



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### Forty-seventh session

31 October–25 November 2011

## Consideration of reports submitted by States parties under article 19 of the Convention

### Concluding observations of the Committee against Torture

#### Bulgaria

1. The Committee against Torture considered the combined fourth and fifth periodic reports of Bulgaria (CAT/C/BGR/4-5) at its 1032nd and 1035th meetings, on 9 and 10 November 2011, (CAT/C/SR.1032 and 1035), and adopted concluding observations at its 1054th meeting (CAT/C/SR.1054) on 24 November 2011.

#### A. Introduction

2. The Committee welcomes the submission of the fourth and fifth combined periodic reports of Bulgaria, submitted in accordance with its reporting guidelines, regrettably two years late, and the replies to the list of issues (CAT/C/BGR/Q/4-5).

3. The Committee appreciated the open and constructive dialogue with the State party's high-level diverse delegation and thanks the delegation for its clear, frank and detailed answers to the questions raised by Committee members.

#### B. Positive aspects

4. The Committee welcomes that since the consideration of the third periodic report, the State party has ratified or acceded to the following international instruments:

(a) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2011; and

(b) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in 2006.

5. The Committee welcomes the signing of the bilateral agreement on cooperation concluded in June 2010 between Bulgaria and Greece to combat organized crime, including smuggling, human trafficking and drugs.

6. The Committee notes the State party's ongoing efforts to revise its legislation in areas of relevance to the Convention, including the amendment to the Constitution in 2007 establishing the Supreme Judicial Council, and:

(a) New Civil Procedure Code, in force since 1 March 2008, relating to compensation or rehabilitation provided to victims of torture;

(b) Judicial System Act, in force since 10 August 2007, and Judiciary Reform Strategy 2009–2013, adopted in 2009;

(c) Amendment to the Law on Asylum and Refugees providing a mechanism for the refugee status determination procedure, 2007

(d) Assistance and Financial Compensation to Crime Victims Act, in force since 2007, and National Strategy for Assistance and Compensation to Crime Victims;

(e) New Administrative Procedure Code, in force since 12 July 2006, relating to prevention and punishment of torture and the possibility of foreigners to challenge expulsion orders;

(f) New Criminal Procedure Code, in force since 26 April 2006, regarding procedural guarantees of prohibition of torture and provisions to prevent torture and regulating police detention;

(g) Legal Aid Act (2006) and the establishment of the National Bureau of Legal Aid

(h) Amendments to the new Health Act, in force since 1 May 2005, in relation to medical procedures for persons with mental disabilities;

(i) Several amendments to the Penal Code since 2004, especially with regard to article 287 relating to the Convention's requirement for criminalizing the act of torture.

7. The Committee also welcomes the efforts of the State party to amend its policies, programmes and administrative measures to ensure greater protection of human rights and give effect to the Convention, including:

(a) Adoption of the Strategy for Development of Penitentiary Facilities (2009–2015) and the Programme for Improvement of Conditions at Places of Deprivation of Liberty, 2010;

(b) National Strategy for Children (2008–2018) and the Vision for Children's Deinstitutionalization in the Bulgaria, adopted on 24 February 2010;

(c) Integrated Strategy for Combating Crime and Corruption, 2010;

(d) Strategy for Reforming Places of Detention (2009–2015);

(e) National Action Plan for the Initiative "Decade of Roma Inclusion 2005–2015" and Framework Programme for Integration of Roma in Bulgarian Society (2010–2020);

(f) National Action Plan for Mental Health (2004–2012).

## **C. Principal subjects of concern and recommendations**

### **Definition, absolute prohibition and criminalization of torture**

8. The Committee is concerned that a comprehensive definition of torture incorporating all the elements of article 1 of the Convention is not included in the Penal Code and that torture is not criminalized as an autonomous offence in law, as required under the Convention. The Committee notes that the working group in the Ministry of

Justice established to elaborate a new Penal Code has not as yet discussed the section with the provisions concerning a new crime incorporating the definition of torture (arts. 1 and 4).

**The Committee urges the State party to adopt a definition of torture that covers all the elements contained in article 1 of the Convention. The State party should take effective legislative measures to include torture as a separate and specific crime in its legislation and ensure that penalties for torture are commensurate with the gravity of this crime. It should ensure that the absolute prohibition against torture is non-derogable and that acts amounting to torture are not subject to any statute of limitations.**

#### **Fundamental legal safeguards – access to a lawyer and legal aid**

9. The Committee notes that the State party has adopted measures both in law and through the issue of appropriate instructions, guaranteeing the rights of notification of custody, access to a lawyer, access to an independent doctor and being informed of charges from the very outset of detention. The Committee is concerned, however, at information that access to a lawyer during the 24 hours of police custody was not always available in practice and that such access continued to be a reality for only a minority of persons held by the police, namely those who could afford a private lawyer. The Committee is also concerned by allegations that the police are reluctant to grant access to a lawyer from the very outset of detention and that there have been delays in ex officio lawyers being contacted and coming to the police station. The Committee is further concerned that the National Bureau of Legal Aid is understaffed and underresourced, which negatively affects the rights to fair trial of persons with unequal economic or social status by being translated into unequal access to justice and the unequal possibility of defence in trial; in addition to the poor, members of minorities and certain categories of foreigners, such as asylum-seekers and irregular migrants, are also denied equal access to justice (art. 2).

**The Committee recommends that the Bulgarian authorities re-instruct all police officers on the legal obligation to grant access to a lawyer to all detainees from the very outset of their detention. Further, the Committee recommends that the State party take appropriate measures to remove all obstacles to the right of equal access to justice; and that the State party ensure that the National Bureau of Legal Aid be provided with adequate financial and staffing resources in order to fulfil its role with regard to all categories of detainees.**

#### **Police violence and use of firearms**

10. The Committee is concerned by the excessive use of force and of firearms by law enforcement officers, including the eight cases in which the European Court of Human Rights ruled against the State party in 2010, half of which resulted in the deaths of the victims; by the scope of use of firearms allowed in the Ministry of Interior Act (art. 74); that acts of violence attributed to law enforcement officials include torture, inhuman or degrading treatment and refusal to provide victims with lifesaving medical assistance; and that there have been very few prosecutions so far (arts. 2, 12, 13 and 16).

**The Committee urges the State party to amend its legislation to ensure that regulations on the use of firearms conform to international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should also take measures to eradicate all forms of harassment and ill-treatment by police during investigations and should promptly, thoroughly and impartially investigate all allegations of violence applied in an unnecessary and disproportionate way by law enforcement officials, prosecute and punish those responsible in proportion to the seriousness of their acts and provide the victims with compensation, including the means for as full rehabilitation as possible.**

**Independent monitoring of places of detention and other places where people are deprived of their liberty**

11. The Committee welcomes the State party's ratification of the Optional Protocol to the Convention and its intention to establish a national preventive mechanism within one year. The Committee is concerned that independent monitoring by civil society organizations is not allowed in all cases of detention and that non-governmental organizations such as the Bulgarian Helsinki Committee require a prosecutor's permission for access to pretrial detainees (art. 2).

**The Committee recommends that the State party ensure independent, effective and regular monitoring of all places of detention by independent non-governmental bodies.**

**Reform of the judicial system**

12. While taking note of the establishment of the Judiciary Reform Strategy 2009–2013, the Committee is concerned at the lack of progress in judicial reform, including reported misconceptions such as the joint governance of the courts and the prosecution service. It is concerned by the lack of transparency regarding the selection and appointment of judges and members of the Supreme Judicial Council; that the principle of the independence of the judiciary is not respected by the organs outside the judiciary, including high-ranking government officials, nor fully applied within the judiciary; and by allegations of corruption within the justice system and lack of trust in the administration of justice, resulting in lack of public trust in the judiciary (arts. 2 and 13).

**The Committee recommends that the State party accelerate judicial reform, taking into account the preliminary conclusions and observations of the Special Rapporteur on the independence of judges and lawyers of 16 May 2011 and international standards - in particular the Basic Principles on the Independence of the Judiciary, Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors and the Bangalore Principles of Judicial Conduct. The State party should ensure that the selection and appointment of judges, including to the Supreme Judicial Council, is transparent and that objective criteria provide equal opportunity for candidates. The State party should raise the awareness of judicial and other officials and the public at large about the importance of independence of the judiciary. There should be no external interference in the judicial process. The State party should strengthen efforts to combat corruption and ensure that all incidents of suspected corruption be promptly, thoroughly and impartially investigated and prosecuted, in particular within the framework of the Integrated Strategy for Combating Crime and Corruption 2010.**

**National human rights institution and national protective mechanism**

13. The Committee is concerned that to date there is no national institution in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) in the State party, while taking due note of the fact that the Ombudsman and the Commission on Protection against Discrimination of Bulgaria have applied for accreditation to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights as the national institutions for the promotion and protection of human rights (arts. 2, 11 and 13).

**The Committee recommends that the Ombudsman and the Commission on Protection against Discrimination conform to the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).**

### **Access to a fair procedure for asylum-seekers**

14. The Committee is concerned that the State party has not taken measures to ensure the implementation of all rights of asylum-seekers and refugees, including issues such as detention and transfer of asylum-seekers, the lack of translation and legal assistance services and the expulsion of foreigners on the basis of national security considerations (arts. 3, 11 and 14).

#### **The Committee recommends that the State party:**

(a) **Amend article 16 of the Ordinance for the Responsibilities and Coordination between the State Agency for Refugees, the Directorate of Migration and the Border Police – in order to formally remove the rule that allows for the detention of asylum-seekers on the basis of illegal entry and ensure that asylum-seekers enjoy accommodation, documentation, access to health care, social assistance, education and language training, as provided in articles 29 and 30 (a) of the Law on Asylum and Refugees;**

(b) **Ensure that the detention of asylum-seekers is only used as a last resort, when necessary, for as short a period as possible and that safeguards against refoulement are fully implemented;**

(c) **Accelerate the long-awaited opening of the Pastrogor transit centre in order to correct the current practice of transferring asylum-seekers to detention centres because of inadequate reception facilities;**

(d) **Ensure interpretation and translation services at all border crossings and centres dealing with asylum-seekers;**

(e) **Ensure that the State Agency for Refugees reinstate its legal assistance programme and make sure that reports, descriptions of evidence presented by asylum-seekers, minutes and interviews are established in a professional manner.**

### **Definition of statelessness**

15. The Committee is concerned that the legislation of the State party does not provide for a legal definition of a stateless person and that no legal framework or mechanisms exist to determine the status of such people (arts. 2 and 3).

**The Committee recommends that the State party consider introducing the definition of a stateless person in its legislation and establish a legal framework and mechanisms to determine statelessness. It encourages the State party to consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

### **Non-refoulement**

16. The Committee is concerned that the State party does not fully apply its obligation under article 3 of the Convention with regard to the respect the principle of non-refoulement (art. 3).

#### **The Committee recommends that the State party:**

(a) **Observe the safeguards ensuring respect for the principle of non-refoulement, including consideration of whether there are substantial grounds indicating that the asylum-seeker might be in danger of torture or ill-treatment upon deportation;**

(b) **Amend its legislation to guarantee a suspensive in-country right of appeal and respect for all safeguards and interim measures with regard to asylum and deportation procedures pending the outcome of the appeals;**

(c) **Ensure interpretation services for asylum-seekers in asylum cases and appeals;**

(d) **Submit situations covered by article 3 of the Convention to a thorough risk assessment, notably by ensuring appropriate training for judges regarding the risks of torture in receiving countries and by automatically holding individual interviews in order to assess the personal risk to applicants; and**

(e) **Follow up cases, in the light of the judgment of the European Court of Human Rights and, in particular, follow up the cases of the two rejected Palestinian asylum-seekers, Youssef Kayed who was tortured upon his return to Lebanon on 27 November 2010, and Moussa Kamel Ismael, who was tortured upon his return to Lebanon, also on 27 November 2010, and update the Committee on their situation in its next periodic report.**

#### **Jurisdiction over offences referred to in article 4 of the Convention**

17. The Committee is concerned that current Bulgarian legislation does not provide for jurisdiction over offences referred to in article 4 of the Convention for all acts of torture owing to the absence of a specific and autonomous offence of torture which corresponds to the definition outlined in the Convention (arts. 5, 6 and 7).

**The Committee recommends that the State party adopt a definition of torture in accordance with the Convention so as to ensure that all acts of torture, and not only those amounting to war crimes, can be prosecuted under jurisdiction over offences referred to in article 4 of the Convention and that all suspected perpetrators of acts of torture found in Bulgarian territory are either extradited or prosecuted in accordance with article 6 of the Penal Code.**

#### **Non-admissibility of evidence as a result of torture**

18. The Committee is concerned about the lack of legislation in the State party ensuring the non-admissibility of evidence obtained as a result of torture (art. 15).

**The Committee recommends that the State party enact legislation specifically prohibiting the use of statements obtained under torture as evidence in conformity with the Convention (art. 15) and that the competent authorities of the State party compile statistics and submit to the Committee cases where evidence obtained as a result of torture has been held inadmissible.**

#### **Treatment of persons in social institutions, including those with mental disabilities**

19. The Committee is concerned:

(a) That persons with mental disabilities in State and municipal social institutions, particularly in medical institutional settings, do not enjoy adequate legal safeguards and procedural guarantees regarding the respect of their right to mental and physical integrity; that persons deprived of their legal capacity and whose decisions and preference are not taken into account have no means to challenge the violation of their rights; admission procedures and systems of guardianship often include officials from the institutions in which persons with disabilities are confined, which may result in conflict of interest and de facto detention, while the guardians' consent to medical treatment may amount to forced treatment; by the use of restraint and forced administration of intrusive and irreversible treatments such as neuroleptic drugs; and that there is no independent inspection mechanism for mental health institutions; at the competence of staff, frequency of visits by specialists and the material conditions of such institutions, including their remote locations, far from families and large medical centres;

(b) By the current and future situation of institutionalized children with mental disabilities, while noting the envisaged transition from institutional to community-based care similar to a family environment and the closure of all childcare institutions within 15 years; that 238 children with mental disabilities died in the period 2000–2010, three quarters from preventable deaths, without a single indictment being made to date in 166 criminal investigations and that two children died recently in similar circumstances in Medven; that an inspection covering the year 2010 regarding involuntary confinement and treatment under the Health Act and coercive confinement for treatment under the Penal Code found no violation in the application of the legislation; that the necessary upkeep and renovations of existing facilities while the planned deinstitutionalization is being put in place will not be carried out on the assumption that they are being phased out (arts. 2, 11, 12, 13, 14 and 16).

**The Committee recommends that the State party:**

(a) **Review legislation and policy of depriving persons with mental disabilities of their legal capacity, provide legal and procedural safeguards for their rights and ensure that they have prompt access to effective judicial review of decisions, as well as effective remedy against violations;**

(b) **Evaluate cases on an individual basis and ensure respect for the right to mental and physical integrity of institutionalized persons and in particular during the use of restraint and enforced administration of intrusive and irreversible treatments such as neuroleptic drugs; ensure that their decisions and preferences are taken into account;**

(c) **Take effective measures to regulate the system of guardianship in order to avoid conflict of interest and situations that amount to forced treatment and de facto detention;**

(d) **Establish close monitoring of placements by judicial organs and by independent inspection mechanisms to ensure the implementation of safeguards and international standards, including the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care;**

(e) **Provide sufficient numbers of competent professional staff and carry out the necessary material renovations on facilities, which should be located in large cities that have hospitals and medical centres;**

(f) **Ensure adequate investigation, prosecution, conviction and sanction of those responsible for the deaths of institutionalized children with mental disabilities;**

(g) **Amend and strengthen legislation to enhance accountability and prevent recurrence and impunity and regulate authorized treatment in institutions, in particular of persons with mental disabilities. Attention should be paid to the individual needs of each child and the proper treatment prescribed, in conformity with the provisions of the Convention;**

(h) **Ensure frequent and professional oversight and monitoring by independent mechanisms, including the national human rights institution and civil society organizations of all institutions and of the implementation of the deinstitutionalization, including the acceleration of the deinstitutionalizations in as short a period of time as possible, in order to maintain a sustainable system of care.**

**Training**

20. The Committee is concerned that specific training on the provisions of the Convention, and in particular the absolute prohibition of torture, including sexual violence, and on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) is not part of

mandatory training for relevant officials such as judges, law enforcement officials and prison staff (art. 10).

**The Committee recommends that the State party:**

(a) **Prepare and implement training programmes to ensure that judges, prosecutors, law enforcement officials and prison staff are fully aware of the provisions of the Convention, in particular the absolute prohibition of torture, and that breaches will not be tolerated and will be investigated and the perpetrators prosecuted;**

(b) **Develop training modules with the aim of sensitizing law enforcement officials and other personnel concerned against discrimination based on ethnicity and religion;**

(c) **Provide medical personnel and others involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, as well as other professionals involved in the documentation and investigation of torture, training on a regular and systematic basis on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and ensure that such training is also provided for individuals involved in asylum determination processes;**

(d) **Develop and implement a methodology to assess the effectiveness and impact of the training and educational programmes on the reduction of cases of torture and ill-treatment.**

#### **Conditions of detention**

21. While taking note of the State party's plan to build new detention facilities and renovate existing ones, the Committee is concerned at the continued obsolete, insanitary and overcrowded conditions of detention in Bulgaria, which do not conform to international standards. It is particularly concerned about overcrowding which has reduced the average living space in many prisons to only 1 m<sup>2</sup> per detainee instead of the recommended standard of 6 m<sup>2</sup> and that some detainees are forced to sleep on the floor; that no new detention facilities have been built and that few were renovated; that, owing to budgetary restrictions, there is no improvement in the prisoner-staff ratio; that the Ombudsman highlighted in 2009 the need for reform of the prison system, expressing concern that the funds earmarked for renovation of prisons in accordance with the Strategy for Reforming Places of Detention (2009–2015) were drastically reduced in 2009 and 2010; and that material conditions such as access to drinking water, hygiene, electricity, the use of toilets, quality and quantity of food, purposeful activities and exercise do not conform to international standards (arts. 11 and 16).

**The Committee recommends:**

(a) **That the State party strengthen efforts and increase funds in order to bring the living conditions in detention facilities to conform to international standards such as the Standard Minimum Rules for the Treatment of Prisoners;**

(b) **The accelerated implementation and increase in funds for the Strategy for Reforming Places of Detention (2009–2015) and for the 2010 Programme for Improvement of Conditions at Places of Deprivation of Liberty;**

(c) **The adoption of specific time frames for the construction of new prisons and renovation of existing ones and increase the number of staff in all facilities;**

(d) **The increase in the budgetary allocations for basic amenities provided to detainees, including access to drinking water, food, electricity, hygiene and sanitation, and to ensure sufficient natural and artificial light, as well as heating and ventilation**



**in the cells, and the provision of psychosocial support care for detainees who require psychiatric supervision and treatment.**

**The Committee invites the State party to increase the use of alternatives to imprisonment in conformity with the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules) and to reduce overcrowding.**

22. The Committee is concerned at the reported continued existence of underground investigative detention facilities in five locations where remand prisoners are held. It is concerned that some cells do not have windows, some have less than 1 m<sup>2</sup> of living space per detainee while others do not have possibilities for outdoor exercise. Furthermore, the Committee is concerned by conditions of detention in many police stations where cells do not conform to international standards of hygiene and are unsustainable for overnight use, and that in some cases detained persons spend the first 24 hours in an area with bars referred to as the “cage”, at times in full view of visitors to the police station. While noting that handcuffing people to bars and pipes has been prohibited, the Committee is concerned at reports that some detainees were handcuffed to immovable objects such as radiators and piping or to a chair for up to six hours (art. 11).

**The Committee recommends that:**

**(a) The State party take urgent measures to ensure that the treatment of remand prisoners in investigative detention centres and detainees in police stations conforms to international standards. It urges the State party to build new investigative detention centres or adapt and renovate existing facilities so that all persons are detained above the ground and that they meet minimal international standards. Police detention facilities should have a sufficient number of cells suitable for overnight stay with adequate material conditions such as clean mattresses and blankets and adequate lighting, ventilation and heating; and**

**(b) Handcuffing persons to immovable objects should be forbidden by law and in practice.**

#### **Inter-prisoner violence and deaths in detention**

23. The Committee is concerned that overcrowding and understaffing are conducive to inter-prisoner and violence, including sexual violence, in detention facilities, especially during the night; that of a total of 3,161 cases of violence in the period January 2007–July 2011, investigation procedures were opened only with regard to 22 cases. The Committee is also concerned about reports of increased inter-prisoner violence since 2008 and especially in 2011. It is concerned by the incidence of sexual violence, which is rarely reported, including rape, and of harassment and beatings which have on occasion resulted in suicide, as well as the large number of deaths in custody which varies between 40 and 50 annually (arts. 2, 11 and 16).

**The Committee recommends that the State party:**

**(a) Enhance efforts to prevent inter-prisoner violence by addressing the factors which contribute to it such as overcrowding, lack of sufficient staff, lack of space and poor material conditions, lack of purposeful activities, availability of drugs, and feuding gangs;**

**(b) Pay attention to protection of prisoners from inter-prisoner violence, in particular those belonging to the lesbian, gay, bisexual and transgender group, and to the psychosocial profile of the prisoners and those who engage in violence, investigate and sanction incidents;**

**(c) Increase the number of staff, including those with training in the management of inter-prisoner violence;**

(d) Increase the quality and frequency of supervision and monitoring, especially at night, including through the introduction of additional video surveillance equipment; and

(e) Impartially, thoroughly and promptly investigate all incidents of death in custody, including suicide, make the results of investigations public and prosecute the persons responsible for committing violations leading to deaths.

#### **Solitary confinement and prisoners serving life sentences**

24. The Committee is concerned that detainees continue to be held in solitary confinement for disciplinary violations for up to 14 days and for up to two months for the purpose of prevention of escape, violation of life or death of other persons and other crimes. The Committee is also concerned that current legislation imposes a strict regime of segregation during the initial five-year period, ordered by the sentencing for prisoners serving a life sentence, and that these prisoners are routinely handcuffed when outside their cells. The Committee is particularly concerned that some asylum-seekers are also placed in solitary confinement for long periods (arts. 2, 11 and 16).

**The Committee recommends that the State party consider the recommendations made by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268) in which he urges States to prohibit the imposition of solitary confinement as punishment – either as a part of a judicially imposed sentence or a disciplinary measure – and recommends that States develop and implement alternative disciplinary sanctions to avoid the use of solitary confinement (para. 84). The Committee recommends the reduction of the periods of solitary confinement and the restrictions related thereto. The practice of placing asylum-seekers in solitary confinement should be stopped without delay. The Committee recommends that the State party consider amending legislation concerning the strict regime of segregation during the first five years and handcuffing when outside their cells for prisoners serving life sentences. Life prisoners should be able to join the mainstream prison population.**

#### **Domestic violence**

25. The Committee is concerned at the narrow interpretation of the concept of domestic violence and that the phenomenon is not included as a specific offence in the Penal Code. It is also concerned that allegations of domestic violence must be initiated by the victim in cases of light or average bodily harm and that few cases of domestic violence are brought to justice and sanctioned, in particular regarding women and girls; that cases are generally limited to those where the perpetrator violates the protection orders that are usually issued for the duration of one month; and that there are no effective mechanisms for protection against domestic violence, including marital rape (arts. 2, 12, 13, 14 and 16).

**The State party should amend its legislation to include domestic violence as a specific crime in the Penal Code which entails ex officio prosecution. The State party should strengthen its efforts to prevent domestic violence, especially against women and girls, and should encourage victims to report cases to the authorities. All cases of domestic violence should result in appropriate investigation, prosecution and sanction. Protection orders should be of much longer duration. The State party should introduce mechanisms for monitoring of and effective protection from domestic violence, including an effective complaints mechanism.**

#### **Early marriage**

26. The Committee is concerned by the practice of informal early and forced marriage of Roma girls as young as 11 (arts. 2 and 16).

The State party should enforce the legislation concerning minimum marriage age, clearly indicate that child marriages have no legal effect and constitute a harmful practice, in the light of the concluding observations of the Committee on the Rights of the Child and with general recommendation No. 24 (1999) on article 12 of the Committee on the Elimination of Discrimination against Women. Community awareness-raising campaigns should be carried out regarding the prohibition of these marriages, their harmful consequences and the rights of children. The Committee also urges the State party to enforce the requirement to register all marriages, in order to monitor their legality, as well as to strictly enforce the prohibition of early marriages and to investigate such cases and to prosecute the perpetrators.

#### **Trafficking in persons**

27. While taking note of the National Programme on Prevention and Counteracting Human Trafficking and Protection of Victims and amendments to the Penal Code, section IX on “Trafficking in human beings”, the Committee is concerned that poverty and social exclusion result in vulnerability of women and children, and in particular Roma women and girls, including those who are pregnant, to human trafficking (arts. 2, 3, 14 and 16).

**The Committee recommends that the State party strengthen its efforts to combat trafficking in persons, especially in women and children, in particular to:**

(a) **Prevent and promptly, thoroughly and impartially investigate, prosecute and punish trafficking in persons and related practices;**

(b) **Improve the identification of victims of trafficking and provide means of effective redress, including compensation and rehabilitation, to victims of trafficking, including assistance to victims to report incidents of trafficking to the police, in particular by providing legal, medical and psychological aid and rehabilitation, inter alia, through genuine access to health care and counselling and adequate shelters, in accordance with article 14 of the Convention;**

(c) **Prevent the return of trafficked persons to their countries of origin, where there is a substantial ground to believe that they would be in danger of torture, to ensure compliance with article 3 of the Convention;**

(d) **Provide regular training to the police, prosecutors and judges on effective prevention, investigation, prosecution and punishment of acts of trafficking, including on the guarantees of the right to be represented by an attorney of one’s own choice, and inform the general public on the criminal nature of such acts; and**

(e) **Compile data disaggregated, as appropriate, by nationality, country of origin, ethnicity, gender, age, and employment, as well as on the provision of redress.**

#### **Discrimination, hate speech and violence against vulnerable groups**

28. While acknowledging the stance taken by the authorities in publicly condemning manifestations of discrimination and intolerance, the Committee is deeply concerned at manifestations of discrimination and intolerance, including hate speech and violent attacks against certain national and religious minorities and persons belonging to sexual minorities. The Committee is also concerned by the excessive use of force by the police against certain minorities and the recent anti-Roma riots and destruction of property, which in some cases occurred without preventive action from the police. It is also concerned that slogans amounting to hate speech are voiced against vulnerable minority groups, including by members of certain political parties and groups and that intolerance towards religious minorities has resulted in vandalism of places of worship and attacks on worshippers. The Committee takes note that the recent attacks on journalists in connection with the anti-Roma riots are being investigated (arts. 2, 12, 13, 14 and 16).

The State party should enhance efforts to eradicate stereotypes and discrimination against the Roma and other national minorities, including through increased awareness-raising and information campaigns to promote tolerance and respect for diversity. Measures should be taken to prohibit and prevent advocacy of hate speech, discrimination and intolerance, including in the public domain, in conformity with international standards and human rights instruments to which Bulgaria is a party. The State party should enhance the enforcement of anti-discrimination legislation and ensure that violent acts, discrimination and hate speech are systematically investigated, prosecuted and the perpetrators convicted and punished. The State party should systematically apply provisions of the Criminal Code concerning crimes based on intolerance and should ensure that offences motivated by discrimination constitute an aggravating circumstance in criminal prosecution. The State party should ensure that members of the Roma community are not singled out on an ethnically motivated basis with regard to the use of force by the police and ensure that excessive use of force against members of national and other minorities is promptly and impartially investigated and perpetrators prosecuted and punished. The victims need to be compensated and accorded all remedies afforded by the Convention, including reparations for damage. The Committee requests to be updated on the results of the investigations into the recent attacks on journalists.

#### **Redress**

29. The Committee takes note of the information provided in the State party's report on the right to redress, including financial compensation, for persons whose rights have been violated. However, the Committee regrets that not more information was provided on the actual implementation of redress to persons subjected to torture or ill-treatment, among others, to persons who have been interned in centres and homes for persons with mental disabilities, including a high number of children (art. 14).

**The State party should ensure that the efforts in respect of redress, including compensation and rehabilitation, are strengthened in order to provide victims, including those who have suffered torture and ill-treatment in such centres, with redress and fair and adequate compensation, including means for as full rehabilitation as possible.**

#### **Corporal punishment**

30. While taking note that corporal punishment is explicitly forbidden in law, the Committee is concerned by persistent lack of implementation and notes that the Committee on the Rights of the Child has found that children are still victims of corporal punishment in the home, schools, the penal system, alternative care settings and situations of employment. The Committee is concerned that a 2009 survey shows that 34.8 per cent of public opinion is in favour of corporal punishment in childrearing in some circumstances and that 10.9 per cent felt it was acceptable if the parent believed that it would be effective. It is concerned in particular that the use of corporal punishment is substantially higher in institutions for children with disabilities and that a number of cases of physical abuse were documented in the children's personal files (art. 16).

**The Committee recommends that the State party carry out professional and public awareness-raising in order to promote non-violent, positive and participatory methods of childrearing and education; and that the State party take a comprehensive approach to ensuring that the law prohibiting corporal punishment is widely enforced and known, including among children with regard to their right to protection from all forms of corporal punishment. There should be an absolute prohibition of corporal punishment in institutional settings, including for children with disabilities. The State party should provide effective and appropriate responses to corporal punishment, including investigations, prosecution and sanctioning of perpetrators.**

**Data collection**

31. The Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement, security, military and prison personnel, or on trafficking and domestic and sexual violence, including means of redress (arts. 2, 11, 12, 13, 14 and 16).

**The State party should compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, trafficking and domestic and sexual violence, and on means of redress, including compensation and rehabilitation, provided to the victims.**

32. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and the International Convention for the Protection of All Persons from Enforced Disappearance.

33. The State party is requested to disseminate widely the report submitted to the Committee and the Committee's concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

34. The State party is invited to update its common core document (HRI/CORE/1/Add.81), in accordance with the requirements of the common core document contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN.2/Rev.6).

35. The Committee requests the State party to provide, by 25 November 2012, follow-up information in response to the Committee's recommendations related to (a) ensuring or strengthening legal safeguards for persons detained, (b) conducting prompt, impartial and effective investigations, and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 9, 10 and 28 of the present document.

36. The State party is invited to submit its next periodic report, which will be the sixth periodic report, by 25 November 2015. For that purpose, the Committee invites the State party to accept, by 25 November 2012, to report under its optional reporting procedure, consisting in the transmittal, by the Committee to the State party, of a list of issues prior to the submission of the periodic report. The State party's response to this list of issues will constitute, under article 19 of the Convention, its next periodic report to the Committee.

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