



ПОСТОЯННО ПРЕДСТАВИТЕЛСТВО НА  
РЕПУБЛИКА БЪЛГАРИЯ ПРИ СЛУЖБАТА НА ООН И  
ДРУГИТЕ МЕЖДУНАРОДНИ ОРГАНИЗАЦИИ В ЖЕНЕВА

MISSION PERMANENTE DE  
LA REPUBLIQUE DE BULGARIE AUPRES DE L'ONU ET  
LES AUTRES ORGANISATIONS INTERNATIONALES A GENEVE

No 1251

Geneva, November 7<sup>th</sup>, 2011

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 Committee against Torture and has the honour to transmit herewith the introductory statement of H.E. Mr. Dimiter Tzantchev – Deputy Minister of Foreign Affairs of the Republic of Bulgaria and Head of the Bulgarian delegation, which will be made at the consideration of the fourth and fifth periodic reports of Bulgaria by the Committee, scheduled on 9 November 2011.

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 Committee against Torture the assurances of its highest consideration.



Annex according to text – 4 pages.

**OHCHR REGISTRY**

- 8 NOV. 2011

Recipients :.....**C.A.T.**.....  
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**Secretariat of the  
Committee against Torture  
Human Rights Treaties Division  
Office of the United Nations High Commissioner for Human Rights**

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**Introductory Statement**  
**by H.E. Mr. Dimiter TZANTCHEV,**  
**Deputy Minister of Foreign Affairs of Bulgaria**

**Presentation of the consolidated IV - V periodic report of Bulgaria**  
**47 session of the UN Committee against Torture**

**(Geneva, 9-10 November 2011)**

Mr. Chairman,

Distinguished Members of the Committee,

Ladies and Gentlemen,

I am privileged to present to you today the latest activities and measures that the Republic of Bulgaria has undertaken against torture and other cruel, inhuman or degrading treatment.

Let me at the outset express Bulgaria's sincere appreciation for the work of this Committee in promoting the UN Convention against Torture worldwide and monitoring its implementation.

The **delegation** that appears here today includes representatives of various governmental bodies:

- Mr. Gancho Ganev, the Permanent Representative of Bulgaria to the UN in Geneva;
- Ambassador Ivan Petkov, Director of „Human Rights” Directorate at the Ministry of Foreign Affairs;
- Mr. Sava Petrov, Prosecutor in the Department „Execution of Sentences” of the Prosecutor's Office who is also a representative of the Supreme Judicial Council;
- Mrs. Nina Nikolova, Director of Directorate „Procedural Representation of the Republic of Bulgaria to the European court of Human Rights” at the Ministry of Justice;
- Mrs. Margarita Petrova, Director of the Prison in the town of Sliven, Ministry of Justice;
- Mr. Dragomir Petrov, Director of „Migration” Directorate at the Ministry of Interior;
- Mrs. Blagorodna Makeva, Head of Legal Service Department in the Directorate General „Criminal Police” at the Ministry of Interior;
- Mrs. Anna Andreeva, State expert in the „European, International Affairs and European Refugee Fund” Directorate at the State Agency for Refugees at the Council of Ministers;
- Mrs. Kamelia Nikolova, State expert in the Directorate General „Control of the Rights of the Child” at the State Agency for Child Protection;

- Mrs. Genoveva Nenova, attaché at the Permanent Representation of Bulgaria to the UN in Geneva;
- and myself, Dimiter TZANTCHEV, Deputy Minister of Foreign Affairs of Bulgaria.

Let me add that the national human rights institutions, like the Ombudsman and the Commission on Protection against Discrimination, were also involved in the preparation both of the periodic report and its consideration.

We believe that this shows our readiness to share, in a transparent and open manner, how we are meeting our obligations under the Convention, what challenges we face and what lessons we have learned in this process.

**Mr. Chairman,**

Let me start by underlining that my country is governed by the rule of law, and that protection and respect of human rights and fundamental freedoms are essential elements of our democracy. The Constitution of the Republic of Bulgaria of 1991 proclaims in Chapter Two „Fundamental rights of citizens of the Republic of Bulgaria” the prohibition of acts criminalized in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 29 specifically stipulates that “no one shall be subjected to torture or to cruel, inhuman, or degrading treatment, or to forcible assimilation”.

The principle of absolute prohibition of torture is based on a comprehensive legal framework. The first legal definition of torture is added to the *Law on Execution of Penal Sanctions and Detention in Custody* (in force from 01.06.2010), and it fully complies with Article 1 of the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention)*.

The offences covered by Article 1 of the *Convention*, are criminalized in the *Penal Code* in the elements of the offences coercion, threat and bodily injury. For example, Article 287 of the *Penal Code* provides that 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, shall be punished by deprivation of liberty. The broader content of Article 143 (Coercion) is also relevant in this regard. In addition, the General Provisions of the *Penal Code* contain terms such as complicity, cumulative offence, preparation and attempt, which all have their practical relevance to the texts of the Special Provisions.

The procedural safeguards for prohibition of torture are envisaged in the provisions of the *Penal Procedure Code*, *Law on Execution of Penal Sanctions and Detention in Custody*, and also in regulations and operational instructions which are particularly important in practice.

The *Penal Procedure Code* (Article 194, para.1, point 2) clearly states that an investigation of cases involving alleged crimes by policemen shall be conducted by examining magistrates and not by investigating policemen.

The *Law on Execution of Penal Sanctions and Detention in Custody* (Article 3, para. 3) qualifies the cases of torture caused by the acts or inaction of any kind of official or person through his express or silent consent.

The *Instruction № 13-1711 of 15.09.2009* of the Minister of Interior on the equipment of rooms to house detainees at the premises run by the Ministry stipulates that "action by police authorities exclude perpetrating, provoking or tolerating any act of torture, inhuman or degrading treatment or punishment and discrimination against detainees" (Article 9).

Within its competences, the Prosecutor's Office has taken measures to combat impunity, such as shortening the time limits for examination of cases in the pre-trial phase; strengthening the administrative capacity of the Prosecutor's Office to counter cases constituting police brutality; regular reporting by the administrative heads of the cases of detained persons; outlining measures for their prompt completion; training magistrates in international human rights law, etc.

**Mr. Chairman,**

In April 2011, Bulgaria ratified the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. The Ombudsman has already expressed its willingness to perform the duties of a National Prevention Mechanism under this Protocol. Currently, amendments are being introduced to the Law on Ombudsman to ensure the effective work of the institution in this regard.

The law enforcement authorities in Bulgaria have already established a fruitful cooperation with the institution of the Ombudsman. The 2007 Memorandum of Cooperation with the Minister of Justice has allowed for a series of inspections of the Ombudsman in places of execution of penalties. The findings and the recommendations were taken into consideration when elaborating certain amendments in the *Law on Execution of Penal Sanctions and Detention in Custody*. Similar cooperation has been developed with the Ministry of Interior.

The Government also benefits from the strong and independent voice of the civil society in all our efforts aimed at strengthening the protection of human rights in Bulgaria. There is a successful practice established in my country since more than a decade of cooperation between the law enforcement authorities and relevant non-governmental organizations specifically in the field of prevention of torture and other possible human rights violations in places of detention. The Bulgarian Helsinki Committee has been carrying out monitoring visits not only to people in detention or custody but also to social institutions, including homes for child care. Its reports are publicly discussed, and, more important, the Prosecutor's Office reacts immediately

and all alleged criminal behaviour on part of the officials in those institutions is properly investigated. Recently, another non-governmental organization – the „Open Society” Institute, finished its monitoring on the way the police authorities respect human rights in their work. Its findings are being carefully analyzed by the authorities and the recommendations – taken into consideration when analyzing legislative or practical shortcomings.

The national human rights institutions such as the Ombudsman and the Commission on Protection against Discrimination, as well as the non-governmental organizations are indispensable partners of the Ministry of Interior when carrying out programs and projects for training of officers in the field of human rights and police ethics. In addition to the organizations mentioned above, valuable partners are also the Bulgarian Center for Gender Studies Foundation, the „Diva” Foundation for Care in the Community in the town of Plovdiv, the „Demetra” Association in the town of Burgas, the „Nadia” Center, etc.

One particular example of direct impact of the zero-tolerance attitude adopted by the non-governmental organizations to human rights violations in Bulgaria is the whole process of elaboration of the *“Vision for Children’s Deinstitutionalisation in the Republic of Bulgaria”* in 2010.

The categorical position of the Government is that all child-care institutions must be closed within 15 years and replaced by a network of community-based services similar to a family environment. The closure of institutions for children with disabilities and of medical and social care homes for children aged from 0 to 3 years is prioritised. The reform process includes the replacement of the system of conventional residential-type care institutions by a network of community-based services that are individually oriented to the needs of each child and its family and provide better-quality care. In the meantime, the conditions in state and municipal child-care institutions are being improved.

A similar approach has been applied to the deinstitutionalisation of state care for adults with mental disorders. The draft National Strategy which is currently posted on the Internet site of the Ministry of Labour and Social Policy for public discussion, targets a transformation of the current model into community-based social services, which can assume more serious commitments.

The members of our delegation are ready to provide with more details on all of these and other issues of interest to the distinguished Committee.

We are looking forward to a fruitful discussion.

Thank you.