



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: cc/jmnf/jli/follow-up/CAT

1 December 2012

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the combined fourth and fifth periodic reports of Bulgaria (CAT/C/BGR/4-5) by this Committee, at its 47<sup>th</sup> session, held from 31 October to 25 November 2011. At the end of that session, the Committee's Concluding Observations (CAT/C/BGR/CO/4-5) were transmitted to your Permanent Mission. In paragraph 35 of those Concluding Observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year (by 25 November 2012) further information regarding areas of particular concern identified by the Committee in paragraphs 9, 10 and 28 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Concluding Observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture ([cat@ohchr.org](mailto:cat@ohchr.org)). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Bulgaria on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

Felice D. Gaer

Rapporteur for Follow-up on Concluding Observations  
Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture**  
*(Extracts for follow-up of CAT/C/BGR/CO/4-5)*

**BULGARIA**

(...)

**C. Principal subjects of concern and recommendations**

(...)

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

9. The Committee notes that the State party has adopted measures both in law and through the issue of appropriate instructions, guaranteeing the rights of notification of custody, access to a lawyer, access to an independent doctor and being informed of charges from the very outset of detention. The Committee is concerned, however, at information that access to a lawyer during the 24 hours of police custody was not always available in practice and that such access continued to be a reality for only a minority of persons held by the police, namely those who could afford a private lawyer. The Committee is also concerned by allegations that the police are reluctant to grant access to a lawyer from the very outset of detention and that there have been delays in ex officio lawyers being contacted and coming to the police station. The Committee is further concerned that the National Bureau of Legal Aid is understaffed and underresourced, which negatively affects the rights to fair trial of persons with unequal economic or social status by being translated into unequal access to justice and the unequal possibility of defence in trial; in addition to the poor, members of minorities and certain categories of foreigners, such as asylum-seekers and irregular migrants, are also denied equal access to justice (art. 2).

**The Committee recommends that the Bulgarian authorities re-instruct all police officers on the legal obligation to grant access to a lawyer to all detainees from the very outset of their detention. Further, the Committee recommends that the State party take appropriate measures to remove all obstacles to the right of equal access to justice; and that the State party ensure that the National Bureau of Legal Aid be provided with adequate financial and staffing resources in order to fulfil its role with regard to all categories of detainees.**

**Police violence and use of fire arms**

10. The Committee is concerned by the excessive use of force and of firearms by law enforcement officers, including the eight cases in which the European Court of

Human Rights ruled against the State party in 2010, half of which resulted in the deaths of the victims; by the scope of use of firearms allowed in the Ministry of Interior Act (art. 74); that acts of violence attributed to law enforcement officials include torture, inhuman or degrading treatment and refusal to provide victims with lifesaving medical assistance; and that there have been very few prosecutions so far (arts. 2, 12, 13 and 16).

The Committee urges the State party to amend its legislation to ensure that regulations on the use of firearms conform to international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should also take measures to eradicate all forms of harassment and ill-treatment by police during investigations and should promptly, thoroughly and impartially investigate all allegations of violence applied in an unnecessary and disproportionate way by law enforcement officials, prosecute and punish those responsible in proportion to the seriousness of their acts and provide the victims with compensation, including the means for as full rehabilitation as possible.

(...)

#### **Discrimination, hate speech and violence against vulnerable groups**

28. While acknowledging the stance taken by the authorities in publicly condemning manifestations of discrimination and intolerance, the Committee is deeply concerned at manifestations of discrimination and intolerance, including hate speech and violent attacks against certain national and religious minorities and persons belonging to sexual minorities. The Committee is also concerned by the excessive use of force by the police against certain minorities and the recent anti-Roma riots and destruction of property, which in some cases occurred without preventive action from the police. It is also concerned that slogans amounting to hate speech are voiced against vulnerable minority groups, including by members of certain political parties and groups and that intolerance towards religious minorities has resulted in vandalism of places of worship and attacks on worshippers. The Committee takes note that the recent attacks on journalists in connection with the anti-Roma riots are being investigated (arts. 2, 12, 13, 14 and 16).

The State party should enhance efforts to eradicate stereotypes and discrimination against the Roma and other national minorities, including through increased awareness-raising and information campaigns to promote tolerance and respect for diversity. Measures should be taken to prohibit and prevent advocacy of hate speech, discrimination and intolerance, including in the public domain, in conformity with international standards and human rights instruments to which Bulgaria is a party. The State party should enhance the enforcement of anti-discrimination legislation and ensure that violent acts, discrimination and hate speech are systematically investigated, prosecuted and the perpetrators convicted and punished. The State party should systematically apply provisions of the Criminal Code concerning crimes based on intolerance and should ensure that offences motivated by

discrimination constitute an aggravating circumstance in criminal prosecution. The State party should ensure that members of the Roma community are not singled out on an ethnically motivated basis with regard to the use of force by the police and ensure that excessive use of force against members of national and other minorities is promptly and impartially investigated and perpetrators prosecuted and punished. The victims need to be compensated and accorded all remedies afforded by the Convention, including reparations for damage. The Committee requests to be updated on the results of the investigations into the recent attacks on journalists.

(...)

35. The Committee requests the State party to provide, by 25 November 2012, follow-up information in response to the Committee's recommendations related to (a) ensuring or strengthening legal safeguards for persons detained, (b) conducting prompt, impartial and effective investigations, and (c) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as contained in paragraphs 9, 10 and 28 of the present document.

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