

Report

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Bulgaria

IHF Focus: Freedom of expression and the media; freedom of association; peaceful assembly; independence of the judiciary; fair trial; illegal deprivation of liberty; detainees' rights; misconduct by law enforcement officials; right to privacy; freedom of religion; conscientious objection; freedom of movement; prison conditions; protection of minorities; the death penalty; protection of refugees and immigrants.

Developments in 1997 were of crucial importance to the establishment of democracy in Bulgaria. The year started with a severe economic and social crisis, which led to organized street protests until the government of the Bulgarian Socialist Party (BSP) resigned. On 12 February, President Petar Stoyanov appointed a caretaker government and scheduled early parliamentary elections for 19 April. The elections were won with an absolute majority by the United Democratic Forces (UtDF). International observers declared them free and fair.

On 21 May, a new UtDF government, led by Ivan Kostov, took office. It soon stated its willingness to abide by European human rights standards and democratic processes.

Human rights organizations profited from the improving public attitudes toward their activities. They were able to initiate constructive dialogue with the new authorities and their voices were better heard through the media than previously. Amendments to legislation helped bring some problematic legal provisions up to par with European standards but left numerous problems unsolved.

Despite changes, the main human rights problems in Bulgaria remained the same and were as acute as in previous years. They included problems in the administration of justice; violations of the rights of ethnic and religious minorities; restrictions on the freedom of the media and ill-treatment of detainees.

Freedom of the Media

The Broadcast Media

As soon as the new government was formed, it stated that it would conduct radical legislative reform concerning the freedom of the media, yet little changed in the course of 1997. The main problems were political control over the electronic media; criminal prosecution of journalists and the confiscation of publications of ethnic and religious minority groups. In addition to this, private media employers attempted to prevent journalists from organizing.

On 10 July, the parliament replaced the chiefs of state radio and television, who had been appointed by the BSP government, with people who were close to the new government, resulting in program policy which was clearly biased in favour of the new government. In November, the Constitutional Court ruled the appointments unconstitutional because they had violated both the constitution and the Radio and Television Act, which stipulates that these positions be appointed by the National Radio and Television Council. In response, parliament changed the procedure to elect members for this Council; four members were to be elected by parliament and three by the president. Formerly, the parliament had appointed seven, the president two, and the prime minister two of the 11 members of the council. The new procedure guarantees continuing political control over the most important media.

The allocation of licenses for private radio and television stations remained in the hands of the executive.

Libel Charges Against Journalists

The criminal prosecution of journalists on libel charges continued. The penal code provided the prosecutor with the right to bring charges of libel on behalf of "public officials" without their requesting it. The law carried a prison sentence of up to three years for those found guilty of libeling a "public official." Conversely, in cases of libel against a private person, only the victim could initiate criminal proceedings and the punishments were much milder. In June, Chief Prosecutor Ivan Tatarchev said that journalists could even be criminally liable for questions asked of interviewees.

Bulgarian authorities used libel charges over the years to prevent public criticism of the activities of those in authority. In 1997, dozens of journalists from Varna, Sliven, Lom, Svilengrad and some other towns were also criminally prosecuted for defamation and libel of public officials.

In September, Karolina Kraeva, a journalist with *Istina* in Vratsa, was sued for insult and libel against the chief of the local Precinct Police Department because she had written about his links with local businessmen and their possible influence upon his activities.

Journalist Yovka Atanassova of *Starozagorski Novini* was facing 11 libel suits filed against her for referring in her articles to well-known lawyers, police chiefs and former prosecutors in Stara Zagora.

In July, the Bulgarian Helsinki Committee, together with the Union of Bulgarian Journalists and a number of other organizations and media, submitted a request to parliament to remove several articles of the penal code providing pretexts for libel suits against journalists.

The 1997 amendments to the penal code included article 148a which

provided for up to three years' imprisonment for publicizing, including verbally, "unlawfully" acquired information about other persons from the archives of the Ministry of the Interior. As of this writing, no information was available about the application of this new provision.

Freedom of Association and of Peaceful Assembly

In general, freedom of association and of peaceful assembly were respected for the majority of Bulgarian citizens. However, the constitution and the Political Parties Act provided for a discriminatory ban on the formation of political parties on ethnic or religious grounds. Also, for some ethnic and religious minorities, restrictions on the freedom of peaceful assembly continued to be a serious problem throughout the year.

Independence of the Judiciary and Fair Trial

In 1997, the independence of the judiciary from the executive and legislative branches was strengthened. In contrast to preceding years, it was not seriously attacked by those branches.

The July reform of the criminal procedure code downgraded the role of the Prosecutor's Office considerably in preliminary criminal investigation, giving its staff the right to conduct investigations only in a few cases which were clearly specified. Despite the amendment, the Prosecutor's Office continued to control investigations.

The reform did not bring any improvements in access to mandatory legal counsel. Article 70 of the criminal procedure code still excluded persons in remand custody from the right to have a lawyer present during preliminary interrogations. The absence of a legal counsel considerably increased the risk of being ill-treated during preliminary interrogations. This was clearly documented by the Bulgarian Helsinki Committee which received numerous complaints from people who had been mistreated while in detention.

A mechanism was introduced to the Bulgarian judicial system to repeal previous court orders should the European Human Rights Court in Strasbourg rule that a human rights violation had taken place.

Illegal Deprivation of Liberty

Correctional Boarding Schools

The procedure on the basis of which juvenile delinquents were placed in "Correctional Boarding Schools" (formerly "Labor Educational Schools") continued to raise very serious concern. This procedure, established by the Control of Juvenile Anti-Social Behavior Act of 1958 (amended in 1996) was an administrative measure which constituted unlawful deprivation of liberty. Although the formal decision to place a youth in such a "school" was taken by a district court, the procedure itself was conducted by Local Commissions for Control of Juvenile Anti-Social Behavior, appointed by the municipal administrations. The youths in question were not allowed to call any witnesses; the same authority

both brought charges against them and passed the sentence; and the victims had no right to appeal the decision. No counsel for the defense was allowed at any stage of the procedure.

Detainees' Rights

The Bulgarian criminal justice system differentiated between the "accused" and the "indicted." Detainees were usually accused within 24 hours of their arrest. Under the 1997 reform, detainees were to be indicted within one year in most cases, and within two years in exceptional cases, i.e., if the alleged crime carried a penalty of more than 15 years, a life sentence or a death penalty. The indicted, however, often awaited trial for months or even years.

The amendments also gave detainees the right to repeated appeals of the measure of restraint. Hundreds of individuals who had been held in pre-trial investigation for longer than one year immediately appealed and were released. Alarmed by this mass response, the parliament on 10 October adopted amendments to the criminal procedure code ruling that the new provision would apply only to those detained after the provision became effective.

However, the above legal guarantees could not in practice solve the problem of overlong pre-trial detention, as the judicial system was overburdened and could operate only very slowly. In practice, many pre-trial detainees still faced years in detention pending trial.

The Bulgarian Helsinki Committee also established a number of cases of prolonged administrative detention of foreign citizens in the Home for Temporary Accommodation of Adults in Sofia, a place where, among other people, illegal foreigners were held pending expulsion. A number of Vietnamese citizens were found to have been detained there for between seven and eight months merely for not being in possession of the proper documents. They were entitled neither to legal assistance nor to file a complaint for being held unlawfully.

Misconduct by Law Enforcement Officials

Misconduct by law enforcement officials, including ill-treatment and excessive or lethal use of force, continued. Most reports of abuse were received from police or security forces detention facilities and, in some cases, from prisons where such practices were used as a method to prevent unrest. In contrast to previous years, misconduct by the police was often reported by the mass media in 1997 and widely discussed in Bulgaria.

The Prosecutor's Office frequently refused to investigate such cases or terminated the investigations for lack of evidence. The few officials who were sentenced for ill-treatment received remarkably lenient punishments. The new Ministry of the Interior Act, adopted in December, made it even more difficult to bring employees of the ministry before justice; under article 206(2), their conduct could only be investigated with the approval of the minister.

Moreover, article 42 of the new National Police Act permitted the arbitrary use of weapons by police officers in arresting a person caught while committing a crime or attempting to escape.

A disproportionate number of the victims of police ill-treatment were Roma.

On 25 July, a court in Stara Zagora handed down a 21-month suspended sentence to an officer belonging to special troops of the Ministry of Interior for having shot and killed the Rom Mehmed Hodjov in July 1995.

The lack of mandatory legal counsel during preliminary investigations as well as the virtual impossibility of a detainee getting medical examination by a doctor of his/her choice contributed to the incidence of ill-treatment.

The most widely publicized case of police brutality in 1997 concerned the January incidents at the National Assembly.

On the night of 10 January, following mass protests against the BSP government, the police and special units, carrying clubs and wooden objects, kicked and beat hundreds of peaceful demonstrators who had gathered outside the National Assembly. The operation appeared to have been planned in advance. Some 300 people were injured and at least 11 were hospitalized. No police officer was punished for the abuse. Another similar incident took place on 31 January.

Another case which gave rise to much publicity was the treatment of mentally retarded children.

Seven children in the home for mentally retarded children in the village of Djurkovo died of starvation and cold in February. Another 80 children were found to be undernourished and living on the premises without heating or medical care. Despite public protests, no investigations were carried out into the deaths of the children and the home continued to operate normally.

The Right to Privacy

The Special Surveillance Means Act was adopted in October. It regulated the use of audio and video recording by security forces and other means of surveillance (e.g. monitoring correspondence).

According to the Act, special surveillance methods could be used to prevent and expose grave crimes, but also in connection with "activities linked with the defense of national security" (article 4). Moreover, in both cases, surveillance could be used in urgent cases at the order of the Minister of the Interior or the secretary of the Ministry of the Interior without approval by a court of law (article 18). However, the law failed to define the term "national security" or the activities in relation to

which special surveillance methods could be employed. This omission gave room for arbitrary violation of the right to privacy and secrecy of correspondence.

Freedom of Religion

The general legislative framework guaranteeing the right to freedom of thought, conscience, religion or belief was not changed in 1997. Both the outdated Denominations Act, and the discriminatory article 133A of the Persons and Family Act (1994) remained in force. The latter had been used to arbitrarily deny registration of several non-Orthodox religious dominations, particularly small Protestant groups and "new" religions.

On the positive side, the authorities registered communities which had been made illegal on the basis of article 133A of the Persons and Family Act.¹² For example, the "Gideon" association was re-registered. Moreover, the government immediately declared its willingness to reach an amicable settlement after the European Commission of Human Rights in Strasbourg had decided to declare admissible Jehovah's Witnesses' complaints about the failure of authorities to register their denomination.

The milestone event in 1997 on religious matters was the successful holding of a unifying conference of the Bulgarian Muslim community in October, and the government's recognition of its newly elected leadership, headed by the new Chief Mufti, Mustafa Hadj. This largely helped to overcome the schism in Bulgaria's second largest religious community, caused by the interference of successive governments in its organizational life since 1992.

In contrast to the above positive developments, extreme intolerance and fierce campaigns against non-Orthodox religious groups were published in the media, with the tacit support of the government.

On 16-18 May, Bulgarian Orthodox nationalists rioted at the meeting of the Pentecostal Church and the Bulgarian Church of God, both duly registered organizations. Patriarch Maxim called the believers "renegades and traitors." Ivan Soungarski, Chairman of the Parliamentary Committee on Human Rights and Religious Denominations, said that he would demand that the Orthodox religion be declared official by law in Bulgaria, in order to successfully oppose the "sects." Chief Prosecutor Ivan Tatarchev threatened to cancel the registration of the two denominations.

Physical violence against members of minority religious communities also continued, while the authorities did little to stop it or to bring the perpetrators to justice. The police raided private homes, offices and places of worship, confiscating religious literature, preventing the believers from legally holding their meetings, and repatriating foreign members of such groups. The groups attacked most frequently were Jehovah's Witnesses, the Unification Church (Moonies), Muslims and

Protestant groups.

On 20 July, two members of the Seventh Day Adventist Church were detained and beaten in the police station in Petrich for having sold religious literature. They were later escorted to the railway station by policemen and warned "not to sell literature or to preach in places not designated for the purpose." The Sofia District Military Prosecutor's Office dismissed the case due to lack of evidence of ill-treatment, even though the victims could produce medical certificates detailing their injuries.

The police on several occasions raided private homes in Sofia, Plovdiv, Varna, Kyustendil, Assenovgrad, Petrich and Rila where members of the Unification Church had held their meetings, and confiscated religious materials.

Statements by Lyubomir Mladenov, head of the Directorate of Denominations of the Bulgarian government at a November seminar on "Religion and Society in Bulgaria" did not give much hope for more tolerant attitudes in future on the part of the government. Mladenov regretted the fact that the current Denomination Act provided the state with too little power to regulate the activity of new religious movements, and too few possibilities to "protect" the rights of citizens. He stated that under the new draft law on Religious Dominations, religious organizations would have to undergo a six-month test period before registration. He also stated that it was necessary to exercise direct governmental control over religious groups.

Conscientious Objection

On 1 December, the Council of Ministers approved the draft law on alternative civilian service to military service. This possibility was provided for by article 59 (2) of the constitution, but six years' delay had since ensued.

However, the alternative service provided for by the new law was twice as long as regular military service (one year) and could therefore be regarded as a punishment for one's conviction. In addition, the bill gave the Council of Ministers the right to set an annual quota for those accepted for alternative service.

The service could be carried out only in state-run organizations. Conscripts would have no right to ask for alternative service after entering the military. The bill also unreasonably restricted the rights of those carrying out alternative service; for example, they could not become members of trade unions or run for a political office for the duration of their civil service.

Freedom of Movement

Generally, there were no obstacles placed upon freedom of movement for Bulgarian citizens within the country. However, in February, the Ministry of the Interior prohibited former members of the BSP

government and their family members from leaving the country although they had not been charged with any offense. Moreover, the authorities also refused to issue foreign passports to persons who had been sentenced by a court of law and had served their sentences.

Prison Conditions

In 1997, the Bulgarian Helsinki Committee was able to visit all prisons, reform schools and normal police detention facilities in Bulgaria. However, the National Investigative Service (NIS) rejected a request to visit detention facilities under its control.

The number of individuals held in prisons in pre-trial detention for long periods of time decreased in 1997. The only exception was the prison of Boichinovtsi for juvenile delinquents, where over 66 percent of all inmates were pre-trial detainees. Only a few cases of ill-treatment were reported from prisons.

The main problems in prisons were poor material conditions (particularly sanitary facilities) and overcrowding, both of which contributed to the rapid spread of tuberculosis in 1997. With inadequate medical care, tuberculosis was also the main cause of 59 deaths in prisons, a number twice as high as in 1996.

On the basis of reports received by the Bulgarian Helsinki Committee, conditions in detention facilities run by the NIS appeared to be even worse, and the committee obtained evidence of overlong detention periods and ill-treatment of detainees.

The Death Penalty

The June amendments to the penal code provided individuals with the right to use extensive physical force and firearms in self-defense. Although some of the original provisions were overturned by the Constitutional Court in December, the court still held that it was legal to use lethal force in cases where assailants had broken into homes, and in incidents in which "the assault cannot be repelled by any other means."

The 1990 moratorium on carrying out death sentences remained in force throughout 1997. Still, Bulgarian courts continued to hand down death sentences and the legal status of individuals on death row was not changed. The reformed penal code still included the death penalty. Magistrates at different levels, as well as a number of MPs repeatedly requested the lifting of the moratorium but the parliament did not consider their demands.

Protection of the Minorities

Protection of the ethnic and cultural identity of minorities in Bulgaria remained inadequate. Members of ethnic minority groups appeared to have less chance of receiving instruction in their mother tongue than in previous years. A request by members of the Bulgarian Turkish community to receive instruction in and about their own language was

rejected by the authorities.

On December 4, the government adopted Decree N 449, setting up a National Council on Ethnic and Demographic Questions at the Council of Ministers. The Council is a consultative body expected to develop and propose strategies of demographic policy, promote tolerance and understanding between ethnic and religious groups, and to coordinate support for Bulgarians abroad. This strange combination of functions raised questions about the Council's capacity to fulfill its remit.

The Framework Convention for the Protection of National Minorities of the Council of Europe was signed by President Stoyanov in Strasbourg on October 9.

The Macedonian Minority

Under the new government, policy towards ethnic Macedonians remained unchanged. Macedonians were subjected to various forms of harassment, including confiscation of their publications, being prevented from holding assemblies and book presentations, and officials refusing to let them meet on public premises.

On August 28, customs officers at Stanke Lissichkovo border checkpoint confiscated 31 books from Georgi Hristov on the ground that he had not declared them upon entry and that they had a "pro-Macedonian nationalistic content."

On April 20, the Blagoevgrad district prosecutor banned a rally by activists of UMO "Ilinden," a pro-Macedonian group, at the grave of Yane Sandanski in the Rozhen Monastery. In May, the prosecutor banned them from celebrating the 94th anniversary of the death of Gotse Delchev, and the activists involved were detained.

The Roma Minority

The integration and treatment of the Roma minority continued to present serious challenges. Roma were discriminated against in all spheres of social life, including education, employment, housing, social security and health care. They were seriously under-represented in decision-making bodies.

The economic collapse and the humanitarian crisis in early 1997 hit the Roma community particularly hard, and criminality increased among them. This, again, resulted in conflicts with law enforcement officials and the majority population. In March, a hepatitis epidemic among Roma children claimed the lives of several children.

Many Roma fell victim to racially-motivated violence, both by the police and by extremists among the majority population.

On 20 July, four youths beat to death Nedka Atanassova, a 41-year-old Rom from Sliven. Two of the youths were exonerated from criminal responsibility because they were

under age, while the other two were charged with the minor offense of hooliganism and received a two-year prison sentence each, six months of it suspended.

There were at least two police raids on Roma neighborhoods during the year and in at least two cases, Roma were the victims of organized mob violence.

On 4 February, masked police officers raided the Roma neighborhood in Pazardjik, beating up some 60 people and breaking furniture. The raid was conducted as revenge against Roma who were allegedly guilty of three shop robberies. No officer was punished for this.

Darina Naidenova, a Rom, complained that she had been tortured with "falaka" (hitting the soles of feet with a hard object) in the police station in Vulchedrum on 14 April. The police had accused her of stealing hens. A similar case was reported from the same police station in June. No investigations were initiated.

On April 5 in Sredno Selo, near Veliko Turnovo, five Roma, accused of stealing calves, were tied to a fence in the village center and severely ill-treated by a mob of 100-120 villagers. It took the police two hours to arrive at the site of crime. They took the victims to hospital, but did not initiate any investigations.

Homosexuals

As in 1996, at least two cases of police assaults on homosexuals were recorded.

On March 4, policemen raided the "Flamingo" gay center in Sofia, arresting four persons suspected of peddling pornography and confiscating various materials. The victims claimed they had been forced to lie down on the floor, kicked and arrested. After about 20 hours in the police station, they were released.

Investigations were initiated against some individuals accused of the "conduct of homosexual acts for the purpose of enrichment" (article 157(5) of the penal code).

On 29 August, some homosexuals were detained for the third time and charged under article 157(5). They later claimed they had been insulted and threatened by police officers and that, after detaining them for 12 hours, the police officers had invited crime reporters from the largest Sofia dailies to take photographs of the detainees despite their explicit objections.

Protection of Refugees and Immigrants

The main problem facing asylum seekers in Bulgaria involved the low

recognition rate by the National Bureau for Territorial Asylum and Refugees - the body responsible for granting refugee status - and the lack of staff from the Bureau available to conduct in-depth interviews with asylum seekers. In some cases, the person seeking asylum was not interviewed at all. Moreover, the responsible authorities failed to inform clients about their right to a lawyer and an interpreter during the procedure.

Written rejections of applications for political asylum did not mention the right to appeal the decision which would delay expulsion. In some cases, expulsion was carried out even before the deadline for lodging an appeal had passed. On the other hand, many applicants chose not to file appeals, knowing that, due to weak knowledge of refugee law and international human rights standards among the judges of the Supreme Administrative Court, they had little chance of success.

The Bulgarian Helsinki Committee uncovered several cases of persons placed in detention who had not been allowed to submit an asylum application. Moreover, it received reports that potential asylum seekers had been turned back at the border checkpoints, where the number and qualification of personnel is insufficient to allow the proper processing of asylum seekers' claims.

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Profile

Home
Page

Links

Communication