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## Extract from the IHF report

### *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)*

#### **Bulgaria<sup>1</sup>**

**IHF FOCUS: freedom of expression, free media and information; peaceful assembly; independence of the judiciary and right to a fair trial; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities; right to life; freedom of religion and religious tolerance; rights of the child; rights of persons with disabilities; national and ethnic minorities; equal rights of women and men; asylum seekers.**

In 2004 there was no significant improvement in the human rights situation in Bulgaria. In some areas, such as freedom of religion, the situation deteriorated.

The European Commission's Regular Report on Bulgaria pointed out serious shortcomings with regard to the use of physical force and firearms by law enforcement officials, the situation in prisons and social care homes for people with mental disorders, the provision of legal aid in the criminal process, freedom of expression, children's rights and the integration of the Roma minority.

During the year, the European Court of Human Rights (ECtHR) pronounced a record number of 25 verdicts against Bulgaria.

#### **Freedom of Expression, Free Media and Information**

At the beginning of 2004, the Parliamentary Assembly of the Council of Europe (PACE) recommended that Bulgaria adopt a new media law to guarantee the political and financial independence of public media. However, no measure was taken to follow up on this recommendation.

In March, contrary to the law, the media regulatory body, the Electronic Media Council (EMC), voted for the premature dismissal of Bulgarian National Television (BNT) Director General, Kiril Gotsev. The official motives for the dismissal were "gross and systematic violations of the Radio and Television Act." However, according to the Bulgarian Helsinki Committee (BHC), it was clear that the root cause was an advertising contract signed with the Russian company Video International. In May, the Council appointed Professor Emil Vladkov as new Director

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<sup>1</sup> Based on the Bulgarian Helsinki Committee (BHC), *Human Rights in Bulgaria in 2004*. This report was written by Yonko Grozev, Margarita Ilieva, Emil Cohen, Slavka Kukova, Krassimir Kanev, Yuliana Metodieva, Svetla Peeva, Stanimir Petrov, Iliana Savova, Rositsa Stoykova, and Genoveva Tisheva.

General, which was followed by mass protests by BNT's employees. The crisis revealed the pressing need to guarantee editorial independence, the rights of journalists, freedom of expression, and civil access to the public media in Bulgaria. Professor Vladkov resigned in June. In October, the Supreme Administrative Court repealed the dismissal of Kiril Gotsev. The EMC appealed the decision, but the case was still pending at the end of the year.

In July, the Supreme Administrative Court repealed the closure of Den TV-station, a measure which had been taken by the EMC in the fall of 2003.

Two new scandals followed in November. The Sofia Prosecutor's Office initiated proceedings against the BBC journalists who made the film "Buying the Games," a documentary dedicated to corruption in the International Olympic Committee (IOC). The film showed the readiness of a Bulgarian member of the IOC, Ivan Slavkov, to promote the candidacy of the city of London for the 2012 Olympics in exchange for financial gain.

In a similar incident, the Ruse Prosecutor's Office initiated proceedings against the Romanian journalist George Buhnici who had used a concealed camera to take photos of the illegal cigarette trade on the Bulgarian-Romanian border. Buhnici was charged under article 339a of the Penal Code for illegal use of "special technical means." This law provides criminal liability for the use of technical means without permission and foresees up to five years imprisonment in cases of conviction. The invoking of this article revealed the lack of adequate standards in Bulgarian legislation to safeguard freedom of information and media independence. The Romanian TV reporter was fined EUR 50, a penalty which he appealed. Bulgarian journalists and MPs introduced a draft act to amend article 339a. However, the provision remained unchanged at the end of 2004.

As in previous years, concern was expressed that defamation lawsuits continued to be filed against journalists. The private company Gorubso-Kardjali Ltd. filed a series of lawsuits for damages exceeding EUR 10,000 against the newspaper *Nov Zivot*, which had featured an article claiming that a tailings pond owned by the company had contaminated nearby villages and a dam.

### **Peaceful Assembly**

During the year, the United Macedonian Organization (UMO) Ilinden repeatedly experienced problems when seeking to organize assemblies.

- In April, UMO Ilinden notified the authorities in the municipality of Sandanski that it would organize commemorative activities near the Rozhen Monastery on 18 April between 10 A.M. and 2 P.M. However, the mayor issued a permit for the event to be organized only between 10 A.M. and noon without stating any reason for this limitation.
- In May, the organization laid flowers at the monument of Gotse Delchev in Blagovegrad in an atmosphere of tension. The mayor of the town had prohibited the gathering and an appeal to court regarding this decision was still pending on the day of the event. In both this case and the case above, local media reported that UMO Ilinden was holding illegal rallies.
- In August, a request by UMO Ilinden to commemorate the 1903 anniversary of the Ilinden Uprising by organizing an event in Samuilova Krepost, near Petrich, was turned down by the Petrich mayor. The mayor sought to justify his decision by saying that

another organization had filed a request to organize an assembly on the same spot on the same day and time. The Petrich District Court later overturned this decision.

- In September, the mayor of Blagovograd turned down a request by UMO Ilinden to lay flowers at the city's Gotse Delchev monument because of another gathering due to be held at the same location on the same day. Although an appeal was awaiting to be considered on the scheduled day of the commemoration, the organization's members went ahead with the event as planned. As they gathered on the square in front of the monument, they were met by a group of 30-40 police officers who stated that they were ready to accept the assembly if the UMO Ilinden members agreed not to carry flags or slogans. The organization's members declined this offer and headed toward the monument where they were met by a police cordon and forced to turn back. On 26 September, these facts were presented before the ECtHR, and at the end of the year, a decision about the admissibility of the case was pending before the court.

### **Independence of the Judiciary and the Right to a Fair Trial**

Despite some positive initiatives, the administration of justice continued to be characterized by similar problems as in previous years.

In April, amendments to the Judiciary Act were adopted. These amendments established a mechanism for dismissing judges who seriously abuse their positions. However, adequate guarantees for the independence of courts from institutional and private interests were still lacking.

The system of free legal aid remained in need of reform. Some progress was observed after the adoption in 1999 of amendments to the Criminal Procedure Code, which provides for the appointment of legal counsel for indigent defendants "when the interest of justice so require." While about 55% of defendants did not have a lawyer during the pre-trial phase in 1996-1999, an Open Society Institute survey conducted in 2004 showed that the number had dropped to 35%. However, in civil cases, no free legal aid was in practice available.

Other major problems were ineffective preliminary proceedings, excessively long court proceedings and ineffective implementation of court decisions in civil cases.

During the year, the ECtHR delivered a significant number of judgments concerning the right to due process and fair trial in Bulgaria. In eight cases, the ECtHR found that the period of preliminary proceedings and detention had been unreasonably long and in 12 cases it found violations of the right to have prompt access to court and the right to fair trial. In 2004 the ECtHR also issued eight judgments against Bulgaria concerning violations of the right to liberty and security of person.

### **Torture, Ill-treatment and Police Misconduct**

On 11 March 2004, the ECtHR issued judgments in the cases of *G.B. v. Bulgaria* and *Iorgov v. Bulgaria*. The applicants in these cases were two former death row inmates whose sentences were commuted to life imprisonment after Bulgaria abolished the death penalty in 1998. The ECtHR ruled that the strict regime of isolation and poor material conditions in which the inmates were kept amounted to inhuman and degrading treatment and punishment.

Bulgaria was also sentenced to pay a pecuniary compensation in the case of *Toteva v. Bulgaria*, where the ECtHR concluded that police officers had ill-treated an elderly woman in 1995 and that no effective investigation into this case had been undertaken. In another landmark case,

*Krastanov v. Bulgaria*, the ECHR held that the pecuniary compensation awarded to the applicant for police ill-treatment did not satisfy the requirements for investigation of such cases. Furthermore, the ECtHR held that merely paying compensation to the victim, without prosecuting the police officers who were responsible, could result in impunity.

In June, the European Committee for the Prevention of Torture (CPT) published two reports on visits to Bulgaria in April 2002 and December 2003.<sup>2</sup> These reports documented excessive use of force by police officers and inhuman conditions in pre-trial detention centers of the police and the Ministry of Justice, in psychiatric hospitals and in social care homes for people with mental disorders. During *ad hoc* visits in December 2003, the CPT found severe problems related to the location, the material conditions and the treatment of residents in two social care homes in Pastra and Razdol. The CPT described certain aspects of the conditions and treatment of residents in these homes as inhuman and degrading and recommended the urgent relocation of the Pastra home. In response, the Bulgarian government stated that the Razdol home would be relocated. However, at the end of the year, no concrete measure to follow up on this pledge had been taken. Also, the conditions in the two homes remained essentially unchanged.

In June, the UN Committee against Torture (CAT) issued its recommendations on Bulgaria's third and fourth Consolidated Reports. CAT criticized again the absence in domestic law of a comprehensive definition of torture. It also noted with concern the numerous allegations of ill-treatment of persons in custody, which disproportionately affect Roma; the poor conditions in pre-trial detention centers and psychiatric institutions; and the practice of expelling foreigners to countries where their life and security may be at risk. At the end of the year, the Bulgarian authorities had not adopted any legislative changes to follow up on the recommendations made by the CAT.

The BHC conducted a survey among inmates in three prisons. Compared to the results of a 2003 survey among inmates in the same prisons, there was a 7% drop in the number of complaints about use of force during arrest and an 11% drop in the number of complaints about the use of force inside police stations. Nevertheless, the share of inmates complaining about illegal use of force remained high, at 17%.

### **Conditions in Prisons and Detention Facilities**

In 2004, the number of inmates in Bulgaria continued to rise with the prison population totaling 10,871 people on 31 December (in comparison to 10,066 in 2003).

The 2002 amendments to the Execution of Sentences Act created new possibilities for prison administrations to place convicted prisoners in prison hostels with lighter regime conditions. The increase in the number of inmates in prison hostels in 2004 was, however, significantly lower than expected. As the prison population grew in the same period, the result was overcrowding in main prison buildings.

In most of the prisons for recidivists visited by the BHC during the year, the living area was found to be greatly inadequate. In some prisons (e.g. Plovdiv, Burgas and Pleven), the number of inmates was two to three times higher than the capacity, and at the most two square meters were available per inmate. In these prisons, the beds were usually bunk beds with three levels; the unoccupied area of the cells was not big enough to allow for free movement of inmates; and ventilation and light were limited to the minimum. During the night, inmates had to use a bucket to relieve themselves. The lavatories were also in a neglected state, and there were only about two to four lavatories per 100 inmates.

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<sup>2</sup> The reports and the responses of the Bulgarian government are available at <http://www.cpt.coe.int>.

A serious problem was the lack of meaningful activities for inmates who did not work. These inmates spent the whole day in their cells or in the prison corridors. Only a few rehabilitation programs existed and they were of limited scope and poor quality. Additionally, amendments to the Execution of Sentences Act, which were introduced in February, had a negative impact on the employment rate of inmates since they prohibited prisons from engaging in commercial activities.

Inmates' correspondence with lawyers, relatives, media and NGOs was routinely controlled – in violation of international standards. An outdated and inadequate legal framework continued to impede the access of human rights NGOs to remand prisoners by requiring that they obtain permission in advance from investigators or prosecutors in each separate case.

Inmates frequently complained about the quality and range of medical care. Medical care in prisons was not part of the national healthcare system and there were problems with the organization of specialized medical care, such as treatment for drug addicts and psychiatric care.

The BHC also monitored investigation detention facilities. While the number of investigation detention centers decreased, the number of detainees kept in such facilities grew from 788 in 2003 to 858 in 2004. In seven out of a total of 51 detention centers, the number of detainees was higher than the capacity of the institutions. As a result, some of the detainees did not have their own beds. Most investigation detention facilities were renovated in 2004, which improved ventilation, light and hygiene conditions. However, in many other respects, the material conditions in investigation detention facilities did not meet contemporary requirements. At the end of 2004, nine underground detention facilities were still in operation.

## **Right to Life**

At least two people lost their lives in 2004 in circumstances that suggested the use of excessive force by law enforcement officials.

- On 27 March, Kiril Stoyanov, a 24-year-old man of Romani origin, was shot by Chief Sergeant P.M. in Plovdiv. As Stoyanov was stopped by police for a routine check, he escaped. Reportedly police fired warning shots in the air and, after they had caught up with him, Stoyanov took out a knife. In the fight that followed Stoyanov was shot dead in the head. The victim's relatives disputed the police account and maintained that he never carried a knife. The Plovdiv military prosecutor initiated an investigation against P.M. on charges of negligent murder. However, on 12 August, the Plovdiv deputy regional military prosecutor terminated the proceedings. The victim's lawyers appealed this decision, but at the end of the year, the appeal was still pending.
- On 4 August, Boris Mihailov, a 29-year-old man of Romani origin, was shot dead by Chief Sergeant V.S. from the Samokov District Police Department. The incident occurred when a police patrol was searching for those involved in the theft of a car radio. According to police reports, Boris Mihailov took out a knife, and in the fight that ensued between him and V.S., the latter shot Mihailov in the head. The victim's relatives claimed that Mihailov did not carry a knife and that the aim of the shooting was to intimidate the local Roma community. An investigation was launched into the case on allegations that V.S. had exceeded the limits of necessary self-defense. On 29 October, the proceedings were terminated by the Sofia regional military prosecutor. The victim's lawyers appealed this decision, and on 13 December, the Sofia Military Court overturned the termination of the investigation.

In February, the ECtHR issued a judgment in the case of *Nachova and Others v. Bulgaria*. The case concerned the 1996 killing of two soldiers who had escaped from an army disciplinary division. The court found a violation of article 2 ECHR (the right to life) because the use of lethal weapons had not been necessary and because the state had failed to conduct an adequate investigation into the shooting. The ECtHR also found a violation of article 14 (prohibition of discrimination). The government referred the case to the Grand Chamber, which will issue its judgment in 2005.

In December, the Plovdiv Military Court issued a judgment in the case of Seval Sebahtin Rassim, who was killed in 2002 after being apprehended by border police. The court found that border police officers had caused the death of Rassim by using prohibited means, such as kicking him and beating him with rifle butts. The court also established that the officers had made excessive use of truncheons. The defendant's lawyers appealed the judgment.

## **Freedom of Religion and Religious Tolerance**

### *The Bulgarian Orthodox Church*

In 2004, serious violations of the right to freedom of religion occurred in Bulgaria. An incident in July can be described as the gravest human rights violation of the year and, as the gravest violation of religious rights since 1989:

- On 21 July, police carried out a massive raid on the so-called Alternative Synod of the Metropolitan Inokentii in an attempt to forcefully unite the divided Bulgarian Orthodox Church (BOC) under the leadership of the government-backed Patriarch Maxim. During the raid, which occurred early in the morning, police stormed at least 94 churches and other premises managed by clergy belonging to the synod of the Metropolitan Inokentii, and forced the priests of these to leave, while installing new ones from the synod of Patriarch Maxim. At least two priests and one lay supporter were beaten in the course of the raid, and several other priests and onlookers were also injured. Several clergy and bystanders were arrested simply because they protested against the police violence. The raid was planned in advance and was ordered by the Office of the Supreme Cassation Prosecutor in a letter which was circulated to district prosecutors on 8 July. The raid was in serious violation of the Bulgarian Constitution and the ECHR.

### *The Muslim Community*

The Muslim denomination remained divided, with four people making claims that they were head mufti. On 16 December, the ECtHR passed a judgment in *Supreme Holy Council of the Muslim Community v. Bulgaria*.<sup>3</sup> As in the *Hasan and Chaush v. Bulgaria* judgment in 2000, the government was convicted of inadmissible interference in the internal affairs of a divided religious community.

In November, the Pazardjik District Court sentenced the Muslim preacher Ahmed Mussa to three years suspended imprisonment and ordered him to pay a fine of 1,000 leva (EUR 500) for preaching "radical Islam." Mussa was found guilty of advocating anti-democratic ideas and a forceful change of the constitutionally established order in Bulgaria, tarnishing the Bulgarian flag and encouraging racial, national and religious hatred. The indictment was based solely on religious literature in Arabic that Mussa had in his possession as well as videotapes of sermons delivered by him, neither of which contained anything to support the allegations against him.

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<sup>3</sup> *Supreme Holy Council of the Muslim Community v. Bulgaria*, application no. 39023/97, 16 December 2004 and *Hasan and Chaush v. Bulgaria*, application number 30985/96, 26 October 2000 at <http://www.echr.coe.int>.

### *Other Religious Minorities*

In violation of the law, local authorities in Burgas refused to register the local chapter of the Jehovah's Witnesses, thereby greatly obstructing the activities of this group. Jehovah's Witnesses chapters in four other cities experienced similar problems.

- In December, the Supreme Court of Cassation upheld a regional court ruling in a case in which the father was awarded custody of two children. The mother, who is a Jehovah's Witness, was said to "violate the fundamental rights of the children, as well as constitutional rights" because of her religious affiliation.
- In June, a group of hooligans, whose identities are known, beat up two preachers because they were "sectarian." As of February 2005, there was no information indicating that the prosecutor's office had initiated proceedings against the perpetrators.

### **Rights of the Child**

In 2004, Bulgaria again failed to submit its periodic report under the UN Convention on the Rights of the Child, which was almost seven years overdue. The Bulgarian government also failed to submit its first reports under the optional protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography and the optional protocol to the Convention on the Involvement of Children in Armed Conflict, both of which were due by March 2004.

In 2003, new legislation was adopted to prevent children from being arbitrarily placed in institutions. This legislation simplified the procedure for placing children who are in need of protection in the homes of relatives or foster families and only allowed them to be placed in an institution on the basis of a court order or a temporary administrative decision. However, the state failed to invest in training for civil servants, and as a result, implementation of child protection measures remained unsatisfactory.

Placement in institutions remained the most widely applied measure in child protection cases, and it was used even when it would have been feasible to assist the parents in caring for their child(ren). By 31 December, only 29 children taken charge of by the authorities lived in foster families, while 3,755 children lived with relatives.<sup>4</sup> These figures were low compared to the number of institutionalized children, which was estimated to be about 30,000, and suggested widespread violations of the right of children to live in a family environment.

In addition to the lack of resources available for child protection, there were an insufficient number of people working in child protection at the local level. According to one study, one social worker was responsible for 11,200 inhabitants in the Belitsa municipality, while two social workers and one paralegal were responsible for 25,823 inhabitants in the municipality of Troyan. None of the social workers covered by the study had access to organized transport or a computer where they could register basic data about the children they were supposed to work with.

Access of institutionalized children to mainstream schools remained unsatisfactory. Most children who lived in state institutions for children with developmental disabilities did not have access to the educational system and were considered "uneducable."

The share of institutionalized children in special schools was also a serious concern. Once children had been placed in special schools, their educational needs were not re-assessed, and

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<sup>4</sup> Information from the Bulgarian Social Welfare Agency.

they were therefore often unduly deprived of the opportunity to attend mainstream schools. In addition, the quality of the education offered in special schools was poor.

In July, amendments to the Act for Combating Juvenile Delinquency were adopted. Under these amendments, juvenile delinquents may only be placed in juvenile correction centers on the basis of a court order. The BHC had been lobbying for this reform since 1996. The amendments, however, fall short of international fair trial standards in several respects. For instance, they do not provide for the mandatory participation by a lawyer in the court proceedings. Also, while the new provisions apply to juveniles who are found to have committed “anti-social acts,” this term is not clearly defined.

## **Rights of Persons with Disabilities**

### *Psychiatric Institutions*

In July, parliament adopted a new Health Act, which introduced a new regulatory framework for involuntary placement and treatment of people with mental disabilities in psychiatric institutions. This solved the outstanding issue of domestic law provisions in violation of international standards, which surfaced after the ECtHR judgment in *Varbanov v. Bulgaria* (2000). The new law requires that placement and treatment in a psychiatric dispensary be carried out on the basis of a court order, except in emergencies when it may be done upon doctor’s orders. The law became effective as of 1 January 2005. Thus, throughout 2004, placement in a psychiatric dispensary was carried out merely on the basis of a prosecutor’s warrant.

The BHC established many problems in the placement and detention of people in psychiatric hospitals. In the State Psychiatric Hospital in Karlukovo, there were numerous cases where people were detained without due authorization for two months and more. Some patients were placed in seclusion for months, during which time their contacts with other people were extremely limited. The material conditions in the hospital were appalling and patients were rarely asked to give informed consent for treatment. The BHC researchers also received complaints about patients being subjected to physical violence by other patients or staff members.

### *Social Care Homes*

The procedure of placing people with mental disorders in social care homes remained problematic. Placement decisions were taken in an administrative procedure without judicial control and they were frequently arbitrary.

During the year, state financial support for social care homes increased slightly and the government took some measures to improve the material conditions of such institutions. Among other measures, some social care homes were refurbished, typically in response to public demands. However, in spite of this, the quality of life of residents of social care institutions did not improve significantly and residents continued to be subjected to inhuman and degrading treatment. The Social Welfare Agency conducted an evaluation of social care homes in March-May, but the results of this evaluation were not made public.

In August, the BHC published a comprehensive study on the situation of people in social care homes for the mentally disabled.<sup>5</sup> The BHC monitoring revealed that decisions to place people in social care institutions were frequently made without collecting and analyzing all data

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<sup>5</sup> An English summary of the report is available at <http://www.bghelsinki.org>.



required by law. In fact, it appeared that people were sometimes placed in social care institutions merely because of a lack of alternative social services.

Legal provisions concerning the profile and location of the social care homes to which individuals were assigned were also frequently violated by relevant authorities, including the Ministry of Labor and Social Policy. By law, people suffering from different types of disabilities and illnesses were to be accommodated in different institutions and individuals in need of care were to be placed in institutions close to where they lived. However, in practice, people with developmental disabilities and people suffering from mental illness or dementia were placed together, although each group had different needs and required specific care, and they were not always placed in institutions within a reasonable distance from their homes.

During the year, dozens of people with developmental disabilities were placed under guardianship. The outdated system of guardianship seriously interfered with the rights of people who were declared legally incompetent. Those who were placed under guardianship were denied the possibility to freely exercise their civil rights until the end of their lives since a decision to place someone under guardianship is in practice irreversible.

Following *ad hoc* visits to the social care homes in Razdol and Pastra in late 2003, the CPT recommended that urgent measures be taken to improve the material conditions of these two institutions. The BHC, however, did not observe any signs that such measures had been taken.<sup>6</sup>

During all the visits the BHC made to the social care home in Pastra in 2001-2004, it observed dilapidated floors, with occasional puddles of urine; windows with no glass; and rotting window panes. The home had no interior sinks or lavatories. The rooms were furnished with nothing but old metal beds, metal lockers and wardrobes, worn-out blankets and torn mattresses.

There were some improvements in the conditions of the Razdol home in 2004, primarily thanks to private donations. However, most of the 60 women who lived in the home remained accommodated in two dormitories, where they did not have any personal space or room for personal belongings. The fact that the home was located near the border to Macedonia created obstacles to the provision of adequate medical care, supply of food and visits by inspecting bodies and NGOs.

In the social care home in Batoshevo, which was in a slightly better condition than the homes in Pastra and Razdol, two orderlies were in charge of 100 men with developmental disabilities. The residents' appearance was in a terribly neglected state, as was the hygiene in the buildings of the home, which were permeated by a strong smell of urine. The BHC delegation who visited the home observed that ten residents had been locked up in two rooms for allegedly attempting to escape or behaving aggressively. These cases were not registered anywhere and were not approved by a doctor.

Residents of social care homes were not regularly examined by a psychiatrist and they were frequently given medication that was inappropriate for their condition.

Death cases in social care homes were either not adequately investigated or not investigated at all. The BHC also registered several cases where residents were killed by other residents because of inadequate care or neglect by the homes' personnel. The following cases were investigated by the BHC in 2004:

- In the morning of 17 November, one of the orderlies at the Social Care Home for Men with Mental Illness in Pastra found Boris Ivanov, a 59-year-old resident, in a severe medical condition. Ivanov was examined by a doctor, but he was not taken to hospital,

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<sup>6</sup> See also the section on Torture, Ill-treatment and Police Misconduct.

and he died within an hour. The post mortem revealed that Ivanov had died from a severe head trauma, which the BHC believes was inflicted by another or several other residents in his room. As of the end of the year, an investigation into this case was ongoing.

- Yovcho Lozanov, resident of the Social Care Home for Men with Mental Illness in Govezhda, died in February after a fight with another resident. An investigation into the case was opened but subsequently discontinued.

In spite of the government's efforts to prevent the use of seclusion and restraint practices in social care homes, the BHC observed a number of cases of seclusion during the year. It also received complaints from residents about the use of physical force by staff.

### **National and Ethnic Minorities**

The new Protection from Discrimination Act, which was adopted in 2003, came into force in 2004. During the year, several dozen complaints were filed with courts under the act. Most complaints alleged racial discrimination against Roma in areas such as access to hotels, swimming pools, cafes, night clubs, restaurants and other facilities; access to job interviews; and contacts with prosecutors, doctors and real estate agencies. Eight of the cases filed had been decided by the end of the year. In six of these cases, the court found the respondents guilty of discriminatory practices and ordered them to pay fines. In three cases, the Sofia Electrical Supply Company was found guilty of treating Roma customers unfavorably in relation to non-Roma customers. In three other cases, private companies were convicted for denying Roma access to services or employment.

The positive development regarding the courts' application of the new law was undermined by the failure of the parliament and the president to form the Protection from Discrimination Commission. According to the Protection from Discrimination Act, this commission was due to be set up by the end of March 2004. According to the BHC, the failure of the MPs to elect their quota of the members of the commission reflected a lack of a serious will to form a competent body. Nominations to the commission were made without public discussion and were mainly based on considerations of political appropriateness. Similar shortcomings characterized the process of electing the ombudsperson, who was also due to be appointed by March under the act.

In October, the parliament rejected a draft law establishing a fund for the educational integration of ethnic minority children and students, which would particularly have benefited Roma.

### **Equal Rights of Women and Men**

There were some positive changes in legislation related to women's rights, in particular the entry into force of the Protection from Discrimination Act and the Act for Combating Trafficking in People. However, at the end of the year, structures and mechanisms provided for by these two laws had yet to be established. For example, a National Commission on Combating Trafficking in People had yet to be put in place. Also, while the new legislation created a mechanism for court protection in cases of gender discrimination, its effective implementation was undermined by the fact that judges generally had little knowledge about gender discrimination.

The state relied mainly on the activities of NGOs in the area of combating domestic violence. NGOs offered support to over 2,500 victims of domestic violence across the country.

In March, the Ministry of Labor and Social Policy took an important step in the promotion of equal rights of women and men when it established a Gender Equality Department. In December, the Council of Ministers adopted the First National Plan for Equal Opportunities between Women and Men. However, as of this writing, the government had yet to supply the necessary resources to the specialized bodies foreseen under this plan.

### **Asylum Seekers**

Asylum policies in Bulgaria largely reflected asylum policies in other European countries. Major concerns included a low refugee recognition rate, insufficient funding of the refugee system and inadequate processes for repatriating asylum seekers whose applications had been rejected. According to the BHC, there was an evident link between the ever more restrictive measures imposed by the government and the rise in illegal trafficking of people to the country. There was also widespread public hostility toward asylum seekers and refugees.

A total of 1,127 people from 42 countries sought asylum in Bulgaria in 2004. The number of asylum applications decreased by 27% from 2003. A total of 276 people were granted protection; 259 received humanitarian status and 17 refugee status. The rate of successful asylum applications thus remained very low, at 1.5%.

Asylum applications were not processed in border areas. Asylum seekers who requested asylum at the borders were detained and thereafter typically transferred to Sofia. However, NGOs were denied access to places of detention at the borders, and there were concerns that asylum seekers were sometimes denied access to asylum determination procedures in violation of principle of *non-refoulement*. During the year, the BHC registered eight cases of *refoulement* of asylum seekers, four of which involved unaccompanied minors.