



No 53

Geneva, January 17, 2014

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and other International Organizations in Geneva presents its compliments to the Secretariat of the Human Rights Committee and has the honour to transmit herewith additional information provided by the authorities of the Republic of Bulgaria on the implementation of recommendations of the Human Rights Committee, as contained in paragraphs 8, 11 and 21 of the Concluding Observations of the Committee, regarding the third periodic report of Bulgaria (CCPR/C/BGR/CO/3).

The Permanent Mission of the Republic of Bulgaria to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the Human Rights Committee the assurances of its highest consideration. *iml*

Annex: according to text – 4 pages.



**Secretariat of the  
Human Rights Committee  
Human Rights Treaties Division**

**Office of the United Nations High Commissioner for  
Human Rights  
GENEVA**

**OHCHR REGISTRY**

20 JAN. 2014

Recipients :.....*HR*.....

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**Additional Information  
provided by the Bulgarian authorities  
on the implementation of recommendations of the Committee on Human Rights  
as contained in paragraphs 8, 11 and 21 of the Concluding Observations of the Committee  
regarding the third periodic report of Bulgaria  
(CCPR/C/BGR/CO/3)**

The Bulgarian authorities carefully studied the decisions of the Committee on Human Rights with regard to the follow-up to the examination of the Third periodic report of Bulgaria (CCPR/C/BGR/CO/3) and would like to provide to the Committee the following additional information in response to the Committee's recommendations, as contained in paragraphs 8, 11 and 21 of the Concluding Observations:

**Regarding findings and recommendations pursuant to Paragraph 8**

***A) Investigation and prosecution of offenders and provisions on effective protection of and compensation for victims***

The Criminal Code (CC) has a separate section "Crimes Against Justice", and the elements of Article 287 expressly provide for criminal liability of an official who, in the course or on the occasion of discharging his service, acting alone or through another, takes unlawful coercive action in respect of an indicted individual, a witness or an expert witness in order to extort confession, testimony, a conclusion or information therefrom, and the envisaged punishment is severe: deprivation of liberty from three to ten years, as well as deprivation of the right to hold a certain state or public office or to exercise a certain vocation or activity. These legal provisions are fully in line with the issue of preventing torture of persons under interrogation, as provided for by the International Covenant on Civil and Political Rights.

In case of damage inflicted on citizens due to unlawful action of state authorities the applicable law is the Act on the Liability for Damage Incurred by the State and by the Municipalities, which stipulates that persons who have suffered damage inflicted on them by preliminary criminal investigation or criminal investigation authorities or public prosecution authorities or court as a result of unlawful arrest, including court-ordered arrest awaiting trial, where repealed due to absence of legal grounds, may claim compensation according to the procedure laid down in this Act of Law.

In such case the State bears the responsibility to compensate the damage to property or any other damage being the direct and immediate consequence of damaging behaviour regardless whether the official acted in a culpable manner or not. The State is entitled to a recourse claim against the public servant, who has allowed or perpetrated the action that has caused the damage. This, in turn, has a warning and deterring effect on officials.

***B) Information in relation to the request for providing data on violations and abuse by the police during police investigation***

Pursuant to Article 194 of the Criminal Procedure Code, investigation in cases of crimes committed by civil servants with the Ministry of Interior are carried out by investigators, i.e. by authorities belonging to the judicial system that are fully independent of police authorities.

In cases of complaints filed with the Ministry of Interior against unlawful conduct of police officers, checks are carried out on their basis. Where it is found that a disciplinary offense has been committed, disciplinary penalties are imposed on the offending officers. In cases where it is

found that the acts committed by the officers are to be prosecuted *ex officio*, the files are sent to the competent Prosecutor's Office for instituting pre-trial proceedings.

Within the Ministry of Interior (MoI) it is the Inspectorate Directorate that exercises administrative control on the activities of MoI officers. The Inspectorate Directorate checks alerts and reports filed with MoI, exercises control on and provides methodological assistance to the MoI bodies in their operations in combating and detecting corruption, conflict of interest and violations of the Code of Ethics for Officials of the Ministry of Interior.

The independence of the Inspectorate Directorate from the other MoI bodies is guaranteed by its statute- it is directly subordinated to the Minister of Interior.

The Human Resources directorate of MoI analyzes and controls the state of the discipline and disciplinary practices in the MoI bodies and provides methodological guidance and controls disciplinary proceedings in cases of severe disciplinary violations, including proceedings instituted in connection with the existence of evidence of police brutality.

The qualification of certain behavior as inadmissible from the perspective of ethics, morality and law and the provision for relevant sanctioning mechanisms guarantee the cultivation of the required attitude to the development and maintenance of high ethical standards and professional practices. This, in turn, allows MoI to meet the expectations of society.

***Data on the progress and results, also at trial stage, of the instituted pre-trial proceedings for police brutality***

➤ **2012**

63 cases were monitored for offences related to manifestations of police brutality, 33 of which were newly instituted.

21 pre-trial proceedings were terminated.

8 persons were brought to court.

5 persons were convicted. There were no convictions or acquittals that came into effect.

➤ **First half of 2013**

41 cases were monitored for offences related to manifestations of police brutality, 15 of which were newly instituted.

9 pre-trial proceedings were terminated.

7 persons were brought to court.

8 persons were convicted. Convictions of 6 persons became effective.

Acquitted persons: none.

**Regarding findings and recommendations pursuant to Paragraph 11**

As requested, a copy of the Act on Amendments to the Ministry of Interior Act, in force since 1 July 2012, is attached herewith.

**Regarding findings and recommendations pursuant to Paragraph 21**

***Judiciary System Act (JSA)***

The amendments and supplements to JSA promulgated in the *State Gazette (SG)*, No. 50 of 3 July 2012 introduced rules ensuring broad public participation in the election of the members of the Supreme Judicial Council (SJC) with guarantees for transparency, publicity and competitiveness.

The procedure for electing SJC members includes:

- public announcement of the nominations well ahead of the election leaving sufficient time for holding a public discussion;

- obligation to publish detailed CVs of the candidates, as well as different documents evidencing the existence of high professional and moral qualities;
- obligation to publish the justification in support of the nomination;
- obligation to publish a written concept developed by the candidates;
- holding of public hearings of the candidates;
- public meetings for electing SJC members, broadcast online via the SJC web site.

Specific time frame has been established for each stage of the procedure for electing SJC members.

The new rules increased the expectations vis-à-vis candidates, as they included presentation of the reasons of the nominating party, as well as presentation of the candidate's concept in person. A very important aspect of the novel elements of the procedure is that candidates should answer questions asked both by Members of Parliament and by delegates to the general meetings of delegates (from the parliamentary and professional quotas respectively), and by the non-governmental sector.

Primary significance is attached to the professional and moral integrity of the magistrates. The tendency of providing maximum transparency is further maintained. Thus contributes further to building up citizen's confidence in the judicial system.

The Ministry of Justice has drafted a bill amending and supplementing JSA. The major legislative amendments in the draft Law relate to: the introduction of e-justice in the judicial system; the status of the SJC members; the workload of judges, prosecutors and investigators and of the judicial bodies – introduction of the concept of “reasonable workload”; administrative heads; the contests at the judicial bodies; the appraisal of judges, prosecutors and investigators; disciplinary proceedings, etc. At the current stage additional comments and proposals from SJC and other relevant stakeholders are in the process of being incorporated in the Draft Law.

### ***A Strategy for continuing the reform of the judiciary system of Bulgaria as full-fledged Member of the European Union***

In view of the obligations and responsibilities of the Bulgarian authorities regarding the strategy for continuing the reform in the judiciary in the situation of Bulgaria's full membership in the European Union, the Ministry of Justice took action to update it. Experts from four non-governmental organizations performed an evaluation of the degree of implementation of the measures set out in the strategy and their adequacy in view of the priorities and objectives. Proposals have been made to preserve unimplemented measures, as well as to revise and include new measures that would contribute to the implementation of the strategic goals and priorities. An updated draft has been prepared with emphases on: guaranteeing the independence of courts and of other bodies of the judicial system from corruption, political and economic pressure and other dependencies, the human resources of the judicial system, trust gained through public participation and control of the civil society, management of tangible resources, introduction of uniform case law, efficient management of workload, justice for growth etc. The work on updating the Strategy is in its final stages.

### ***Coherent judicial practice***

The establishment of uniform case law is a way to attain predictability in the administration of justice and constitutes an anti-corruption measure, which contributes to the consolidation of the judicial system. According to the legislation of the Republic of Bulgaria, the Supreme Court of Cassation (SCC) introduces uniformity in case law by instituting proceedings on interpretative cases and adopting interpretative decisions. After the adoption of the new Civil Procedure Code (promulgated SG, No. 59 of 20 July 2007, effective since 1 March 2008) the competence of the SCC to deliver interpretative decisions has been used more actively. A Task Force for identifying conflicting case law has been established under the SCC Chairperson. The Task Force comprises

eight judges and judicial assistants and has the competence to make proposals for instituting proceeding on interpretative cases, as well as for developing case law analyses.

Amendments have been introduced in a number of laws concerning mostly jurisdiction, respectively the competence of the Supreme Administrative Court (SAC) and of the administrative courts. The aim is to relieve the workload of the SAC as a first instance court, so that it can establish itself as a cassation instance and enhance its constitutional power to issue interpretative decisions and interpretative decrees.

The efforts of the Inspectorate at the Supreme Judicial Council are instrumental in achieving results towards the establishment of uniform law enforcement practice:

- by alerting the competent authorities to file requests for the adoption of interpretative decisions or interpretative decrees in the event of conflicting case law established in the course of performance of the activities of the Inspectorate;
- by holding general meetings with the aim of preventing conflicting case law by the same Court Authority.

Annex: in accordance with the text.