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Ending police brutality in Bulgaria

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It was a brisk April night when Radoslav Bozhinov, 24, was on his way back from a concert, walking alongside a main road in Sofia, the capital of Bulgaria, trying to catch a taxi home.

When a car pulled over next to him and two men insisted to see his ID card, Radoslav refused to show it. The men did not identify themselves, and were not wearing uniforms. Later, Radoslav told the media he thought he was being abducted. In fact he was being arrested for disobeying the police.

Radoslav, a graphic designer working for Bulgarian national television, suffered broken teeth and a broken nose, as well as a badly bruised face and body. The police said he accidentally fell on his face. This incident, which happened in April 2011, is merely one illustration of the problem of police brutality in Bulgaria.

In 2011 the Bulgarian Helsinki Committee (BHC), the country's largest and most influential human rights group, launched its campaign against police brutality. The campaign – which involved simultaneous work with civil society, traditional and social media, national government and international bodies – aimed to amend the current flawed legislation which allows the police to use force and firearms even when not strictly necessary. For years the ECtHR has held that this legislation is in violation of the right to life (Art. 2). Still, the government has failed to reform the legislation and practices which have been the subject of so many negative decisions against Bulgaria in Strasbourg.

In February 2011 the BHC organised a roundtable where it presented the outcome of its research on all the ECtHR judgments issued against Bulgaria in cases of police violence. With government, parliament, the judiciary, NGOs and the media invited, the purpose of the roundtable was to open a discussion that would lead to the necessary legislative changes.

In January 2011 the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution identifying Bulgaria as a state with “major structural problems” and “extremely worrying delays” in the implementation of ECtHR judgments. PACE emphasised that Bulgaria must “adopt outstanding measures in order to avoid [further] deaths and ill-treatment of persons placed under the responsibility of law-enforcement officials.”¹

The BHC's research showed that more than

450,000 EUR of taxpayers' money has been spent by Bulgaria in compensation to victims of police brutality in the last 12 years (1998-2010). The ECtHR has heard 27 cases against Bulgaria on police brutality and has issued 26 judgments in favour of the applicants. In two of these the Court held that even though the actual perpetration of violence by the police could not be established with certainty, there was nevertheless a procedural violation of Art. 3 as the authorities had failed to investigate the assaults.² In another case the Court found a violation because, even though the applicant's injuries did not meet the minimum level of severity to fall within the scope of Art. 3, the State failed in its responsibility to investigate.³ The remainder of the decisions against Bulgaria demonstrated sufficient evidence of police brutality and a lack of effective investigation or prosecution.

In nine of the cases, death resulted from police action – in total, 10 people were killed. In one case the victim survived after a potentially lethal shooting by the police. 16 cases included inhuman or degrading treatment of 20 victims. In three of these the police refused the victims life-saving medical assistance. Most of the victims were young: three of them were children aged between 14 and 17; 16 of the victims were between the ages of 19 and 29. The number of Roma victims was also disproportionately large – one third of all the victims. In 24 of the 26 cases the ECtHR found the investigation to be inadequate.

None of the police officers involved in these cases was ever effectively punished – none are known to have been given disciplinary punishment, none are known to have been dismissed, and some of them actually received promotions.

In the past 12 years the ECtHR has held that the flawed Bulgarian legislation not only results in disproportionate use of force by the police, but also leads to bad planning and control of police operations, and produces ineffective investigations – prosecutors fail to address the question of the necessity of force, as the law allows the police to use force and firearms even when not absolutely necessary.

After hearing the conclusions of the BHC's research, the participants at the roundtable agreed that urgent legislative changes were necessary to ensure that the law-enforcement agencies use force and firearms *only* when absolutely necessary. The outcome of the roundtable was widely reported, with more than a hundred news reports in Bulgarian print, TV, radio and online media. The shared links on social media

were in the thousands. The BHC also launched a special website (policebrutality.bghelsinki.org) to provide information about the campaign, which thousands of people have visited. Two days after the roundtable, the BHC distributed 8,000 free cards for direct mailing to the prime minister, insisting on urgent legislative changes, at key spots in the three largest Bulgarian cities. Hundreds of the cards were sent by citizens.

As part of the campaign, the BHC sent letters to all European human rights institutions, including the Council of Europe Human Rights Commissioner Thomas Hammarberg, PACE's Committee on Legal Affairs and Human Rights and the Venice Commission. In its communication, the BHC called for support in pressuring the government to amend the current flawed legislation. In his reply to the BHC, Thomas Hammarberg welcomed the initiative. The letter was featured in the additional information section for two cases scheduled for review by the Committee of Ministers – *Velikova v Bulgaria* (No. 42488/98) 18.5.00 and *Nachova & Others v Bulgaria* (Nos. 43577/98 and 43579/98) GC 6.7.05, in both of which excessive police force caused death.

The BHC invited the Bulgarian Deputy Minister of Interior, Vesselin Vuchkov, to a debate on the need for reform of the legislation, which was followed by several more meetings with the deputy minister. In May 2011 Mr Vuchkov organised a roundtable at the Ministry of Interior (MoI), where the BHC once again reported the conclusions of its research. The BHC's presentation of the legislative changes needed for introducing the standard of ‘strict necessity’ for police use of force and firearms was welcomed by everyone present. At the end of the roundtable, Mr Vuchkov announced the formation of a working group within the MoI to amend the current flawed legislation and ensure that all ECtHR judgments are implemented. The BHC was invited to take a key part in that group.

A draft bill, almost entirely reflecting the BHC's proposals, has already been produced by the MoI working group.

1 PACE Resolution 1787 (2011), *Implementation of judgments of the European Court of Human Rights*. Available at: <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/tal1/ERES1787.htm>.

2 *Asenov & Others v Bulgaria* (No. 24760/94) 28.10.98 and *Kazakova v Bulgaria* (No. 55061/00) 22.6.06.

3 *Stefan Iliev v Bulgaria* (No. 53121/99) 10.5.07.