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Human Rights Committee

**Information received from Bulgaria on follow-up to the
concluding observations on its fourth periodic report***

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* The present document is being issued without formal editing.



Information by the Republic of Bulgaria on the implementation of the recommendations, made by the Human Rights Committee in paragraphs 10, 36 and 38 of the concluding observations on the fourth periodic report (CCPR/C/BGR/4)

1. The Bulgarian authorities have carefully studied the concluding observations of the Human Rights Committee (hereinafter “the Committee”) on the fourth periodic report submitted by Bulgaria (CCPR/C/BGR/4). In response to the Committee’s recommendations, made in paragraphs 10, 36 and 38 of the concluding observations, the Bulgarian authorities would like to provide the requested information:

I. Information regarding the implementation of the Committee’s recommendations made in paragraph 10 - Hate speech and hate crimes.

(a) Amend the Criminal Code and the Radio and Television Act to explicitly include sexual orientation and gender identity as hate motives and grounds of discrimination, respectively;

(b) Ensure that any advocacy of ethnic or racial hatred that constitutes incitement to discrimination, hostility or violence is prohibited in law and in practice, and that persons responsible for such behaviour towards minority groups are held accountable, including State officials

2. As already stated in the third periodic report of Bulgaria (para. 144 of CCPR/C/BGR/3), hate crimes, including hate speech, are addressed in a special part of the Bulgarian Criminal Code, Chapter Three “Crimes against the Rights of Citizens”. The criminal prosecution of hate speech and hate crimes is regulated in Art. 162 to Art. 164.

3. Racial and xenophobic motivation is introduced as qualifying circumstance in the elements of crime in the commission of homicide and bodily injury and more severe sanctions are provided for these offences. In cases where racism and xenophobia affect the employment rights of citizens, punishment is also foreseen. All acts of condoning, denying or grossly trivialising crimes against peace and humanity are also qualified as criminal offence, when the conduct is carried out in a manner likely to incite violence or hatred against a person or group of persons, defined on the basis of race, colour, descent, religion, or national or ethnic origin. Incitement to such a crime is also punishable. In all cases when determining the penal sanction, the court takes into consideration, *inter alia*, the motives for committing the act, including possible racist motives. If it is established that the motivation for the commission of a particular offence is racist, this is considered an aggravating circumstance and the court imposes a penalty in the upper limits.

4. Although the Criminal Procedure Code does not provide qualified forms in case of a crime motivated by homophobia or transphobia, these could be taken as aggravating circumstances in determining the penalty.

(c) Effectively enforce criminal provisions against hate crimes and hate speech by ensuring that such crimes are reported, investigated, prosecuted and punished with appropriate sanctions, and that victims receive full reparation

5. Hate crimes may be reported to the authorities, according to the general procedure for reporting of a crime in the Criminal Procedure Code.

6. The Prosecutor’s Office has adopted Methodological guidelines for handling cases and pre-trial proceedings, opened upon criminal offences with discriminatory elements and theoretical and practical aspects of investigation of crimes against equality and religious denominations. Both documents are available on the internal Internet page of the Prosecutor’s Office and are accessible to all prosecutors and investigators.

7. Organisational measures have been taken to explore the possibilities for providing statistical reports through digital technologies. The reports need to follow the existing structure of the Criminal Code, incl. disaggregated data by motivation, especially with regard to hate crimes.

8. Victims can seek protection and compensation under the Crime Victim Assistance and Financial Compensation Act, if they have not received one in trial. The Act explicitly provides the right of victims to be informed about the services to which a crime can be reported, the procedures following such a report, and the types of action afterwards.

9. Victims of hate speech and hate crimes benefit from several forms of assistance. It includes medical treatment in emergencies, psychological counselling and assistance, free legal assistance under the Legal Aid Act and practical help. Victim support organizations provide shelter or any other suitable temporary accommodation to the victims of crimes in cases of imminent risk of secondary victimization, intimidation and revenge. The organizations also provide shelter or any other suitable temporary accommodation to the victims for a period of up to 10 days at the request of the victim of the crime. The investigation authorities refer victims to support organizations.

(d) Strengthen the investigative capacity of law enforcement officials for hate crimes and criminal hate speech, including on the Internet and strengthen the mandate and capacity of the Council for Electronic Media to prevent and sanction hate speech in the media

10. Prevention and combating hate crimes is a priority of the police and the judicial authorities. Junior magistrates study prevention and protection of all forms of racial discrimination as a compulsory element of their initial training. The different forms of discrimination are also studied in the training course, organized for candidates for junior judges, junior prosecutors and junior investigators by the National Institute of Justice (NIJ).

11. Over the period June 2017-June 2020, a number of trainings organized by NIJ, took place within the scope of the vocational training of magistrates. During the reported period, 244 representatives of the target groups, including 166 magistrates, 36 court clerks and 42 representatives of other institutions (experts from the Ministry of Interior and the State Agency for Refugees), were trained on issues pertaining to prevention and combat against discrimination on the grounds of race, ethnic origin or nationality.

12. The NIJ in partnership with the European Law Academy (ERA) organized a specialized training on the EU legal framework on equality and its interaction with the key international legal instruments in the field, adopted by the Council of Europe (CoE), the UN and the International Labour Organisation (ILO). Further, the NIJ provides self-learning materials on relevant topics such as combating discrimination, hate speech and protection of the freedom of expression.

13. A Training Guide for dealing with anti-LGBTI hate crime cases for law enforcement agencies was developed by Bilitis Foundation in 2019 under a project, funded by the European Union's REC Programme. The training guide was introduced to all Regional Directorates of the Ministry of Interior (MoI). Additionally, a Handbook on Restorative Justice and its implementation in cases of anti-LGBTI hate crimes was presented. This practise was followed by the Council of Europe manual "Policing Hate Crime against LGBTI persons", which was translated into Bulgarian in 2020.

14. The Bulgarian law enforcement and criminal justice authorities have been actively participating in initiatives and trainings, organized in partnership with Office for Democratic Institutions and Human Rights (OSCE/ODIHR), EU Agency for Fundamental Rights (FRA) and the Council of Europe (CoE). They aim at improving the abilities to record and collect data on hate crime. A number of training on countering hate crimes were organized also for the prosecutors. Over the period 2017-2019, 114 prosecutors and 4 investigators took part in 27 trainings organized on topics related to hate crimes and crimes, based on discrimination.

15. There is a number of campaigns aimed to discourage or prevent hate speech. Such campaigns usually involve public figures, who have high level of authority in the society. Targeted campaigns are also organized in schools.

16. Amendments in the Radio and Television Act have been prepared following the adoption in 2018 of the AVMSD¹. The draft law provides for strengthening the powers of the media regulator – the Council for Electronic Media, stricter measures against the use of hate speech, prohibiting incitement to violence, hatred or terrorist acts in audio-visual media services. The rules also apply to video-sharing platforms. Overall, the proposed amendments aim to broaden the scope of “hate speech” to reflect the grounds, listed in art. 21 of the EU Charter of Fundamental Rights.

17. All radio and television channels are obligated not to create or broadcast contents that incite national, political, ethnic, religious, and racial intolerance or praise cruelty and violence. The Council for Electronic Media provides regular monitoring on those. The results of the radio and television broadcasts monitoring indicate that the majority of media services providers reflected objectively topics related to ethnic issues.

18. The MoI is responsible to receive information on materials, disseminating hate speech online and to contact immediately the relevant partner organization to remove them, when the hosting provider is based in the country.

II. Information regarding the implementation of the Committee’s recommendations made in paragraph 36 -National, ethnic and religious minorities

(a) Ensure that all cases of hate speech, hate crimes and discrimination against religious groups are thoroughly and promptly investigated and sanctioned

19. The Criminal Code criminalizes the incitement of discrimination and violence on religious grounds. Art.164 provides that a person who propagates or incites to discrimination, violence or hatred on religious grounds through speech, press or other media, through electronic information systems or in another manner shall be punished by deprivation of liberty of up to four years or by probation, and a fine.

(b) Guarantee the effective exercise of freedom of religion and belief and refrain from any action that may restrict it beyond the narrowly construed restrictions permitted under article 18 of the Covenant

20. The Religious Denominations Act does not have a restrictive and/or discriminatory nature. Nobody can be persecuted or restricted in his rights due to religious beliefs. No restrictions or privileges are allowed based on affiliation or refusal of affiliation with a religion.

21. Worship and the performance of religion-specific ceremonies might be conducted in a language other than Bulgarian, in line with the religious community’s tradition. The communication among religious institutions is in the official language of the country.

(c) Revise draft legislation targeting “extremist religious groups” with a view to bringing it into conformity with the State party’s obligations under the Covenant, in particular, clarifying the vague definition of key terms, removing restrictions on preaching in languages other than Bulgarian, and ensuring that any legal restrictions, including regarding access to foreign funding, are not used as a tool to curtail freedom of expression beyond the narrow restrictions permitted in article 19(3) of the Covenant

22. The amendments in the Religious Denominations Act, that took place in 2018, contain no references to “extremist religious groups”, nor does pose any restrictions on foreign funding.

(e) Monitor closely the registration process of associations and refrain from any action that may restrict it beyond the narrowly construed restrictions permitted under article 22 of the Covenant

23. In conformity with the Strategy for Supporting the Development of Civil Organisations in the Republic of Bulgaria 2012-2015 and the Strategy for the Development

¹ AVMSD – Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive) in view of changing market realities.

of the State Administration 2015-2020, a Registry reform was placed. Its main goal was to improve the legal framework guaranteeing the constitutional freedom of association and to create favourable conditions for the functioning of non-profit legal entities. It reduced the administrative burden for non-profit associations by providing faster procedures and shorter statutory deadlines for the registration. The new administrative registration procedure was enacted on January 1, 2018.

III. Information regarding the implementation of the Committee's recommendations made in paragraph 38 -Freedom of expression

(a) Continue training police officers, judges and prosecutors in human rights standards relating to freedom of expression and assembly and the lawful use of force

24. In the curriculum for professional education and professional training, within the Academy of the MoI, special attention is attributed to the protection of human rights and the lawful use of police powers. The training of the cadets includes the subject "Protection of Human Rights", studied in the first year of the bachelor's degree programme in the specialization "Crime Prevention and Protection of Public Order".

25. The NIJ organises training on topics related to freedom of expression as part of the human rights training, provided for junior judges, prosecutors and investigators candidates. As well as that, the NIJ provides trainings for magistrates as their curriculum and coordinates supplementary trainings for them, organized within the European Judicial Training Network.

26. On 20 February 2020, a specialized lecture was organized dedicated to practice of the European Court for Human Rights (ECtHR) related to freedom of expression, hate speech and private data protection. A judge from the ECtHR delivered the lecture in front of magistrates, civil servants and stakeholders. The event was streamed online.

(b) Protect journalists against any form of harassment, attack or excessive use of force and promptly investigate such acts and bring those responsible to justice, including the recent murder of journalist Victoria Marinova

27. The Bulgarian authorities approach with due seriousness any case of violation against journalists. Special attention is paid to the safety of journalists, especially female journalists. The murder of Victoria Marinova proved not to be connected with her professional activities and the perpetrator has been sentenced.

28. In 2016, the Ethical Code of Conduct for Civil Servants in the Ministry of Interior was amended to reflect the rules of conduct of the officers in the performance of their professional duties. Any failure to observe the rules of the Ethical Code is a disciplinary violation under the provisions of the Ministry of Interior Act, which provides for the imposition of a disciplinary sanction.

29. There is a unit within the MoI structures responsible for internal security. The unit reports directly the Minister of Interior. One of its main tasks is the prevention, counteraction and detection of crimes committed by MoI employees.

30. Under Art. 194 of the Criminal Procedure Code, the investigation in cases for crimes committed by officers/civil servants of MoI is conducted by investigators – judicial authorities, which are completely independent of the police authorities.

31. Successfully continues the work of the Permanent Commission on Human Rights and Police Ethics within the MoI. The Commission is an advisory body working to promote and protect human rights, strengthen the national legal system in various areas of human rights and freedoms, familiarize and implement the standards imposed by the European institutions in this regard. Such commissions at regional level are also present in all 28 District Directorates of MoI and their members must be involved in the investigation of signals related to over-exploitation, misuse of power, violence, unlawful and unethical actions by police officers.

(c) Increase media pluralism and the diversity of views and information accessible to the public, taking into account the Committee's general comment No. 34 (2011) on freedoms of opinion and expression

32. All media in Bulgaria, whether public or commercial, are bound to be guided by the fundamental principles of a pluralistic media environment, guaranteeing the right to freedom of expression, the right to information, the confidentiality of the source of information, the protection of the privacy of citizens, the prevention of programs inciting intolerance between citizens, and guaranteeing the right of reply in the programs. The existence of pluralism is demonstrated by the large number of media registered and licensed by the Council for Electronic Media (CEM) – over 80 radio programs and over 140 television programs.

(d) Ensure that any form of public funding for media and journalists is allocated in a transparent and non-discriminatory manner using objective criteria, and that no fines or other regulatory measures are imposed on the media other than in strict compliance with article 19(3) of the Covenant, so that independent journalists and media can function without undue interference

33. To ensure the transparency of media property, the law requires all publishers of periodical printed media to submit a declaration in a standard form to the Ministry of Culture identifying the actual owner of the media. In its licensing activity, the CEM monitors compliance with the requirements regarding the transparency of the capital and property of those applying for a radio and television broadcasting license.

34. Recently, proposals for legal amendments to the Radio and Television Act aimed at transparency on media ownership and on the public media financing had been drafted. Strengthening the administrative capacity of the CEM is in the focus of the governmental efforts as well.

35. Since January 2020, an additional opportunity for disclosure of media ownership has been introduced by linking the media regulator's register of the electronic ownership with the Commercial Register and the Non-Profit Legal Entities Register, maintained by the Registry Agency.

36. The topic of media pluralism is also included in the project of the National Programme for Development of Bulgaria 2030, which demonstrates the country's long-term commitment to improve the media environment in line with the international standards. Following the adoption of the programme, specific action plans for the implementation of the measures will be developed.

37. On November 6, 2020, the government had adopted a Plan for implementation of the recommendations made in the European Commission's Report on the Rule of Law in Bulgaria, dated September 30, 2020. Part 3 of the Plan - "Media Pluralism", includes measures related to: enhancing transparency in the spending of public funds on communication tools; protection of journalists from encroachment; transparency on media ownership.

(e) Consider repealing all criminal provisions against defamation and ensure that they do not serve to stifle freedom of expression

38. Draft amendments to the Criminal Procedure Code are under consideration allowing exemption from criminal liability and imposition of administrative sanction when the subject of insult or defamation is a public authority or an official under the argument that the authorities, as well as the officials, are public and, in general, political figures who should be able to be admissibly criticized more widely than private individuals, which coincides with the view of the ECtHR. The amendments also provide the limits of the fines to be either removed or decreased. On the one hand, it protects the freedom of expression of journalists by limiting the possibility of imposing excessive and disproportionate to the acts pecuniary penalties. On the other hand, national courts will have wider margin of appreciation, depending on the gravity of the crime and the public danger it presents. The provision on insult and defamation will include in its content all media such as radio and television programs, Internet sites, blogs, social networks, etc.