehovah's Witnesses held a meeting, and publicly burned their religious literature. Ironically, the mayor of Zapaden district fined three Jehovah's Witnesses, Nedyalko Genchev, Kostadin Stavrev, and Nikolai Arabadjiev, 500,000 leva (approximately US\$275), not the perpetrators. On 28 October the Plovdiv District Court confirmed the fines for violating a Plovdiv municipal ordinance to ban the activity of unregistered religious communities

The Police frequently prevented meetings of minority religious communities and confiscated their publications:

- In January police raided the home of a Jehovah's Witness in the Burgas neighborhood Meden Roudnik. They confiscated literature and dispersed a prayer meeting. The incident was accompanied by a fierce defamation campaign by the local media against the Jehovah's Witnesses, citing an alleged "disappearance" of a 14-year-old boy, who allegedly had been abducted by Jehovah's Witnesses.

The boy was eventually "found," but the media campaign continued.

- In December the police declared that it had seized a large quantity of "sectarian Muslim literature" in Silistra and that preachers of fundamentalist Muslim sects had been repatriated.

Also in December the Blagoevgrad District Court struck down a suit brought by members of the Unification Church (Moonies) against the Prosecutor's Office. In June 1997 the police backed by this Prosecutor's Office had raided a private home, interrupting the meeting and confiscating books and personal belongings of the people living there. The District Court concluded that the Prosecutor's Office, which had issued the search warrant, could not be held responsible for illegally ordering a search and seizure by the police.

Conscientious Objection

On 28 October the National Assembly passed the Substitution of Military Obligations by Alternative Service Act, which was seven years overdue. 9 Despite being a major improvement, the act did not fulfill European standards. Civilian service was twice as long as a regular military service and thus punitive. One article provided for an annual quota for conscientious objectors who, in addition, were not granted the right to carry out their service in NGOs, and allowed anyone to change from alternative service to regular armed service, but not vice versa. One of the greatest shortcomings of the law was the provision of article 29(2), which forbade people performing alternative service to "conduct religious or atheistic propaganda." This provision had the potential of seriously restricting the right to alternative service on religious grounds. In addition, article 29(3) deprived conscientious objectors the right to trade-union membership while carrying out their service.

- On 10 December Krassimir Savov from Plovdiv was imprisoned following a ruling by the Supreme Court of Cassation that confirmed a one-year prison sentence of a lower court for a refusal to carry out a military service. This was done while the parliament was debating the Alternative Service Act, and Savov was incarcerated after the act had been promulgated.

On 29 October the National Assembly adopted amendments to the Penal Code

criminalizing deviations from alternative service. It did not pass the drafted amnesty act for persons convicted for refusing military service. Until this act is passed, anyone who is under investigation for refusing military service may face a sentence of imprisonment.

Protection of Ethnic Minorities

Macedonian Minority

In early July the European Commission of Human Rights admitted the complaint submitted by ethnic Macedonians regarding the violation of their right to peaceful assembly. Despite this fact, violations continued.

- On 18 April several hundred activists of UMO "Ilinden" were prevented from placing flowers on the grave of Yane Sandanski, a historic Macedonian figure on the basis of an order of the Blagoevgrad District Prosecutor's Office. People attempting to approach the site of the grave near Rozhen were turned back because of their "technically faulty vehicles." Vassil Gyudjemov, who still managed to reach to the grave, was detained for not carrying a passport and beaten by the police.

- On 2 August the mayor of Petrich banned the UMO "Ilinden" celebrations of the anniversary of the Ilinden Uprising in the Samouilova Krepost locality near Petrich. Yordan Toshev, a local UMO "Ilinden" activist, was arrested for having thrown flowers at the policemen's feet.

Roma Minority

A number of conflicts between Bulgarians and Roma raised public attention, depicting the discrimination to which that minority was subjected in all spheres of public life. On several occasions Roma organized demonstrations, demanding to receive their due social assistance payments, which were often delayed for several months. There were several raids in Roma neighborhoods, most of the time of purely punitive character.

- On 23 March fifteen drunken police officers raided the Roma neighborhood in the town of Krivodol with the aim of retaliation for a fight between a Rom and a police officer earlier that day. Many Roma, including women and children, were reportedly beaten. No one dared to file a complaint.

- On 10 July some 80 police officers raided the Roma neighborhood of Mechka, near Pleven, allegedly in search of stolen goods. The police beat people and destroyed at least 15 houses. Local authorities claimed that the Roma had prevented police officers from carrying out their searches, whereupon the police had called for backup. More than 30 people were injured, including a child, and it was only days later that some of the victims could get medical certificates. Nine victims filed complaints.

Roma also suffered from violent actions by racist groups, local mobs and private security guards.

In early March peasants in Hadji Dimitrovo, near Yambol, organized a pogrom against the local Roma community, whose members were suspected of having committed crimes in the village. At least 13 houses were raided, people were beaten and furniture was broken. The District Prosecutor's Office in Yambol did not bring charges against the perpetrators.

Protection of Asylum Seekers and Immigrants

The much needed and long overdue draft refugee law was voted on first reading in parliament, but had not passed by the end of 1998. The asylum procedure continued to be insufficiently and arbitrarily regulated, based on the 1994 Ordinance for Granting and Regulating Refugee Status. There were no published guidelines for the border police and officials of the National Bureau for Territorial Asylum and Refugees (NBTAR), which was responsible for processing asylum applications.

According to article 279(5) of the penal code, nobody who entered the country to avail themselves of the right to asylum must be punished. This paragraph, however, was not always respected and asylum seekers were usually arrested on arrival and held in detention centers (mainly in Drujba), often longer than the legally admitted 24

hours, or in the transit zone of Sofia airport. They did not have the opportunity to contact a lawyer, the UNHCR or family members, and interpreters were usually not available. As a result, asylum seekers did not know about their rights and had no access to the asylum procedure. Moreover, the NBTAR frequently refused to accept requests for asylum under different pretexts, particularly from individuals coming from countries that were considered to be safe (e.g. Armenia) or politically sensitive (e.g. Turkey). The refusal to register applications was usually informal, which made it difficult for asylum seekers to seek recourse, and put them at risk for deportation. Those who entered Bulgaria illegally (i.e. without a passport or with a false passport) were prosecuted, which was in violation of international standards.

In August 1998 the Bulgarian Helsinki Committee was – as an exception - given access to the detention center in Drujba. An agreement was achieved with the Ministry of the Interior that asylum seekers who had contacted the Committee or about whom the Committee had reported would not be detained and deported. This happened after several illegal deportations of registered asylum seekers.

The lack of reception centers often led to asylum seekers being turned back from the border following an informal "accelerated asylum procedure" by border officials. In order to avoid such cases, the UNHCR opened three transit centers at the major border checkpoints with Greece, Romania and Turkey.

From the 110 staff members of NBTAR, only nine were involved in the registration, interviewing, country evaluation and decision process, and none were present at border checkpoints. There were no guidelines to regulate the coordination or work between the Ministry of the Interior and the NBTAR, no 24-hour on-duty service, and no constant telephone/fax contact between the border police and the NBTAR.

Freedom of Movement

There were no known restrictions on the right to freedom of movement in Bulgaria. However, the right of Bulgarian citizens to travel to foreign countries remained seriously restricted. In February 1997 the Minister of the Interior banned former convicts from leaving the country. In addition, the harsh visa regulations of some European countries made the issuing of a visa a lengthy, time-consuming, and costly procedure.

FOOTNOTES:

1. Based on Human Rights in Bulgaria in 1998, Bulgarian Helsinki Committee, prepared by Emil Cohen, Krassimir Kanev, Tanya Marincheshka, Yuliana Metodieva, and Stanimir Petrov. The report includes materials from the Tolerance Foundation and the Human Rights Project.
2. On 11 February, four former militia officers were sentenced for the murder of Bilian Hadjiev from the village of Dobroplodno during the protests of the Bulgarian Turks in May 1989. The highest sentence, however, was only two and a half years imprisonment. In May the criminal case against a number of senior Communist Party and state leaders, charged in connection with the campaign to forcibly change the names of ethnic Turks, was once again returned for further investigation by the Supreme Court of Cassation.
3. See ReligiousTolerance.
4. See Religious Tolerance and Protection of Ethnic Minorities.
5. See IHF Annual Report 1998.
6. See Protection of Ethnic Minorities.
7. It was followed by a similar decision taken on 9 October by the government of Latvia. Bulgaria and Latvia were the only member-states of the Council of Europe, which refused to grant official status to the Jehovah's Witnesses.
8. The year the Kingdom of Bulgaria proclaimed its independence.
9. According to article 3(3) of the transitional and final provisions of the 1991 Constitution, "the National Assembly shall pass the laws specifically stipulated in the Constitution within a period of three years".

