



REFERENCE: GH/fup-136

11 November 2022

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 10, 36 and 38 of the concluding observations on the report submitted by Bulgaria ([CCPR/C/BGR/CO/4](#)), adopted by the Committee at its 124th session held from 8 October to 2 November 2018.

On 29 March 2021, the Committee received the reply of the State party. At its 136th session (10 October to 4 November 2022), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 3 (see [CCPR/C/136/2/Add.3](#)) to the Report on follow-up to concluding observations (see [CCPR/C/136/2](#)). I hereby include a copy of the Addendum 3 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure, the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the fifth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.

Vasilka SANCIN

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Evaluation of the information on follow-up to the concluding observations on Bulgaria

Concluding observations (124th session): [CCPR/C/BGR/CO/4](#), 29 October 2018

Follow-up paragraphs: 10, 36 and 38

Information received from State party: [CCPR/C/BGR/FCO/4](#), 29 March 2021

Committee's evaluation: 10[C][B], 36[C][D] and 38[A][C][B]

Paragraph 10: Hate speech and hate crimes

The State party should:

(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;

(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;

(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.

Summary of the information received from the State party

(a) Hate crimes, including hate speech, as well as the criminal prosecution, are addressed in the Criminal Code. Although it 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.

Amendments in the Radio and Television Act have been prepared following the update in 2018 of the European Union's Audiovisual Media Services Directive, including proposed amendments to broaden the scope of "hate speech" to reflect the grounds listed in article 21 of the EU Charter of Fundamental Rights.

(b) Racial and xenophobic motivation is introduced as qualifying circumstance in the elements of crime in the commission of homicide and bodily injury leading to more severe sanctions. All acts of condoning, denying or grossly trivialising crimes against peace and humanity are qualified as criminal offence when it is likely to incite violence or hatred against a person or group of persons on the basis of race, colour, descent, religion, or national or ethnic origin.. When determining penal sanctions, the court considers possible racist motives which would be considered an aggravating circumstance resulting in a penalty in the upper limits.

(c) Hate crimes may be reported to the authorities. The Prosecutor's Office has adopted methodological guidelines for handling cases and pre-trial proceedings for criminal offences with discriminatory elements.. Organisational measures have been taken to explore the provision of digital statistical reports, including disaggregated data by motivation, especially with regard to hate crimes.



The Crime Victim Assistance and Financial Compensation Act informs victims on reporting procedures, and helps provide protection and compensation. Victims of hate speech and hate crimes benefit from several forms of assistance, including emergency medical treatment, psychological counselling, and free legal assistance. Victim support organizations provide shelter for a period of up to 10 days, as well as to victims in imminent risk..

(d) Junior judges, prosecutors, investigators and junior magistrates are trained in prevention and protection of all forms of racial discrimination . From June 2017 to June 2020, the National Institute of Justice trained 244 magistrates on prevention and combatting discrimination. A specialized training on the European Union legal framework on equality was also organized.

A 2019 Training Guide for law enforcement officials, along with the Council of Europe's manual, "Policing Hate Crime against LGBTI persons", translated into Bulgarian in 2020, and a Handbook on Restorative Justice and its implementation in cases of anti-LGBTI hate crimes was introduced to all Regional Directorates of the Ministry of Interior. . . From 2017 to 2019, 114 prosecutors and 4 investigators took part in 27 trainings on topics related to the improvement of data collection and recording on hate crime. Public figures are involved in campaigns aimed to discourage hate speech, and targeted campaigns are organized in schools.

The draft law, amending the Radio and Television Act, strengthens the powers of the Council for Electronic Media, provides stricter measures against hate speech, and prohibits incitement to violence, hatred, or terrorist acts in audio-visual media services, including on video-sharing platforms. All radio and television channels undergo regular monitoring and are prohibited from creating or broadcasting content that incites intolerance or that praises cruelty and violence.

Committee's evaluation

[C]: (a), (b) and (c)

While taking note of the information regarding the protection against hate crime and hate speech under the existing legal framework, as well as on the draft law to amend the Radio and Television Act to broaden the scope of "hate speech", the Committee regrets the lack of information on measures taken to amend the Criminal Code to explicitly include sexual orientation and gender identity as hate motives and grounds of discrimination. It requests information on: (a) cases in which the existing legislation has been invoked in relation to hate crimes and hate speech; and (b) the progress of the adoption of the draft bill amending the Radio and Television Act.

While noting the information provided, the Committee regrets the lack of information on measures taken to ensure persons responsible for any acts constituting incitement to discrimination, hostility or violence are held accountable, including State officials. The Committee reiterates its recommendation.

The Committee regrets the lack of relevant statistical data and information on measures taken during the reporting period. The Committee reiterates its recommendations and requests details on the concrete measures to improve the complaints mechanism, especially with regard to hate crimes and hate speech; and data on the number of complaints, investigations, prosecutions, and convictions in cases of hate crimes and hate speech. It also requests additional information on the methodological guidelines for handling cases of criminal offence with discriminatory elements, including clarification on when they were adopted.

[B]: (d)

The Committee welcomes the information on the draft bill to strengthen the mandate of the Council for Electronic Media to prevent and sanction hate speech in the media; the efforts made to train law enforcement and criminal justice authorities on the prevention and protection of all forms of racial discrimination; and the presentation and incorporation of the training guide and handbook addressing the policing of hate crimes against LGBTI



persons. It requests further information on the impact they have had on the investigative capacity of law enforcement, and whether these measures led to a decrease in the number of reported complaints against law enforcement authorities.

Paragraph 36: National, ethnic and religious minorities

The State party should:

- (a) Ensure that all cases of hate speech, hate crimes and discrimination against religious groups are thoroughly and promptly investigated and sanctioned;**
- (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;**
- (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;**
- (d) Remove the linguistic barriers that limit freedom of expression of non-Bulgarian speaking national minorities during the electoral process;**
- (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.**

Summary of the information received from the State party

- (a) Article 164 of the Criminal Code provides that a person who propagates or incites 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) The Religious Denominations Act is not restrictive or discriminatory in nature. Individuals cannot receive privileges, be persecuted, or have their rights restricted based on religious beliefs, affiliation, or refusal of affiliation with a religion.
 - (c) The amendments to the Religious Denominations Act in 2018 contain no references to "extremist religious groups", nor do they pose any restrictions on foreign funding.
- Worship and the practice of religious ceremonies may be conducted in line with the religious community's tradition in a language other than Bulgarian.
- (d) No information provided.
 - (e) 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 of the State Administration 2015-2020, a Registry reform was placed 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.

Committee's evaluation

[C]: (a), (b), (c) and (e)



While noting the information on the existing legislation regarding the sanctions applied in cases of incitement of discrimination and violence on religious grounds, the Committee regrets the lack of information on measures taken during the reporting period. It reiterates its recommendation and requests data on the number of complaints, investigations, prosecutions, and convictions there have been in cases of discrimination and hate crimes against religious groups.

While noting the information provided on the Religious Denominations Act, the Committee regrets the lack of information on steps taken to guarantee the effective exercise of freedom of religion and belief. It reiterates its recommendations and requests information on measures taken after the adoption of the Committee's concluding observations.

The Committee notes the information provided regarding the amendments in the Religious Denominations Act in 2018, but regrets that no clarifications were provided on whether any changes were incorporated into the enacted amendments of the Act after the adoption of the concluding observations in line with the recommendations of the Committee.

The Committee notes the information provided in regard to the registry of associations, but draws the State party's attention to the fact that adoption and enactment of the mentioned strategies and administrative registration procedure predate the issuance of the concluding observations. It reiterates its recommendation and requests information on measures taken after the adoption of the Committee's concluding observations.

[D]: (d)

The Committee regrets the absence of information regarding the removal of linguistic barriers limiting freedom of expression of non-Bulgarian speaking national minorities during the electoral process, and reiterates its recommendation.

Paragraph 38: Freedom of expression

The State party should:

(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;

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

(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 the freedoms of opinion and expression;

(d) Ensure that any form of public funding for the 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;

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

Summary of the information received from the State party

(a) In the curriculum of the Academy of the Ministry of Interior, special attention is attributed to the protection of human rights and the lawful use of police powers. The National Institute of Justice trains junior judges, prosecutors, investigators and magistrates on freedom of expression. On 20 February 2020, a lecture on freedom of expression, hate



speech and private data protection delivered by a judge from the European Court for Human Rights was offered to magistrates, civil servants and stakeholders.

(b) The Bulgarian authorities take seriously any violation against journalists.. The murder of Victoria Marinova proved not to be connected with her professional activities and the perpetrator has been sentenced.

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. Failure to observe the rules is a disciplinary violation and is sanctioned, and crimes committed by officers is independently investigated. The Permanent Commission on Human Rights and Police Ethics strengthens the national human rights legal system, and implements the standards imposed by European institutions. Such commissions are also in all 28 District Directorates and are involved in the investigation of over-exploitation, misuse of power, violence, unlawful and unethical actions by police officers.

(c) All media are bound by the fundamental principles of a pluralistic media environment. Over 80 radio and 140 television programs are registered and licensed by the Council for Electronic Media. Media pluralism is included in the National Programme for Development of Bulgaria 2030 and specific action plans for the implementation of the measures will be developed.

(d) To ensure transparency, all publishers of printed media must submit a declaration to the Ministry of Culture identifying the owner. The Council for Electronic Media monitors compliance with transparency of the capital and property of those applying for a radio and television broadcasting license. There are draft proposals to amend the Radio and Television Act.. 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. On November 6, 2020, a Plan to implement the recommendations of the European Commission's Report on the Rule of Law was adopted, including measures on Media Pluralism: enhance transparency in the spending of public funds on communication tools; protect journalists from encroachment; and transparency on media ownership.

(e) Draft amendments to the Criminal Procedure Code would allow the exemption from criminal liability and imposition of administrative sanction when the subject of insult or defamation is a public authority or official and provide the removal or decrease of the limits of the fines,, avoiding excessive and disproportionate penalties. 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 all media.

Committee's evaluation

[A] (a)

The Committee welcomes the continued training of law enforcement and judicial officials in human rights standards, and requests further information on the content of the training provided within the curriculum and how it addresses human rights standards relating to freedom of expression and assembly and the lawful use of force.

[C] (b)

While noting the information on the existing legislation regarding the rules of conduct of officers/civil servants on the Ministry of Interior, the Committee regrets the lack of information on concrete steps taken to ensure the protection of journalists. It reiterates its recommendation and requests data on the number of complaints, investigations, prosecutions, and convictions of perpetrators in cases of harassment, attacks, or excessive use of force against journalists.

[B] (c), (d), (e)

The Committee welcomes the inclusion of media pluralism in the project of the National Programme for Development of Bulgaria 2030 aimed at improving the media environment



in line with international standards. It requests further information on the specific action plans for implementation.

The Committee welcomes the recent draft proposals to amend the Radio and Television Act to increase transparency on media ownership and the public media financing, as well as the incorporation of measures related to enhancing transparency in the spending of public funds on communication tools, and of media ownership in the Plan adopted in November 2020. It requests further information on: (a) the specific action plans to implement measures to increase transparency; and (b) fines or regulatory measures imposed on media.

The Committee welcomes the information on the consideration of draft amendments to the Criminal Procedure Code on criminal provisions against defamation to protect the right to freedom of expression, and requests further information on the progress of the adoption of the proposed amendments.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
