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National Minorities:

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Bulgaria's Anti-Discrimination Act, which entered into force on in January 2004, is one of the best in Europe and Bulgarian courts have made use of it, handing down significant decisions involving minorities, particularly Roma¹ and homosexuals. In addition, the Bulgarian government has drafted several plans to improve the situation of the Roma.²

While formal protection against discrimination has improved, discrimination has not decreased in practice. For example, discrimination against and the social exclusion of the Roma continues in particular in the spheres of education, housing, employment, healthcare, and the administration of justice, and hate-speech is widespread in the media.³ In the summer of 2006, The Supreme Administrative Court upheld the eviction order issued by the district government and left around 200 persons in Sofia on the verge of being left on the street. The eviction order was issued without reasonable justification, adequate notice, consultation with the affected families, compensation and any provisions for alternative housing and social support for them. The eviction was temporary cancelled by the Sofia mayor after an urgent intervention by four members of the European Parliament and after the European Court of Human Rights had informed the government that the families had appealed to the court.

The Macedonian minority, too, has faced harassment and discrimination, including during at least two occasions when they wanted to organize public meetings in May and in September. In September activists from the newly formed party OMO Ilinden– PIRIN became targets of government harassment and media smear campaign when they wanted to collect signatures for registration of the party. The government of Bulgaria continues to deny Macedonian ethnic identity and the existence of the Macedonian minority on its territory. Persons who declare Macedonian identity are routinely under surveillance by the secret police. On 9 September officers from the Regional Security Service in Blagoevgrad detained one of the deputy chairpersons of the party and confiscated a list with more than 400 names of party members.

¹ For example, for the first time in all of Europe, a Bulgarian court in 2005 found that there was segregation of Roma children in a school. In addition, in January 2006, the Sofia District Court's Office convicted the chief prosecutor for prosecutor's racist statements he had made in an official document ending the investigation into the death of a Romani man.

² Including, for example, the National Action Plan for the Decade of Roma Inclusion 2005-2015, the establishment of the Commission for Protection against Discrimination in November 2005, and measures aimed at helping Roma school children. See Commission of the European Communities, Bulgaria: May 2006 Monitoring Report, Commission Staff Working Document, 16 May 2006, SEC (2006) 595, http://ec.europa.eu/enlargement/bulgaria/key_documents_en.htm

³ Bulgarian Helsinki Committee, Human Rights in Bulgaria in 2005, <http://www.bghelsinki.org/frames-reports.htm>.

Its first opinion on Bulgaria issued on 5 April, the Advisory Committee of the Framework Convention for the Protection of National Minorities condemned the government of Bulgaria for denying recognition and identity of ethnic Macedonians and the Pomaks, as well as for discrimination against Roma.⁴

Dissemination of xenophobic propaganda and incitement to racial hatred in Bulgaria has increased considerably, particularly during and after the 2005 election campaign of the *Ataka* coalition, and its subsequent entry into parliament. While Roma have been the main targets of hate speech, Bulgarian Muslims have also been targeted, as well as representatives of other, smaller ethnic and religious minorities.⁵ A number of media outlets have been involved in an anti-minority campaign by openly inciting ethnic hatred and discrimination. The radical incitement to ethnic hostility and discrimination spread by *Ataka* and the media have not provoked any reasonable reaction from public authorities, courts or self-regulatory media bodies. As a reaction to this inactivity, dozens of NGOs and private individuals filed eight civil lawsuits against Volen Siderov Siderov, the leader of *Ataka* in the Sofia District Court in February 2006, for incitement to discrimination and harassment of ethnic, religious and sexual minorities.⁶ In July the court decided on one of the cases, based on a complaint by an ethnic Armenian, that Siderov's speech went beyond the scope of permissible freedom of expression and constituted harassment and discrimination. The other cases are pending.

In **Croatia**,⁷ there has been a shift toward more tolerance and reconciliation in minority issues among senior political leaders of the major political parties, but this tolerance has not been supported by the population: harassment and violence against members of minorities has increased in 2005 and 2006, which means that the attitude toward minorities has deteriorated in these two years, for the first time since 1996. In most cases Serbs and Roma have been the targets. Since the local elections in 2005, the nationalistic attitudes towards minorities have deteriorated in part due to the coverage by that oppose the inclusion of representatives of Serbs in some local governments.

Attacks against minority members have ranged from threats and verbal insults, damage and destruction of property (including some of symbolic significance), to physical violence and even murders. In 2005, the Croatian Helsinki Committee documented 34 violent incidents against Serbs— only one was solved. Most of such incidents remain unpunished, partly because of inefficient investigations, but especially because of unwillingness of witnesses to step forward to give evidence.

Ethnic discrimination is both open and latent, including discrimination in employment, citizenship issues and rights linked to it (e.g. pension and health insurance), as well as obstacles faced by returning Serb refugees relating to property reclaim and reconstruction.⁸ Roma face

⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Bulgaria, Strasbourg, 5 April 2006, http://www.coe.int/t/e/human_rights/minorities/2_framework_convention%28monitoring%29/2_monitoring_mechanism/4_opinions_of_the_advisory_committee/1_country_specific_opinions/1_first_cycle/1st_OP_Bulgaria_eng.asp#TopOfPage.

⁵ Volen Siderov, the leader of *Ataka*, is a holocaust denier and in 2002 and 2004 published two virulently anti-Semitic books.

⁶ Bulgarian Helsinki Committee, *Objectiv*, Krasimir Kanev, "Why we are suing Volen Siderov," Issue 131, 2006, <http://www.bghelsinki.org/index.php?module=resources&lg=en&id=368>

⁷ Based on information from the Croatian Helsinki Committee, March and September 2006.

⁸ See also Human Rights Watch, *Croatia: A Decade of Disappointment Continuing Obstacles to the Reintegration of Serb Returnees*, September 2006, <http://hrw.org/reports/2006/croatia0906/>.

difficulties in realizing their fundamental rights of welfare support, health care, housing, education, employment and naturalization.

The representation of national minorities in various bodies has been formally provided by law but, on the local level, this has not been realized because authorities have failed to amend municipal and regional statutes to ensure proportional minority representation in local and regional councils.

When, in December 2004, the European Union (EU) gave a green light for and scheduled the launching of **Turkey's**⁹ accession negotiations, it was on the assumption that Turkey fulfilled the so-called Copenhagen political criteria sufficiently, which include “guaranteeing ...respect for and protection of minorities.”¹⁰ As of today, however, the protection of Turkey's minority groups still falls seriously short of European and other international standards.

Since the Lausanne Peace Treaty of 1923, Turkey's official interpretation of the treaty is to recognize only Jews, Greek Orthodox Christians, and Armenian Orthodox Christians as minorities in Turkey. Moreover, they are recognized only as religious – not ethnic – minorities. In practice, Turkey has implemented a policy of “Turkification,” which is a form of cultural assimilation that fails to recognize individuals' rights to ethnic, national, and religious self-identification and that aims at forced assimilation with a Turkish identity. It encompasses several strategies whose rationale violates, in one way or another, internationally guaranteed standards for minority rights. Despite some improvements in the past few years, these strategies still include: denying formal recognition of minority groups; hindering their access to the media; limiting their political participation; violating their freedom of expression – especially in their own language; impeding their freedom of religion; refraining from facilitating their freedom of movement, to choose their place of residence, and practicing or tolerating various other forms of direct and indirect discrimination.

It is still impossible to openly discuss the issue of minorities in Turkey. Individuals who have addressed the issue of minorities, or pointed to their existence, have been prosecuted under criminal law and anti-terror provisions for crimes such as “inciting enmity or hatred” (article 216 of the criminal code), “denigration of Turkishness, the Republic, and the foundation and institutions of the State” (article 301)¹¹ and, especially when addressing Kurdish issues, for an “terrorist act” under the Anti-Terror law. While until recently there had been no actual convictions under article 301 of the criminal code, the Turkish Court of Cassation in July 2006 surprisingly upheld a guilty verdict under this provision, and a six-month suspended sentence against Hrant Dink, editor of the Armenian language newspaper *Agos*. Dink received the sentence in May 2006 for articles published in 2004 entitled “The Armenian Identity.”¹²

⁹ For more information on the situation of minorities in Turkey, see IHF, *Status of Minorities in Turkey: A policy of Negation*, October 2006, www.ihf-jr.org.

¹⁰ Europa Glossary, “Accession Criteria (Copenhagen Criteria),”, http://europa.eu/scadplus/glossary/accession_criteria_copenhagen_en.htm.

¹¹ See, for example, the case of Professor Ibrahim Kabaoglu, IHF, *Status of Minorities in Turkey: A policy of Negation*, October 2006, www.ihf-jr.org.

¹² Pen American Center, “Novelist Elif Shafak to be tried for “Insulting Turkishness” Indictments of Major Novelists Signal Erosion of Free Expression Gains in Turkey, Turkey Background Briefing 7/06, <http://www.pen.org/viewmedia.php/prmMID/694/prmID/172>.

Recommendations

1. To the government of **Bulgaria**:

- React promptly to hate speech in the media and any statements that incite ethnically motivated hatred against minority groups, thereby making it clear that such acts will not be tolerated, and encourage prosecutors to take legal steps in such cases;
- Enhance its efforts against discrimination against Roma and their social exclusion, particularly in the spheres of education, housing, employment, and healthcare, and ensure that demolition of Roma houses takes place only after consultation with the families and when alternative accommodation for them is found;
- Recognize identity, stop harassment and discrimination and ensure freedom of assembly and association of ethnic Macedonians. This includes putting an end to secret police monitoring of their activities.

2. To the government of **Croatia**:

- Continue to make it clear in public statements that discrimination, hate-speech and violence against national and ethnic minorities shall not be tolerated, and encourage prosecutors to take legal steps in cases that amount to violations under international standards on minority rights and protection, and under Croatian legislation;
- Take practical steps to ensure the full implementation of regulations against ethnic discrimination: control the local outlets of public (state) administration lest they commit or tolerate any kind of discrimination;
- Take measures to enforce the acts on rights of ethnic minorities and on local elections, which oblige the local authorities to update the regional and municipal statutes to the effect of guaranteeing proportional minority representation in local bodies. It should also consider introducing repercussions for those regions/municipalities, which refuse to follow the standards set by national legislation;
- Pass appropriate legislation (notably the Act on Free Legal Aid) to provide possibilities for human rights NGOs to take an active part in the protection against discrimination.

3. To the government of **Turkey**:

- As the first steps toward adequate minority policy, promptly reform its official minority policy so as to reflect the actual existence of minorities in Turkey, and to officially recognize all national, ethnic and religious minorities and provide them the support and protection guaranteed by the international human rights instruments Turkey is party to;
- In the meantime, actively promote the education, language, property and other rights of the three now formally recognized minority groups.

- Take steps to revoke laws that can be used to restrict the legitimate rights of minorities, and open discussion on minorities, including articles 216 and 301 and of the Penal Code, and articles 6 and 7 of the recently amended Law on the Fight against Terrorism, as well as several articles of the Law of Political Parties which restrict the minorities' freedom of association.

4. To the **OSCE, the Council of Europe, and the European Union:**

- Continue close monitoring of the implementation of all relevant regulations on minority protection and against discrimination in all the above-mentioned countries, recognising that their implementation, as well as public awareness, are now more critical than formal reforms on legal and institutional levels;
- Ensure the continuation of such monitoring also after the possible closure of their own networks of local offices, utilising the networks of local NGOs.