



CRI (98) 46

European Commission Against Racism and Intolerance

First report on Bulgaria

Adopted on 15 June 1998

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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, inter alia, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.
- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

¹ The report prepared by the Swiss Institute (ref: CRI (97) 38), covering relevant legislation in member States of the Council of Europe is available from ECRI's Secretariat.

A first series of ECRI's country-specific reports was made public in September 1997 and a second series in March 1998². A third series of country-specific reports was transmitted to the governments of the countries concerned in April 1998, and is thus now being made public³.

The following report contains ECRI's analysis and proposals concerning Bulgaria.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This third series of reports, for which the procedure was completed by April 1998, will be followed by other series of reports during 1998 on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed. It is intended to complete the first round of country reports by the end of 1998.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

² The first two series comprise reports on Belgium, the Czech Republic, Finland, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Norway, Poland, San Marino, Slovenia and Switzerland.

³ Reports on Bulgaria, France, Italy, the Netherlands, Portugal and Slovakia.

REPORT ON BULGARIA⁴

Introduction

Bulgaria, like other countries of Central and Eastern Europe, is currently experiencing a period of social, economic and cultural upheaval and transition. Its economic hardship is particularly severe, with rising unemployment and increasing crime. Nevertheless, an encouraging fact is that there seems to be recently a faster pace towards democratic reforms and the transition to a market economy.

The problems being faced in Bulgaria as regards racism and intolerance, and the solutions put forward to deal with them, must therefore be seen in this context. Furthermore, Bulgaria's recent past of isolation from incoming people and influences may mean that its services and structures have, understandably, little experience of dealing with an open and dynamic society.

Some of the key areas identified by ECRI as meriting particular attention include:

- the problems encountered by minority groups, including the unclear situation of some groups wishing to manifest their group identity, as well as the particularly underprivileged situation of the Roma/Gypsy population;
- the relative lack of special structures and coherent policies to deal with the problems of minority groups, discrimination and racism;
- the new immigration patterns, and particularly the problems of illegal migration and connected criminal activities;
- the need to develop in all areas of society a more positive attitude of tolerance and understanding towards those who are different;
- the need to establish a reliable system of data-collection and evaluation;
- the allocation of responsibility for all the above issues.

⁴ Any development subsequent to the 18 September 1997 is not covered by the following analysis and is not taken into account in the conclusions and proposals.

I LEGAL ASPECTS⁵

A. International Legal Instruments

1. Bulgaria has ratified all the main relevant international instruments, with the exception of the European Social Charter, the Framework Convention on the Protection of National Minorities, the European Charter for Regional or Minority Languages and the European Agreement relating to Persons Participating in Proceedings of the European Commission and Court of Human Rights. Although it is recognised that Bulgaria may at present feel that ratification of these instruments, particularly the Social Charter, is too costly given its current economic difficulties, it is nevertheless felt that ratification should be effected as soon as possible.
2. As regards the monitoring of the implementation of obligations under those instruments which have been ratified, moves to hold consultations with NGOs when preparing some of the reports on implementation are a positive step. Further efforts might be considered to ensure that all sections of the population have access to information about these instruments and their application in Bulgaria.

B. Constitutional provisions

3. Relevant provisions in the Constitution are Article 6 (2) stating the principle of non-discrimination, and Article 5 (2) stating that "the provisions of the Constitution shall apply directly", together with Article 5 (4) which provides that any international instruments which have been ratified, promulgated and come into force with respect to Bulgaria form part of the domestic legislation of the country and supersede any domestic legislation stipulating otherwise. Article 36 (2) provides that "citizens whose mother tongue is not Bulgarian shall have the right to study and use their own mother tongue together with the mandatory study of the Bulgarian language", while Article 54 (1) provides for the right to develop one's own culture in accordance with one's ethnic appurtenance. Article 11 (4) states that no political parties shall be organised on ethnic, racial or religious grounds, and Article 44 (2) on the freedom of association prohibits organisations whose activities are directed against the sovereignty and the territorial integrity or the unity of the nation, or that encourage racial, national, ethnic or religious hatred, or violate the rights and freedoms of the citizens.
4. As regards Article 11 (4) of the Constitution, which prohibits the organisation of political parties on ethnic, racial or religious grounds, it should be noted that a political movement, the Movement for Rights and Freedoms, which is predominantly a Turkish minority organisation, has existed in Bulgaria since 1990. This organisation has gained representation in Parliament as well as in many municipalities. The legitimacy of this organisation has been accepted by the Constitutional Court which interprets Article 11 (4) of the Constitution as prohibiting only political parties which, through their membership or aims, are restricted exclusively to persons from a particular ethnic, racial

⁵ A full overview of the legislation existing in Bulgaria in the field of combating racism and intolerance is provided in the publication CRI (95) 2 rev, prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography).

or religious group. In the light of this Constitutional Court decision, ECRI wonders whether the wording of Article 11 (4) of the Constitution might not be too restrictive.

5. There have been some criticisms that certain other provisions guaranteeing rights are too narrow and may contain ambiguities and gaps. Such provisions may not be intentionally discriminatory, but may have such an effect, hindering citizens from achieving their civil rights and liberties, or not guaranteeing the basic human rights of non-citizens. According to Article 26(2) of the Constitution, non-citizens residing in Bulgaria have all the rights and duties set out in the Constitution apart from those for which Bulgarian citizenship is required by the Constitution and legislation. Thus, it appears that the Constitution defines some human rights as pertaining only to citizens: Article 6 (2) guarantees equality before the law to citizens, while Chapter 2 covers the fundamental rights and obligations of citizens, including the right to peaceful and unarmed assembly (Article 43 (1)), freedom to associate (Article 44 (1)), and the right to lodge complaints, proposals and petitions with the State authorities (Article 45).

It is noted that Article 2 of the Residence of Foreigners Act stipulates that non-citizens have the rights and duties prescribed by Bulgarian law and the international treaties to which Bulgaria is a Party, and that in accordance with Article 5 (4) of the Constitution these instruments are directly applicable and take precedence in the domestic legal order. It is nevertheless felt that consideration might be given to the possibility of adopting a constitutional amendment expressly ensuring equality and other human rights for all individuals under Bulgarian jurisdiction, not just for Bulgarian citizens. Although some distinctions may be necessary under certain circumstances, such distinctions should only be made when justified in a democratic society and prescribed by law.

6. As regards freedom of religion, articles 13 and 37 of the Constitution guarantee freedom of religion. Paragraph 3 of article 13 stresses that the "Eastern Orthodox religion shall be considered the traditional religion in the Republic of Bulgaria". The basic law defining the limits of religious freedom as well as the relationship between the Church and the State is the Denominations Act of 1949. Some religious groups have criticised the provisions concerning religious freedom as being too restrictive⁶. ECRI feels that such criticisms should be examined and the situation monitored.

C. Criminal law provisions

7. Although there are provisions under criminal law dealing with crimes against national and racial equality (Articles 162-3), gaps in the judicial statistics make it unclear on what occasions these provisions were applied and whether there is a body of case law founded on them. The implementation of the relevant provisions should be examined, to ensure that they are really effective in punishing racial crimes, and appropriate measures should be taken to improve their implementation.
8. Article 164 of the Penal Code prohibits "instigation of religious hatred through speech, press, action or in some other way". Article 166 bans religion-based political parties and

⁶ Cf. "Religious Minorities in Albania, Bulgaria and Romania, Human Rights without frontiers" (see bibliography).

using religion for propaganda against the State. It is not clear why religion is singled out as a ground for a prohibition on propaganda against the State. Furthermore, in connection with the Denominations Act and the Law for Persons and the Family, Article 166 may result in some restriction on freedom of religion. ECRI feels that this issue should be examined and closely monitored.

9. Given that Bulgaria, along with many other countries, is currently experiencing a wave of trafficking in illegal migrants, it would seem appropriate to develop legislation, along with other measures, to deal with this phenomenon. It is noted that preparation has already started on such legislation, and it is hoped that this legislation will be introduced rapidly given the urgency of the situation.

- ***Implementation of criminal law provisions***

10. Since there is at present little experience among the judiciary and law enforcement officials in dealing with questions of racism and intolerance, it is felt that attention should be paid to the initial and continued training of all officials working within the law enforcement system. In a country experiencing such enormous upheavals and hardships, where crime may easily flourish, it is doubly important to establish the rule of law, and a sense of confidence in those officials responsible for its implementation.

D. Civil and administrative law provisions

11. At present, there is no legislation concerning non-discrimination in the social field, apart from one provision in the Labour Code - under which no cases have as yet been brought - and articles in the Residence of Foreigners Act. There have been some reports of religious discrimination in the fields of education and employment⁷, and minority groups, particularly the Roma/Gypsy population, also face discrimination in employment and in the social field. Consideration should be given to developing a more exhaustive body of law to deal with these types of discrimination. Furthermore, systems for monitoring these types of discrimination should be set up, since at present little information concerning them is available in Bulgaria.

⁷ Cf "New Xenophobia in Europe", International Helsinki Federation reports and US State Department reports (see bibliography)

E. Specialised bodies

12. The Human Rights Committee established under the International Covenant on Civil and Political Rights recommended in 1993 that an institution along the lines of an Ombudsman be established in Bulgaria. It is felt that this proposal to establish an Ombudsman should be implemented, and furthermore, that consideration might be given to establishing a more specialised body to deal with the problems of racism and intolerance: although the President of the Republic is advised by a council on ethnic problems and Bulgaria's problems abroad, the creation of an independent specialised body, such as an Ombudsman against Ethnic Discrimination or a specialised commission, would ensure a co-ordinated and coherent approach to combating problems of racism and discrimination, monitoring the effectiveness of measures in force, awareness-raising among the general public etc. Such a body could be modelled upon structures already existing in other countries.

II POLICY ASPECTS

F. Education and training

13. A key factor for combating racism, intolerance and xenophobia is that of child rearing and education - both in and out of the school context. It is therefore important that attention be given to ensuring that children are taught, through a variety of means, the values of human rights, how to recognise discrimination and intolerance, and the advantages of rejecting such attitudes. Human rights figures on the curricula of secondary schools and institutions of higher education: care should be taken to ensure that pupils are not merely taught in a theoretical manner about human rights, but that the dangers of racism and intolerance are illustrated.
14. Parents, teachers and other key figures such as social workers, all have a role to play in shaping a child's attitudes and future behaviour. Special training and awareness-raising measures should therefore be developed for such persons. Furthermore, since many studies have shown that the overwhelming majority of criminals, delinquents and racists have been abused as children, steps should be taken to improve the public's awareness of this fact and to provide assistance to parents where necessary.

- *Training of law enforcement officials*

15. There have been worrying reports concerning the attitude of the police towards minority groups, particularly Roma/Gypsies, and some allegations of discrimination and even ill-treatment. In this context, it is suggested that an independent commission might be set up, empowered to conduct a full and impartial enquiry into all allegations of ill-treatment of Roma/Gypsy and other minority groups by the police. The commission should preferably operate on a local and regional level, in close co-operation with representatives of the minority communities concerned, reporting back to a central body (such as the above-mentioned Ombudsman). It should also publish a full report of its findings, conclusions and recommendations.

16. All law enforcement officials should receive special training in the field of human rights, particularly concerning the problems of racism and intolerance, and should be given a thorough understanding of the relevant national legislation and international human rights standards. In this respect, attention is drawn to the study on "Police training concerning migrants and ethnic relations" prepared by the Steering Committee on Migration (CDMG) of the Council of Europe. The adoption of a code of conduct might also be advocated. Furthermore, any discrimination practised by law enforcement officials should be suitably and publicly sanctioned.
17. In addition to the above, further efforts should be made to build confidence and respect between the law enforcement officials and local populations, for example by co-operation with representatives of minority groups, employment of officials speaking minority languages or from minority groups, recourse to mediators in cases of conflict, etc.

- ***Awareness-raising***

18. There seems at present to exist in Bulgaria some degree of intolerance towards minority groups and other groups who are different from the majority. This trend is sometimes exacerbated by politicians who suggest that "foreign" means dangerous and subversive, and the media, which often fuels prejudices and discriminations by sensationalising any problems. Politicians, who play a crucial role as leaders of public opinion and setters of the tone of public discussion, should therefore adopt a positive stance as regards minority groups and other "foreign" influences, and reject any rhetoric which might engender negative reactions against minority groups or non-citizens. The media should see its role rather as one of awareness-raising among the general public concerning the contribution of minority groups to society and the rights and obligations of each member of society.

G. Employment

19. While the government states that no systematic discrimination exists in the field of employment, it seems probable that some minority groups, such as the Roma/Gypsy population, are disadvantaged on the labour market. Some cases of dismissal in the public sector for religious beliefs have been reported.

H. Statistics

20. Persons coming under the jurisdiction of Bulgaria were given the possibility to declare their ethnic, religious and linguistic identity in the 1992 census. However, some groups only had the possibility of registering their ethnic origin under the category of "Others". A comparatively large number of persons registered under this category for example as Russians, Macedonians etc. ECRI would encourage the Bulgarian authorities to explicitly mention these categories in the questionnaire for future censuses, in order to give an even more accurate view of the situation in Bulgaria.

21. One area in which data seems to be lacking concerns relevant case-law pertaining to racial attacks, discrimination etc. It is felt that the collection of data about case-law might be developed further.

I. Media

22. Following the recent adoption of the Radio and Television Broadcasting Act, one principle of which is the furtherance of tolerant relations between citizens (Article 4 (5)), other legislative enactments in the mass media field are under preparation. These steps are to be commended, although it is pointed out that tolerant relations should not only be encouraged between citizens, but between all groups living in a society. It has been commented that some sectors of the media may report negatively concerning various minority groups and thus encourage discord or mistrust. It is hoped that the media profession itself, by means of the Press Council, will discuss the best method of self-regulation.

J. Other fields

- *Vulnerable groups*

23. Measures introduced under the post-Communist regime to improve the situation of the Turkish minority and restore its rights have gone some way towards resolving certain tensions concerning this group, but certain political parties and groups still actively promote campaigns based on ethnic discrimination, especially against the Turkish minority. Moreover, the attempts by certain political groups, even in the Parliament, to prevent Bulgarian citizens from acquiring double citizenship seem to be directed against those members of the Turkish minority who were the subject of forcible migration in the late 1980s. Furthermore, problems of discrimination as regards access to the police force and military service⁸ still exist and should be faced and countered.
24. As regards the particularly disadvantaged situation of the Roma/Gypsy population, who - as in many other countries - are excluded from many of the structures of society and face widespread discrimination and prejudice, often fuelled by media escalation of problems, coherent policies should be developed to improve their living conditions and the public's perception of this group. It is hoped that the measures envisaged in the programme adopted in January 1997 to resolve a certain number of problems concerning the Roma/Gypsy population in Bulgaria will have practical results. ECRI feels that the situation calls for close monitoring and rapid action where necessary.
25. Given that a comparatively large number of persons registered under the category of "Others" in the 1992 census (see item 20), it is felt that consideration might be given to ways of ensuring that such groups are not excluded from manifesting their group identity.
26. The establishment of the National Council on Social and Demographic Issues and the adoption of a series of measures to cope with some of the most urgent problems was

⁸ Cf "New Xenophobia in Europe" (see bibliography)

intended to help solve the problems faced by disadvantaged groups. It has however been commented that the rule stating that represented organisations must have local branches in more than one third of all Bulgarian municipalities may hinder the participation of some groups, particularly minority groups which are concentrated in a few areas⁹.

27. Local initiatives to improve community relations and foster a climate of mutual respect and trust may often prove successful, involving collaboration between the relevant authorities, professional and voluntary services, and representatives of the communities concerned.
28. One particularly worrying development in Bulgaria, as in some other countries, is the increasing prevalence of illegal migration to and from Bulgaria, notably by means of smuggling of humans. Most of these persons are nationals of underdeveloped countries, and are particularly vulnerable to racism, discrimination and related abuses. These illegal migration practices produce some terrible consequences and concerted efforts should be made to penalise the organisers of such practices and protect those who are victims of these violations of human rights. Since it appears that little is known as yet about the extent or nature of this human trafficking, it is felt that this situation should be closely monitored, with co-operation on an international level. In this respect, attention is drawn to Recommendation 1211 of the Parliamentary Assembly of the Council of Europe concerning clandestine migration.

- ***Associational life***

29. Building up good-will and understanding on a local, community level is crucial to resolving conflicts and establishing a climate of good intercommunity relations. Support and encouragement should be given to local initiatives on the part of associations, non-governmental organisations, community groups etc. which aim to foster good relations and defuse conflicts before they require more formal mediation. It is pointed out that schemes do exist within the Council of Europe and other organisations to fund and support this type of initiative, and it is very much hoped that such external support schemes will be continued and extended in Bulgaria as in other countries facing similar economic and social problems.

General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Bulgarian government on 13 July 1994.

⁹ Cf International Helsinki Federation reports (see bibliography)

ECRI accepts no responsibility for the data below.

800 052 Turkish origin; 313 396 Roma/Gypsy origin; 17 139 Russian; 13 677 Armenian; 5 144 Karacatchans; 4 515 Tatars; 3 461 Jewish community; 1 864 Ukrainian; 5 144 Gagaousian; 573 Circassian

Bulgarian Orthodox: 7 274 592; Muslim 1 110 295; Catholic: 53 074; Protestant: 21 878, Gregorian Armenian: 9 672; Israelite: 2 580

50 000 non-citizens legally resident. Estimated 15 000 - 20 000 non-citizens illegally in country

Population: 8 484 863 (31 December 1992). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)

BIBLIOGRAPHY

This bibliography lists the main published sources consulted during the examination of the situation in Bulgaria: it does not cover all the various sources of information (media, contacts within the country, national NGOs etc) which were utilised.

1. CRI (94) 2 rev & Addendum: Situation in the member States of the Council of Europe concerning the issues under examination by the European Commission against Racism and Intolerance: Working papers submitted by the members of ECRI, Council of Europe document
2. Recent Demographic Developments in Europe, Council of Europe Press, 1994
3. Country Reports on Human Rights Practices for 1994, 1995 and 1996, US Department of State, 1995, 1996, 1997
4. "Political extremism and the threat to democracy in Europe", Institute of Jewish Affairs
5. Trends in International Migration: Annual Report 1993, OECD, 1994
6. Report concerning alleged human rights violations in Bulgaria, Amnesty International public document, 1994
7. CERD/C/197/Add.4: Report submitted by Bulgaria to the Committee on the Elimination of Racial Discrimination, United Nations public document
8. A/46/18: Report of the Committee on the Elimination of Racial Discrimination to the 46th session of the UN General Assembly concerning Bulgaria, United Nations public document
9. CERD/C/SR.914-937: Summary report containing the discussions of CERD on the last report submitted by Bulgaria, United Nations public document
10. Antisemitism World Report 1995, Institute of Jewish Affairs publication
11. Annual Report 1995 and 1996, International Helsinki Federation for Human Rights publication
12. CRI (95) 2 rev.: Legal measures to combat racism and intolerance in the member States of the Council of Europe, prepared by the Swiss Institute of Comparative Law of Lausanne (Council of Europe publication)
13. Reply to the ECRI questionnaire received from the Bulgaria Human Rights Committee
14. CDMG (95) 16 final: Recent developments in policies relating to migration and migrants, Council of Europe document
15. Annual Report of the Human Rights Project of Bulgaria for 1995
16. Quarterly progress report of the Human Rights Project of Bulgaria (July-October 1995)
17. "Foreigners in prison", Katarina Tomaševski, European institute for crime prevention and control, Helsinki, 1994
18. "Report on Media Ethics in Europe", Kaarle Nordenstreng, ed., University of Tampere, 1995
19. "Minorities in central and eastern Europe, Michel Foucher, Council of Europe Press, 1994
20. "Religious Minorities in Albania, Bulgaria and Romania, Human Rights without frontiers", N° 2-3, 1996
21. "New Xenophobia in Europe", eds Baumgartl, B. and Favell, A., Kluwer Law International, 1995
22. "Minorities under Communism", Robert R King, Harvard University Press, Cambridge, Massachusetts, 1973
23. "Minorities in the Balkans", Report 1982, published 1989 by Minority Rights Group, London
24. CERD/C/299/Add.7: Report of Bulgaria to the CERD due in 1996
25. Report by Bulgarian Helsinki Committee, August 1997
26. International Helsinki Federation for Human Rights Annual Report 1996