



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

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**Committee against Torture**

**Concluding observations on the combined fourth and fifth  
periodic reports of Bulgaria adopted by the Committee at its  
forty-seventh session (31 October -25 November 2011)**

**Addendum**

**Information received from Bulgaria on the implementation of  
the Committee's concluding observations  
(CAT/C/BGR/CO/4-5)\***

[21 December 2012]

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\* In accordance with the information transmitted to State parties regarding the processing of their reports, the present document was not edited.

**Information provided by the Bulgarian authorities on the implementation of recommendations of the Committee against Torture as contained in paragraphs 9, 10 and 28 of the concluding observations of the Committee regarding the combined fourth and fifth periodic reports of Bulgaria (CAT/C/BGR/CO/4-5)**

1. The Bulgarian authorities carefully studied the concluding observations of the Committee against Torture regarding the combined fourth and fifth periodic reports of the Republic of Bulgaria (CAT/C/BGR/CO/4-5) and would like to provide to the Committee the requested follow-up information in response to the Committee's recommendations, as contained in paragraphs 9, 10 and 28 of the concluding observations:

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

**Reply to the recommendations contained in paragraph 9 of the concluding observations (CAT/C/BGR/CO/4-5)**

2. The legal framework of the right to access to a lawyer and to legal aid is provided for in the Legal Assistance Act and in the Penal Procedure Code of the Republic of Bulgaria. There are no obstacles for the lawyers (official or private ones) to contact their clients as long as they are in police custody.

3. In the framework of its competences the Ministry of Interior takes the following measures:

- The process of training on human rights, which is held for police staff at their place of employment every three months includes issues concerning police custody, lawyer's defense, medical aid, etc;
- Briefings on observing the regulations of the Instructions related to the equipment of the premises in which the detainees are accommodated are held on regular basis in the structures of the Ministry of Interior;
- The Inspectorate Directorate with the Ministry of Interior carries out regular inspections on the observance of the Instructions in the structures of the Ministry of Interior. Upon finding weaknesses the state inspectors give on the spot instructions on ways to improve the organization of the work regarding the detainees, the rules for detention and carrying out internal control on the activities related to the detention of persons in the structures of the Ministry of Interior. After the inspection has been carried out the directors of the inspected structures inform the Inspectorate Directorate about the measures they foresee to undertake in order to address the found weaknesses and consequently they report about their fulfillment.

4. In relation to the access to a lawyer in the first 24 hours of police detention, the National Legal Assistance Bureau, in cooperation with the Open Society Institute has launched a project entitled Mechanism for the Provision of Legal Assistance by Lawyers on Duty in the first 24 hours of police detention.

5. The project is aimed at establishing and implementing a number of administrative decisions that would practically enable the availability of expedient and competent legal assistance to detainees. In cooperation with the Open Society Institute, the National Legal Assistance Bureau published a brochure on Detainee's Rights which is available in the

regional police stations. This publication explains the basic rights of the detainees and aims to assist the police officers in their first contact with the detainees. With the support of the Ministry of Interior, the National Legal Assistance Bureau drafted guidelines to be followed by the pretrial authorities.

6. In view of the excessive workload of the staff of the National Legal Assistance Bureau as a consequence of the increased number of reports regarding the provision of legal assistance, the staff of the Bureau was increased with three additional posts pursuant to Decree No. 152 of 17 July 2012 of the Council of Ministers. This resulted in a more balanced workload scheme and allowed the timely and successful finalization of the file cases.

7. Past years have been marked by continuous increase in the range of provided legal assistance demanding in turn the provision of adequate funding.

8. The budget for legal assistance for the year 2013 is scheduled to be increased by BGN 2 million thus providing a total amount of BGN 9 million for the purposes of administering legal assistance services. This comes to substantiate the commitment of the Bulgarian State and the Government to ensure access to legal assistance for every Bulgarian citizen.

9. Along with the measures mentioned above, the National Legal Assistance Bureau drafted a Bill amending the Legal Assistance Act and submitted it to the competent institutions for consideration. The proposed amendments aim at ensuring to a wider circle of socially disadvantaged groups effective access to justice. The persons of the specified categories will receive free legal assistance on the grounds of their social and economic status. These amendments are in conformity with the national and European principles and guidelines underpinning access to legal assistance. Specifying explicitly the categories of persons entitled to enjoy free legal assistance, our national legislation will be brought into compliance with European standards and provisions, and in particular, with article 6, paragraph 3, item "c" of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

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

### **Reply to the recommendations contained in paragraph 10 of the concluding observations**

10. After a very close analysis of the recommendations which were made by a number of international human rights institutions including the Committee against Torture, amendments were made in the Ministry of Interior Act, in force since 1 July 2012. They introduced the "absolute necessity" standard in the use of firearms, physical force or auxiliary devices by law enforcement officials. The particular legislative norms which were elaborated by experts of the Ministry of Interior, the Prosecutor's Office, the Ombudsman and representatives of the non-governmental sector, were reflected in the texts of article 72, article 73 and article 74, as well as in the new article 74a of the Ministry of Interior Act, and can be summarized as follows:

- Introducing the *obligation* for the police authorities to take all necessary measures to protect the life and health of persons against whom the physical force and auxiliary devices were directed;
- Ban on the use of life-threatening force for detention or prevention of a person who is committing or has committed a *violent act* from escaping unless the person constitutes a threat upon the life and health of another person (an identical ban is also introduced regarding the use of weapons in this case);

- Introducing the obligation to abandon the use of weapons *immediately* after the legitimate aim has been achieved;
  - Defining the rule for preliminary *planning* of the police operations and their *control* in the course of their implementation so that any risk for the human life and health is reduced to the minimum.
11. Additionally, along with the amendments to the legal provisions, additional measures are foreseen to limit the cases of excessive use of police powers related to both the initial and ongoing training of law enforcement officials as well as to the timely control and investigation of the signals and preventive sanctions for the offenders.
12. Long before the legislative amendments had entered into force, the following relevant training activities were taken at the Academy of the Ministry of Interior:
- Developing a new course aiming at updating the professional qualifications on “Police Practices and Human Rights” as a distance-controlled form of training;
  - Updating all training programmes concerning the subjects “Police Law”, “Human Rights Protection” and “Criminal Law”, which are included in the training of the law enforcement officials, with view to introducing the amendments concerning the principle of “absolute necessity” in the use of firearms, physical force and auxiliary devices;
  - Introducing didactic forms in the training process – practical exercises, cases solving, role plays, which can support learning the subjects and gaining sustainable knowledge and practical skills;
  - Short, practical-oriented trainings for the uniformed staff were conducted jointly with the Prosecutor’s Office at the places of employment around the country.
13. Regarding the investigation of unauthorized activities and excessive use of force by the police, the developed system provides for impartiality and reliability. It is conducted by authorities which are completely independent from the police – the Commission for Protection against Discrimination or the investigation and prosecution authorities in the cases when the act constitutes a crime of general nature.
14. Within the Ministry of Interior the check of signals for unauthorized acts on the part of an official of the Ministry of Interior can be conducted by the Inspectorate Directorate, which also provides methodical assistance to the Ministry of Interior structures in their activity to counteract and detect corruption cases, conflict of interest and breaches of the Ethics Code on the Behavior of the Civil Servants in the Ministry of Interior. The Inspectorate Directorate is directly subordinated to the Minister of Interior, which ensures its independence from the other structures of the Ministry of Interior.
15. The condition of the discipline and disciplinary practice is analyzed and controlled by the Human Resources Directorate with the Ministry of Interior. The Directorate also carries out the methodical guidance and supervision of disciplinary proceedings in cases of serious disciplinary offences including those of opened proceedings related to the presence of evidence for exercised police violence.
16. When there are complaints lodged about unauthorized behavior on the part of police officials, the information is checked and after that the relevant measures are taken. For the cases in which it is established that the acts committed by the officials constitute a crime of general nature the files are sent to the competent Prosecutor’s Office to open pretrial proceedings.

17. A mechanism was set up in Bulgaria, which allows the citizens to seek compensation if they have suffered damages from the irregular activities of the State authorities.

18. In these cases, pursuant to the Law on the Responsibility of the State and the Municipalities for Damages, the State owes compensation about all material and immaterial damages which are a direct and immediate consequence of the damage, irrespective of the fact whether they were caused guiltily by the official, and the State is entitled to file in a regression claim against the civil servant who has allowed or conducted the act, caused the damages.

19. The citizens in the Republic of Bulgaria can also seek protection of their rights in front of the Commission for Protection from Discrimination and the Ombudsman.

20. According to the information provided by the Supreme Prosecutor's Office of Cassation, for the first six months of 2012 a total of 23 file cases and pretrial proceeding have been reported for acts of violence at arrest and detention places, of which 14 are new for the period. A total of 22 pretrial criminal proceedings have been registered, of which four are newly initiated.

21. The criminal proceedings mentioned above have been conducted on account of the following criminal offences: two proceedings under article 119 of the Penal Code /for murder committed in exceeding the limits of lawful self-defense/, one proceeding under article 123 of the Penal Code /causing death to somebody else due to lack of knowledge or negligent fulfillment of a profession or another legally stipulated activity, representing a source of high danger/, one proceeding for criminal offence under article 124 of the Penal Code /causing death by negligence as a result of a deliberately inflicted bodily harm/, three proceedings under article 127 of the Penal Code/assisting or soliciting suicide or attempted suicide/, 14 proceedings under article 131, paragraph 1 of the Penal Code for criminal offence under article 131, paragraph 1, item 2 of the Penal Code /for causing bodily harm by an official, by a representative of the public, by a police officer during or on occasion of fulfillment of his duty or function/ and one criminal proceeding for committing criminal offence under article 133 of the Penal Code /inflicting on somebody else, by negligence, serious or average bodily harm/.

22. 10 criminal proceedings have been finalized. A total of 5 prosecutorial statements have been filed at court, of which three indictments, altogether against six persons. At present, the cases are pending before the court.

23. The investigations have been conducted in compliance with the procedural deadlines and time limits, and the duration of the pretrial stage for three of the proceedings has not exceeded one year. The analysis of the statistical data clearly proves that the investigation related to the above-mentioned proceedings can be qualified as fast, efficient and independent.

24. For the period October 2011 – June 2012, no criminal proceedings were initiated for committing criminal offense under article 287 of the Penal Code /illegal compulsory means conducted by a body of the authority who, within the scope of his duties, acted alone or through another, in order to extort from a suspect, incriminated, accused, witness or expert a confession, testimony or conclusion or information/.

## **Discrimination, statements expressing hatred and violence against vulnerable groups**

### **Reply to the recommendations contained in paragraph 28 of the concluding observations**

25. Bulgaria has ratified the whole spectrum of international legal instruments in the field of nondiscrimination and fundamental rights and implements their provisions. The Bulgarian legislation fully conforms to them and provides measures to prevent religious hatred, discrimination, racism, extremism and xenophobia.

26. The Bulgarian Government continues its policy of combating negative stereotypes. In this regard the *National Strategy of the Republic of Bulgaria for Roma Integration (2012-2020)* adopted by the National Assembly includes a special priority for Culture and Media. The section «Media» specifically provides for the creation of conditions for equitable representation of the Roma community, changing the negative image of Roma and address "hate speech" in print and electronic media. Performance objectives include:

- Presentation of the Roma community - problems, traditions, culture and contemporary achievements in all spheres of public life in both print and electronic media;
- Encouraging, motivating and inspiring journalists of Roma origin to work in the mass media;
- Counteracting "hate speech" in print and electronic media.

27. The National Council for Cooperation on Ethnic and Integration Issues (NCCEII) is the leading institution for the implementation of the objectives of the Strategy within the 'Media' priority. The NCCEII collaborates with the Committee on Culture, the civil society and the media of the National Assembly, the Council for Electronic Media, the Commission for Protection Against Discrimination, the Ombudsman of the Republic of Bulgaria, and public media - Bulgarian National Television, Bulgarian National Radio and the Bulgarian News Agency, the National Council for Journalistic Ethics (the Ethics Commission for Print Media and the Ethics Commission for Electronic Media).

28. The Bulgarian Government consistently pursues its policy of promoting tolerance and mutual understanding toward and among persons belonging to various ethnic groups, as well as respect for cultural diversity. In this context, the Government continues its activities aimed at preventing and sanctioning any manifestations of negative stereotyping regarding persons belonging to such groups.

29. The Bulgarian authorities closely monitor all alleged manifestations of racism and intolerance against any person under their jurisdiction, and resolutely take steps, where necessary, to bring perpetrators of such acts to responsibility.

30. The Penal Code precisely stipulates increased sanctions for crimes against the citizens' equality, including for inciting discrimination, violence or hatred based on race, nationality or ethnicity.

31. Measures against persons who demonstrate and incite violence, endanger the ethnic peace and spread antidemocratic ideology based on hatred towards groups of people or ethnic groups are elaborated by the Ministry of Interior jointly with the General Prosecutor's Offices of the Republic of Bulgaria. In cases when pretrial proceedings have been initiated or provisional checks have been undertaken, the structures of the Ministry of Interior enter into immediate collaboration with the competent Prosecutor's Offices..

32. Police officers are trained with the purpose of preventing and sanctioning the perpetrators of offences based on racism and propaganda against ethnic groups and foreigners. Appropriate training in human rights protection is being provided to police officers on a regular basis.

33. *The National Strategy of the Republic of Bulgaria for Roma Integration (2012-2020)* attributes the highest priority to the rule of law and non-discrimination. It focuses on the improvement of the police officers' work in a culturally diverse environment. The Strategy stipulates training of police officers in human rights and ethnic groups-related issues within the academic year of the Academy of the Ministry of Interior.

34. An annual 10-week theoretical and practical training courses at national and local level entitled "Police Work with Ethnic Groups" are also envisaged.

35. The Police protect representatives of the ethnic groups from intolerant attitude and do not allow acts of discrimination towards persons from ethnic groups in their activities.

36. The excessive use of force on the part of the police towards representatives of ethnic groups is definitely not allowed. The Committee against Torture has already been provided with detailed and updated information about the legal and institutional guarantees on that issue. The efficiency of the consistently taken measures was proven by the fact that for the first six months of 2012 there were no cases reported involving brutal treatment or excessive use of force by the police towards representatives of ethnic groups.

37. Regarding the results of the investigations into the recent attacks on journalists, we would like to communicate that all the materials related to the three cases in 2011 (an explosion in front of the office building of Gallery newspaper, the car explosion of the vehicle used by the journalist Sasho Dikov, the assault on a TV team during the protest in the village of Katunitsa) and the case in 2012 (the car that was set on fire and that belonged to the journalist Lidiya Pavlova) were submitted to the Prosecutor's Office where pretrial proceedings were undertaken. In some of the cases guards were provided to the victims.