

## **Bulgaria: Freedom of Expression and Access to Information**

compiled by Desisleva Simeonova, Bulgarian Helsinki Committee

(Editorial Note: This text was written in November 1999 and only slightly edited in May 2001<sup>1</sup>)

### **A. International Law and Domestic Legislation**

#### **1. Signed and ratified international human rights instruments**

Bulgaria is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, International Covenant of Civil and Political Rights, Framework Convention for the Protection of National Minorities, International Convention for the Elimination of Racial Discrimination, European Convention for Transfrontier Television.

#### **2. Is domestic legislation compatible with international human rights standards on freedom of expression and access to information?**

The right to freedom of expression is protected by Articles 39, 40 and 41 of the Bulgarian Constitution. Art. 39, para. 1 states that:

Everyone shall be entitled to express an opinion or to publicise it though words, written or oral, sound or image, or in any other way.

Article 40 of the Constitution proclaims freedom of the press and the mass media and maintains that they shall be free from censorship, and Article 41 guarantees the right to information without interference from the state authorities (para. 1) and the right to publicly-held information (para. 2):

(1) Everyone shall be entitled to seek, obtain and disseminate information. This right shall not be exercised to the detriment of the rights and reputation of others, or to the detriment of national security, public order, public health and morality.

(2) Citizens shall be entitled to obtain information from state bodies and agencies on any matter of legitimate interest to them which is not a state or official secret and does not affect the rights of others.

However, the restrictions in the Constitution and some other laws are stronger than the restrictions in the European Convention for the Protection of Human Rights. Art. 39 and 40 allow the restriction of the right of anyone to express an opinion; these regulations can be used to stop or confiscate printed matter or another information medium when this right is used to the detriment of the rights and reputation of other persons, or to incite a forcible change of the constitutionally established order, to commit a crime, or to incite animosity or violence. The respective restrictive regulation of Article 10, para. 2 of the European Convention for Human Rights goes beyond the simple statement about "content". It provides for restriction of the freedom of expression "for the prevention of disorder or crime", i.e. when the expression poses an imminent threat of action.

Article 41, para. 2 of the Constitution guarantees the right of citizens to obtain information from the state institutions on any issues of legitimate interest. However, there is no law in Bulgaria that requires the state institutions to provide information to citizens or organizations upon request and to establish an infrastructure for this.<sup>2</sup> In February 1995 the government restricted additionally the possible access of journalists to the ministers

---

<sup>1</sup> The text was produced in the framework of the IHF project "A Multi-National Program of NGO Human Rights Cooperation in the Framework of the Royaumont Process", being co-financed by the European Community.

<sup>2</sup> Since the writing of the report, in June 2000, the Bulgarian parliament adopted an Access to Public Information Act. For more information, see chapter H, footnote 2 of the report.

and refused to give information on the materials submitted to the meetings of the Council of Ministers. All this created serious difficulties before journalists in their attempts to discuss publicly any issues connected with the state or local administration, as well as with courtroom procedures. A part of the criminal charges against journalists in 1995, on the other hand, were based on accusations of gaps in the gathering and verification of facts.

### **3. Adoption of the recommendations of international bodies (UN, the Council of Europe) on freedom of expression and access to information**

In June 1998 the European Union's Delegation of the European Commission to Bulgaria presented a general comment on the draft audiovisual laws - draft Telecommunications Act and the draft Radio and Television Act. The Delegation's recommendations were based on the Television Without Frontiers Directive 97/36/EC. According to these recommendations, the problematic areas concerned contradiction with the principles of the Directive regarding to freedom of reception of television broadcasts, insufficient provisions for commercial broadcasters (i.e. no guarantees that commercial broadcasting licenses would contain European/independent production obligations; commercial broadcasters are exempt from certain advertising obligations), insufficient incorporation of advertising obligations into the draft Radio and Television Act (i.e. total ban on advertising for all tobacco products/teleshopping rules), insufficient protection of minors.

In the final version of the adopted laws, some of the above recommendations were included (i.e. total ban of tobacco products in Radio and Television Act), while other were not (i.e. no clarification of provisions on protection of minors).

### **4. Possibility for judges to rule on the basis of international human rights documents in case where domestic law is not consistent with the prescriptions of international law**

According to Art. 5, para. 4 of the Constitution all international treaties which are ratified pursuant to the constitutional procedure and published officially are considered part of the domestic legislation and take precedence over those domestic acts which contradict them. With the Decision No. 7/1992 the Constitutional Court ruled that the international treaties that are ratified and have entered into force, but were not published in the *Official Gazette* are not part of the domestic legislation, unless they were ratified before the 1991 Constitution had entered into force and their publication was not necessary. The latter do not have precedence over the domestic legislation under Art. 5, para. 4 of the Constitution, but acquire precedence immediately upon publication.

Rulings based on international human rights documents in Bulgaria, however, are extremely rare. An example of such a case was a court ruling passed in April 1997 by Sofia City Court in the case of Word of Life against a journalist from a daily newspaper. The journalist had published a material alleging that Word of Life was encouraging several children to commit suicide. The court reasoned that the author of the publication had acted in accordance with Article 10 of the European Convention, even if she was disclosing information shocking for the public and turned down as a second instance court the appeal of the church pastor. In August 1996 the Sofia District Court had also ruled in favor of the defendant.

## **B. Freedom of Expression**

### **1. Provisions (in criminal law, media law, administrative law, etc.) which govern:**

#### **a. the expression of opinions or the disclosure of information on politicians (the President, Prime Minister, ministers, Members of Parliament, local elected representatives)**

Bulgarian domestic legislation contains no special provisions, which criminalize the disclosure of information about politicians or civil servants. By law, politicians and high-ranking civil servants are subjected to a higher degree of scrutiny and are obliged to provide information on, for example, their financial status.

**b. the expression of opinions or disclosure of information on domestic or foreign policy of States;**

The Penal Code contains a provision which penalizes disclosure of state secret:

Art. 357. (1) (formerly para. 2, amended *State Gazette*, issue 95, 1975) Whoever makes public information which is a state secret, which came to his knowledge in the line of work, as well as whoever publicizes such information with the knowledge that this could prove detrimental to the interests of the Republic of Bulgaria, shall be sentenced with imprisonment for a period of up to five years, unless a harsher sentence is not imposed for this offence.

(2) (formerly para. 3, amended *State Gazette*, issue 95, 1975) If as a result of the offence, particularly grave consequences have taken place for the country's security, the punishment shall be imprisonment for a period of three to ten years.

**c. the protection of confidentiality of journalists' sources of information**

The main law which deals with the issue of the protection of the journalists' sources of information is the Radio and Television Act: Art. 10 (1.2) provides that while carrying out their activities, radio- and television operators shall adhere to the principle of guaranteeing the confidentiality of the source of information. Art. 15 (1) maintains that radio- and television operators are not obliged to reveal their sources of information unless there is a pending court trial or pending proceedings initiated on the complaint of a victim or the National Council for Radio and Television. Furthermore, journalists are not obliged to reveal their sources of information also to the management of the respective operator, unless in the preceding cases (Art. 15, para. 2). Radio- and television operators have the right to include in their broadcasts information from unknown sources if this is explicitly stated (Art. 15, para. 3).

**2. Recent cases (since 1995)**

According to the available information, there are no such cases.

**3. Cases at the European Court of Human Rights concerning Article 10 of the Convention**

There has not been any case concerning Article 10 declared admissible by the European Court.

An application filed by a Bulgarian journalist in 1996 alleging violation of Article 10 was declared inadmissible by the Court. In 1991 the applicant had published an article with information about the massacres which had taken place in the Samokov region after the communist takeover on September 9 1944. One of the people mentioned in the article only with an initial and profession brought a private prosecution before the Sofia District Court under Article 148, para. 2 of the Penal Code - libel of a public official. The Sofia District Court convicted the applicant of libel and sentenced him to six months' suspended term of imprisonment with a three year probation period. The Commission declared the application inadmissible on the grounds that the interference with the applicant's rights did not appear to be disproportionate to the legitimate aim and could be considered as having been "necessary in a democratic society", and noted that the courts imposed a suspended sentence.

**C. Electronic media**

**1. How is the body controlling the national electronic media composed, to what extent is it independent, i.e. is there any possibility for political control?**

The Radio and Television Act adopted in 1998 stipulates the election of a National Council for Radio and Television (NCRT) which supervises the work of the electronic media. The Radio and Television Act defines the council as an “independent specialized body” which defends freedom of speech and the independence of the radio- and television operators and the interests of the public. The National Council was first established in 1996 with the old Radio and Television Act as a “specialized state body”, but the same year the Constitutional Court declared this provision unconstitutional with respect to the word “state”.

The manner in which the Council is constituted, however, is purely political which makes it invariably dominated by the parliamentary majority. It consists of 9 members - five elected by parliament and four appointed by the president. The act provides no possibility whatsoever for participation of interested public groups. In December 1998 when the new Council members were appointed/elected, the five members from the parliamentary quota were voted on by the ruling Union of Democratic Forces (UDF) only, as all other parties boycotted the election. The opposition claimed that all of the candidates were raised by the UDF and that there was no representative from any other party. UDF maintained that the nominees came through different organizations and only two are actually members of the UDF. Earlier on, MPs from the opposition had made proposals to amend the manner of constitution of the NCRT by having the Supreme Judicial Council, the Council of Ministers, the President, and five parliamentary groups each put forward a candidate for the NCRT, but the proposal was rejected.

The Radio and Television Act sets a wide range of powers and rights for the Council: to elect and dismiss the leadership of the national electronic media and to approve the members of the board of the national electronic media; to exercise continuous control over the activities of the media, both public and private; to give out and suspend broadcasting licenses; to ban programmes. Although by law the NCRT takes decisions on the election of directors of radio and television by qualified majority, the chance to establish political control remains, since both the parliamentary majority and the president are from the same political coalition. In December 1998 the NCRT was purged of its last members whose pro-governmental orientation might have been doubted.

## **2. Mechanism for the licensing of electronic media and allocation of frequencies: independent bodies?**

In April 1998, government plans to give frequencies for radio and television activities through concessions given out directly by the Council of Ministers met with fierce resistance from private radio and television broadcasters nationwide. They insisted that the decisions for such activities should be taken by an independent organ.

When the law regulating radio and television broadcasting was passed in July 1998, it did indeed provide that the electronic media operators would operate with licenses and not through concessions. In the meantime, the government had petitioned the Constitutional Court to give a binding interpretation of the Constitution in the part concerned with the giving of concessions or licenses on resources considered state ownership. With Ruling 18/1998 the Court held that the state’s sovereign rights with respect to resources over which it has ultimate rights can be exercised both through concessions, as well as through permits (licenses). Although the concessions regime was abolished in the final version of the Telecommunications Act, it is still the executive, which has the last word in the decision regarding broadcasting licenses.

The main law regulating the licensing of electronic media and the rules of operation of radio and TV operators is the Radio and Television Act. The Telecommunications Act also deals with the licensing procedure, as well as with the mechanism for distribution of frequencies for radio- and television broadcasting.

The Radio and Television Act provides that the decisions on the issuing, changing and terminating of radio- and television broadcasting licenses are within the mandate of the National Council for Radio and Television. The procedure set forth in the act provides that applications are handed to the State Telecommunications Commission (STC) - a body at the Council of Ministers, established under the Telecommunications Act to perform the preliminary examination on the applicant’s technical capacity for broadcasting. After checking the regularity of the documents, the Commission sends them to the NCRT. The Council rules on the application with a motivated decision within a month and sends the decision to the STC to issue a license. According to Article 105 of the Radio and Television Act, the State Telecommunications Commission is involved in the licensing procedure inasmuch as it *issues* the license itself. Similarly, Article 106 of the said act provides that

transfer of ownership of a license is carried out by the STC “after a decision of the National Council for Radio and Television”.

The NCRT decision can be appealed following the procedure set forth in the Supreme Administrative Court Act.

The Telecommunications Law, on the other hand, provides that “The Council of Ministers shall approve the issuing of licenses for building of telecommunications networks” (Art. 8, para.2) on the basis of public interest, state sovereignty and national security. The composition of the State Telecommunications Council is purely political. Its members are chosen by the Council of Ministers and appointed by the prime minister with a term of office seven years.

In late 1998 the Constitutional Court was approached to rule on a number of provisions of the Radio and Television Act, including those connected with the right given to the State Telecommunications Commission to issue licenses for radio- and television broadcasting after the approval of the Council of Ministers. In its Ruling no. 10/1999 the court made a division between the licensing under the Telecommunications Act which concerns the *building* of the telecommunications network and the use and distribution of the frequency spectrum, and the license of the NCRT which concerns the *content* of the services which are offered through the respective frequency spectrum. The ruling affirmed that “all matters related to the issuing, changing or terminating of the radio- or television broadcasting licenses ... are within the competence of the National Council for Radio and Television”.

The Telecommunications Act establishes two other bodies at the Council of Ministers - the National Radio-Frequency Spectrum Council (responsible for frequency allocation) and the Committee for Posts and Telecommunications (responsible for carrying out the state telecommunications policy). These three institutions are ones which execute the management of the telecommunications activities.

The allocation of frequencies is carried out by the National Radio-Frequency Spectrum Council. Its members come from the Committee for Posts and Telecommunications, the State Telecommunications Council, the Ministry of Finance, the Ministry of Industry, Ministry of Transport, Ministry of Defense and Ministry of the Interior with a term of office 4 years; the chairman is appointed by the Council of Ministers.

### **3. Property restrictions or limitations in the media field? Legal limits of printed media or broadcasting monopolies?**

No limitations in this sphere exist.

#### **D. Print Media**

##### **1. Mechanism for the distribution of printed literature - state monopoly or system of licensing of companies. Monopolies in printing, production of newsprint (paper used to produce newspapers) or distribution networks?**

No state monopolies in this regard exist.

##### **2. Legal provisions stipulating the restrictions with regard to the distribution of the printed media or the broadcasting (i.e. media councils)?**

No legal provisions exist in this regard.

##### **3. Do state media enjoy any economic, practical or other advantages over independent media?**

Although at present there is no private national TV broadcaster, a number of privately owned regional television and radio stations operate. Private stations have complained that their licenses unnecessarily restrict the strength of their transmissions in comparison with state-owned stations.

## **E. Libel, Defamation, Blasphemy**

### **1. Criminal liability for insult or defamation**

Articles 146, 147, 148 and 148a of the Bulgarian Penal Code are concerned with defamation. These articles provide for up to two years effective imprisonment for slander and up to three years for libel.

In addition, the Penal Code provides for a discriminatory procedure for criminal liability - it allows the possibility for *ex officio* criminal proceedings in case of defamation of a "public official". If a "public official" is defamed, the Prosecutor's Office takes action instead of the victims. Conversely, in libel cases against a private person, the criminal prosecution is initiated only after a petition of the victim. The Prosecutor's Office may even bring charges when the victim has not filed a complaint.

The sentences prescribed by Bulgarian law for libel of "public officials" are much more severe than sentences for libel of private persons and entail up to three years effective imprisonment. These provisions have for years been used in Bulgaria to prevent the actions of persons exercising public power, mainly prosecutors of different ranks and their close associates, from being publicly discussed or criticized.

Article 148a was added to the existing provisions through amendments to the Penal Code of 5 August 1995. This article provides for up to three years imprisonment for publicizing (including verbally) circumstances and claims regarding other persons, based on "unlawfully" acquired information from the Interior Ministry archives.

Throughout the last years there have been dozens of cases involving criminal proceedings against journalists for defamation of public officials. Frequently, the cases brought in by the prosecution for libel are against representatives of the prosecution itself.

A number of nongovernmental organisations (Free Speech Civic Forum, Reporter Foundation, the Union of Journalists and the BHC) have appealed in defence of free speech and against the possibility for imprisonment of journalists for slander and libel. Declarations in support of this demand were also made by international organisations, working to guarantee freedom of speech, such as Reporters sans Frontieres - Paris, and the Committee for the Protection of Journalists - New York. In May 1998 over 40 MPs from different parliamentary groups proposed a moratorium on the execution of the sentences of journalists, but it was immediately rejected. During the same month, a group of 54 MPs asked the Constitutional Court to declare unconstitutional and violating international human rights treaties the punishment of "imprisonment" for insult and libel, as well as the discriminatory procedure for criminal liability. With Decision N 20/1998 of 14 July the Constitutional Court rejected the request by invoking the argument that many European countries provided for criminal liability in their legislative systems.

On 22 July 1999 the Bulgarian parliament passed on first hearing amendments to the Penal Code which were intended to revoke the possibility for imprisonment of journalists for slander and libel. Furthermore, according to the amendments, the penal proceedings would no longer be conducted by the prosecutor's offices when public officials are defamed. This would mean that if the amendments are passed on second hearing, public officials will have to follow the general procedure of finding a lawyer and paying the necessary expenses themselves, and not have the prosecution carry out the actions on their behalf.

These changes, once adopted, will bring a drastic reduction in the number of criminal cases against journalists for slander and libel. Some of the sanctions foreseen for slander and libel, however, raise concern. The maximum amount of the fine for slander and libel is 30 000 BGL (30 000 DM) - which is an obviously absurd sanction for Bulgaria. The proposal of one of the MPs to send journalists to prison for failure to pay a fine could even lead to a larger number of imprisoned journalists than before the Penal Code amendments.

If journalists accused under the Penal Code defamation provisions (Art. 146-148) can prove the truth of their allegations, they are freed from criminal prosecution. In practice this can prove difficult since in many cases the truth of the made allegations can be proven with documents possessed by the state authorities. However, if the documents proving the truth of the allegations are classified as state secret, the defendant in such cases can be tried under another provision of the Penal Code, namely Art. 357a which penalizes disclosing of a state secret.

## 2. Anti-blasphemy criminal provisions?

No anti-blasphemy criminal provisions exist in Bulgarian legislation.

## 3. Cases

Cases of journalists being brought to trial for slander and libel are most often brought in by the prosecution on the behalf of the defamed public official. Private individuals bring in charges for slander or libel in fewer cases.

In October 1995 the journalist Gergina Bankova was sentenced to pay a fine for libeling a public prosecutor from the Chief Prosecution, although the prosecutor had the opportunity to present his point of view in the mass media, including in the newspaper which published the article allegedly insulting to him. In this case, the Prosecution started criminal proceedings without a complaint by the public official in question - a practice which opens widely the gates of the punitive repression against journalists.

On February 20 1996 two journalists from the *24 Chasa* and *Trud* newspapers were arrested in Smolyan on charges of libel against a prosecutor. They were subsequently released from detention and the investigation concluded with the statement that no crime was committed since there was no intent of libel. Such was also the ruling of the District Prosecutor's Office. On appeal, however, the Sofia City Prosecutor's Office supported the indictment.

In June 1996 the Blagoevgrad District Court confirmed the sentence on a journalist - six months' effective term of imprisonment - for libeling the Chief Prosecutor Ivan Tatarchev in an interview with a Sofia lawyer. The journalist did not possess a tape recording of the interview. This is the only case of an effective term of imprisonment of a journalist for libel.

Again in June 1996, Plamen Kamenov, editor-in-chief of the *Noshten Trud* newspaper received a three-month suspended sentence with a three-year parole period and a fine for insulting the Chief Prosecutor in an article 'Tatarchev Should Sentence Himself'. Originally the plaintiff has requested 2 million leva compensation, but the court maintained that as Chief Prosecutor, Tatarchev had to expect a higher degree of criticism than ordinary citizens. In another widely publicized case Plamen Kamenov received a four-month suspended sentence for having published a blank form with the signature of the Chief Prosecutor, ordering the search of the President's Office. The blank form was filled in by the Editor's office. In the course of the case, it was established that the Chief Prosecutor's signature on the blank form was genuine. Nonetheless, the journalist was sentenced. Several jurists commented the case as a completely legitimate journalistic trick to protest against arbitrary decisions that could be used against any person.

On June 18, 1997 Chief Prosecutor Ivan Tatarchev said that journalists could even be criminally liable for questions asked of interviewees. The same day, Anna Zarkova from the *Trud* daily was charged with insulting and libeling a public official and was ordered to put a 50,000 leva bail for an interview she had published in the paper. Zarkova was acquitted of the charges two years later by Sofia Regional Prosecution. In September Mitko Shtirkov, a journalist from Smolyan, got a four-month suspended sentence for libeling a district prosecutor in Smolyan. In September, Karolina Kraeva, editor-in-chief of the *Istina* paper in Vratsa, was brought to court by the chief of the Precinct Police Department on charges of libel because in an article she had questioned his possible link with local businessmen, in whose interest he had exercised his powers. She was accused by the chief of the department of having "asked inconvenient questions". In October 1998 Kraeva received a two year and four months suspended prison sentence plus an order to pay 2 mln. leva (2 000 DM) tort for libel and hooliganism.

During 1998 a number of journalists were sentenced for insult and libel, but they received either suspended sentences or fines. Diana Rainova from the Dobrich paper *Nova Dobroudjanska Tribuna* received a three-month suspended prison sentence for libeling the chief of the Regional Directorate of Internal Affairs in Dobrich.

In spring 1998 the Supreme Court of Cassation found Mitko Shtirkov, journalist from the *24 Chasa* daily, not guilty of libeling the Devin regional prosecutor Zhivko Chepishhev. In early 1996 Shtirkov had written an article alleging that Chepishhev had become prosecutor after being dismissed from the police force for taking bribes. Earlier on in the year, the second-instance Smolyan District Court had confirmed Shtirkov's fourth-month suspended sentence passed by the regional court.

Similarly, in March the same year, the Supreme Court of Cassation found the journalist from the *168 Chasa* weekly not guilty on libel charges brought in against her by the City Prosecutor Nestor Nestorov. In 1994 the District Investigation Office brought in charges against Zoya Dimitrova for her publication "The Godfather". In 1996 the Sofia Regional Court found the defendant guilty of publicizing "through a printed medium ... humiliating information about Nestor Nestorov - City Prosecutor in his capacity of public official". The second-instance Sofia City Court revoked the sentence, but the City Prosecutor appealed. Finally, the Supreme Court of Cassation turned down the prosecutor's motion.

The cases against the journalist Yovka Atanassova from the *Starozagorski Novini* paper are a cause for serious concern. During 1998 Atanassova, owner and editor-in-chief of the newspaper, received a total of 4 suspended prison sentences. She is now facing 14 libel suits, which were filed against her for referring to well-known lawyers, chiefs of police and former prosecutors in Stara Zagora in her articles.

In January 1999, the Vratsa Regional Court sentenced the journalist Vesselin Angelov from the *Chance Express* newspaper to one-year imprisonment suspended and a fine of 10 million leva (app. 10 000 DM). The case was brought in by the manager of a local company because Angelov had published a letter from three employees of the said company alleging their boss in immoral activities. The letter was not signed because of fear of dismissals, which was expressly stated in the publication.

#### **4. Mechanism of confiscation of printed materials and the role of the judiciary in it**

The state interference in the press is most marked in the restrictions of Art. 39, para. 2, as well as in the special measures - conjuration and confiscation - under the conditions of Art. 40, para. 2. Art. 40, para. 2 of the Constitution clearly states that the procedure for injunction on or a confiscation of printed matter or another information medium "shall be allowed only through an act of the judicial authorities in the case of an encroachment on public decency or incitement of a forcible change of the constitutionally established order, the perpetration of a crime, or the incitement of violence against anyone". The injunction suspension loses its force if not followed by a confiscation within 24 hours.

At the beginning of June 1996, upon the request of the President of the Republic, the Constitutional Court adopted a decision, which offered a binding interpretation with respect to the provisions that guarantee freedom of expression and the right to information. The Court ruled that the ban on publishing and broadcasting, as well as the confiscation of printed matter "shall be allowed only through an act of the judicial authorities." Confiscation of printed materials is possible in the context of criminal prosecution by a warrant of the prosecutor and by a warrant of the prosecutor to stop or prevent non-criminal offenses within their general powers of "review of legality" given by the Constitution and the Judiciary Act.

The groups which are most frequently affected by the practice of illegal confiscation of printed materials are unpopular ethnic and religious minorities. Especially with regard to Jehovah's Witnesses, such acts of confiscation of religious literature by the police have become a routine. As an example, in June 1996, in the town of Assenovgrad, policemen broke up a peaceful assembly and confiscated 46 books, as well as booklets and cassettes with religious content, from Jehovah's Witnesses. In September the same year, in the town of Dimitrovgrad, the police searched the house of H.H. and seized 130 journals and books professing the



doctrines of Jehovah's Witnesses. With a prosecutor's warrant, on 19 February 1998, the police in Burgas raided four flats inhabited by members of Jehovah's Witnesses. In one of them it confiscated over 70 books, pamphlets and promotional leaflets. Later on during the year, Varna Customs employees confiscated nine issues of the *Watchtower* magazine and other materials of Jehovah's Witnesses due to their "religious sectarian content".

Other victims of such confiscation have been members of the Unification Church, Muslims and some other smaller religious communities.

Ethnic minorities have also been victims of illegal confiscation of literature. In January 1997 police officers confiscated near Smolyan several copies of Petro Teoharidi's "Pomak Encyclopaedia" published in Greece which promotes the idea of the specific ethnic and linguistic identity of the Pomaks. Bulgarian citizens with a Macedonian self-identification have also been victims of arbitrary confiscations. In August 1997 customs officers at Stanke Lissichkovo border checkpoint confiscated 31 books from Georgi Hristov who was returning from a congress in Ohrid. The reasons state that the books were not declared upon entry and that they are "of pro-Macedonian nationalistic content". In early September the same year two policemen from Blagoevgrad searched a printing house in the town and seized negatives of the *Narodna Volya* paper, which is published in Macedonian and Bulgarian. In early October the printing house was searched again and two materials were confiscated.

## **F. Role of Journalists**

### **1. Professional Codes (Rules) of Conduct for Journalists or Publishers**

There are two trade-union professional journalists' organizations - Union of Bulgarian Journalists and "Podkrepa" Union of Bulgarian Journalists. They have not been active, however, in defense of journalists' rights (in the case of dismissals, lobbying for decriminalization of the Penal Code defamation provisions, etc.) and do not enjoy the wide support of the journalists. In this respect, civil journalistic associations have been much more active (see I below).

Below are the Rules of Journalistic Ethics of the Union of Bulgarian Journalists.

#### **RULES OF JOURNALISTIC ETHICS**

*Adopted by the Tenth Congress of the Union of Bulgarian Journalists on 6 March 1994.*

The indestructible right for information, freedom of expression and criticism, the indestructible right of man to be informed about facts and opinions constitute the bases of the rights and duties of journalists.

As the journalist takes on the great civic responsibility of his/her profession, he/she defends freedom of expression, maintains true independence of his/ her political views, beliefs and biases. The journalist bears the entire responsibility for his/ her works - signed or not, published or broadcast. In his/her work the journalist observes the norms of journalistic ethics, limited by the following rules:

1. The journalist does not let his/ her works to contribute to conflicts due to racial, ethnic, religious, or class differences; does not use words violating the human dignity; does not oppose to, but helps, people who feel they have been treated unfairly by his/ her work and news organization to answer and show their side of the story on the same page or in the same news program; does not allow his/ her work to appear distorted; does not permit comments to slant the truth; does not present only part of the facts, which are known to achieve one-sided coverage of an event or a process.
2. The journalist does not abuse freedom of expression and the opportunities provided by the profession for his/ her own profit, for maintaining personal relationships and satisfying personal ambitions, for profiting in any way of him/ herself or other people and organizations; does not use his/ her name and the profession for advertising and commercial purposes.
3. The journalist does not use dishonest means for gathering information; does not violate the right of privacy; except in cases when this would benefit society in an extraordinary way; does not plagiarize,

always cites the author of used or mimeographed work; does not act to harm his/her sources; does not take advantage of the honesty and suffering of people covered by his/ her stories; does not reveal the identity of criminals under age or victims of crime.

4.The journalist does not accept tasks incompatible with his/her professional dignity, does not hamper his/ her colleagues from gathering of information; does not offer his/ her service to news sources for unsatisfactory conditions in order to prevent a colleague from gathering information.

5.The journalist does not put him/ herself in service of intelligence services.

## 2. Cases of journalists practicing self-censorship

In 1995 the Bulgarian Helsinki Committee conducted a special survey on the problem of the control over the content of the information in the national electronic media (Bulgarian National Radio and Bulgarian National Television) which comprised a questionnaire distributed to a large number of journalists. The majority of journalists speak of control in the context of restrictions in the choice of topics and guests, and also of direct interference on the content of the information - substitution of important news with unimportant, omitting or "editing" of important news, even censorship through financial sanctions. Even the few journalists who do not feel censored, share the view of those who consider themselves censored that there is a decrease in their creative freedom. For the interviewed journalists, censorship is above all fear, self-restriction of the expression, but also supervision of topics and guest participants, dictate over the informational content.

In late 1995 a group of 34 journalists and broadcasters from the most popular national radio channel signed a declaration against the "permanent direct administrative interference in the preparation and broadcasting of the programmes" and against the control exercised by the administration "before the broadcasting of recorded materials" and against the "intolerable manipulation of the content," as well as against the censorship imposed through subsequent "financial sanctions against journalists and broadcasters, unconvincingly presented as violations of the technological discipline." The declaration also pointed out the consequences of that control: lack of balance in the presentation of the political parties, information blackout on some events, highlighting events of minor importance at the expense of major events, etc. Another twenty radio journalists and broadcasters subsequently signed the declaration. The Director General of the Bulgarian National Radio rejected the accusations as being unfounded and immediately fired the Deputy-Director General of the Bulgarian Radio for having organized the protest of the journalists, and another seven of those who had signed the declaration for "destabilizing the political situation in the country." The dismissals provoked a wave of civil and political protests against the curbing of the freedom of speech.

According to the results of a survey carried out by the ACCESS Foundation and the Centre for Independent Journalism, independent media monitoring groups, carried out in 1998-1999, although there is no official censorship in the national electronic media, their political dependence leads to a high degree of journalistic self-censorship. According to the survey results, critical materials against the state authorities in the print media range between 30 and 60 percent, while the ones in the state electronic media is a little over 1 percent.

## 3. Cases of violence against or harassment of journalists

Attacks against journalists during the last years have taken two main directions: physical violence and harassment in the form of unlawful dismissals and criminal proceedings in defamation suits (for more information, see above).

Physical attacks on journalists are most frequently carried out against investigative crime reporters. Below are some of the most publicized cases:

- September 1995: Ivan Harizanov, editor-in-chief of the *Rusenski Standard* paper was assaulted in his office by a businessman furious that Harizanov was publishing articles about him. The assailant was brought to court in 1998 and sentenced to nine months in prison suspended.
- October 1995: Svetlana Batalova, journalist from *24 Chasa* in the town of Dupnitsa, was brutally beaten in her home by five men who broke into her home. The assailants threatened to break the

“hand that writes”. The investigation established the perpetrators, but five years later they were still not sentenced.

- September 1996: The editor-in-chief of the *Slanchev Bryag* daily, Maksim Momchilov was beaten by an unidentified assailant. Momchilov claims that the attacker was sent by a private company whose economic offenses the newspaper had exposed. Momchilov had allegedly received threats by the company’s president prior to the attack.
- April 1997: A photoreporter of the *Standard* daily taking photographs of a crime scene was beaten by police officers. The police also tried to break the camera of the reporter and took his film.
- March 1997: Evgenii Stavrev, a sports journalist from Alfa Radio was beaten by unidentified assailants in Varna. The motives for the attack remained unknown. Stavrev was traveling along the highway when his car was stopped by the attackers who beat him heavily with truncheons for 10 minutes.
- March 1997: Rossen Ginev, a television journalist from the private channel “Varna”, was beaten by two unidentified assailants.
- April 1997: Vladimir Savov, publisher of the Vidin newspaper *Nie*, was attacked by unknown assailants in front of his home and beaten with a truncheon, pushed to the ground and kicked. In the newspaper’s last issue Savov had published information about the owner of a local restaurant and the police suspected him as the person behind the attack.
- June 1997: The offices of the private *Delnik* newspaper in Yambol were broken into. The journalists from the daily were the first to start the hunger strike in support of the editor of the *Trud* daily, Anna Zarkova, in connection with the attack of a prosecutor against her. The office was again attacked a month later by unidentified assailants. The strikers stated that the pogrom was carried out three days after they sent a protest declaration to the chief prosecutor in which they insisted he apologize for his public statements.
- January 1998: A hand-made bomb exploded outside the offices of the *Trud* daily. The device smashed nearby windows, but nobody was injured. Many of the staff had reportedly previously received phone threats. The newspaper has a reputation for investigative reporting on crime and recent articles on organised crime may have provoked the attack.
- May 1998: Anna Zarkova, author of a book examining high-profile murders in Bulgaria over the past several years, top crime reporter and chief editor of the crime section of the *Trud* daily suffered severe burns and the loss of sight in her left eye after having sulfuric acid hurled in her face at a bus stop. The attack came in retaliation for her reporting, which has covered topics such as corrupt prosecutors and government officials, police violence, and arms smuggling. Although her assailant has confessed, police have not identified those behind the attack. Reportedly, Zarkova and her family and colleagues had been threatened repeatedly. A *Trud* deputy editor stated that nearly a year ago, Zarkova had received several anonymous death threats by telephone at her office after publishing an expose about a former deputy chief prosecutor.
- July 1998: Kaloyan Tzachev, a journalist from the *Orient Express* newspaper was heavily beaten in his flat by unknown assailants. The journalist had written articles revealing how local Mafiosi were using “special treatment” while buying vegetables from local farmers. Tzachev had received phone threats after the publication of the articles.
- November 1998: The Vidin correspondent of Free Europe Radio, Rumen Lozanov, was attacked by three men in front of his home. For several weeks prior to the attack, the journalist had been allegedly receiving phone threats that his spine would be broken. The threats reportedly started after the publication of a series of materials on corrupt practices in a local chemical enterprise. Lozanov has filed a complaint with the District Police Headquarters - Vidin.

- January 1999 - A bomb exploded in the offices of the Sliven newspaper *Sedmitsa*. The publication's editor-in-chief claimed that the attack was carried out in retaliation for publications against the local prosecutor's office and a security company.
- January 1999 - The editor-in-chief of a local publication, *Zlatogradski Vestnik*, Efim Eshev, was attacked and beaten in the office. The perpetrator threatened Eshev with murder. He was enraged by a publication, which cited his deceased father in which the journalist commented the efforts of municipal counselors to join the two neighboring municipalities into one.
- January 1999 - Georgi Spirov, a journalist from the *Pleven za Pleven* weekly, was brutally beaten by two unidentified men. Spirov's colleagues alleged that the beating came in retaliation of a publication about the candidate for district governor of the Union of Democratic Forces a week earlier.
- June 1999 - Alexei Lazarov, journalist from *Kapital* weekly, was brutally attacked in front of his home by three men who stabbed him five times and broke his leg. Police sources revealed that the attack was carried out in a professional manner reminiscent of the punitive Mafia beatings in the past. The investigation into the attack has been terminated.

Another way of harassment has been the banning of programmes. In January 1998, in an unprecedented decision the National Council for Radio and Television took off the air of the national television "Hushove", a popular satirical programme that ran sketches parodying key cabinet members. The removal was motivated with unclear reasons concerning "irregularities in its sponsorship contract". The decision was made in the wake of heated media debate as to whether the programme undermined state authority. Later, after switching to several private television channels, the show's authors continued to be pressured, clearly by pro-government circles. In April the director of the Drama Theater in Pleven refused to provide a hall for their show, despite having promised to do so earlier. According to the town's mayor, the Ministry of Culture prohibited her from doing so. At the end of July, the economic police in Burgas checked the cable operators who screened "Hushove". They were forbidden to screen a number of foreign TV programs because they did not have a license. In contrast, other local cable operators who did not have a license either, but were not screening "Hushove", were not checked.

There have been numerous cases of harassment of journalists in the form of dismissals especially in the period 1996-1999. In 1998 a number of journalists were dismissed or removed from the air for criticising the government. Diana Yankulova, reporter from the national radio was removed from the air at the decision of the radio Management Board for reporting rumors of an anonymous compromising material about the Interior Minister. Svetoslava Tadarakova from the national television was dismissed by the Director General because her statements in the media were allegedly "tarnishing the reputation of Bulgarian national television". One of the most scandalous cases of administrative arbitrariness by the radio leadership was the dismissal of three journalists in October 1998. Under the pretext of "violating the technological discipline", the popular journalist Viza Nedyalkova, who did not hide her partiality for the parliamentary opposition of the ruling majority, was dismissed from the national radio together with Antoaneta Nenkova and Emil Ivanov. The dismissal orders were based on Article 7 of the Internal Rules of Bulgarian National Radio, which states that journalists are obliged to "assist in furthering and propagating the national and international cultural values, the achievements of science and technology, and to exclude materials that impair the national and spiritual values of the Bulgarian nation, of national science, education, culture". The vagueness of this text came under severe criticism from the international freedom of speech organization Article 19 which declared that such all-inclusive texts can become a basis for censorship as they provide possibilities for arbitrary and biased decisions. The dismissed immediately brought their case before the National Council for Radio and Television claiming politically motivated dismissals. Although the NCRT said that the radio management had acted unlawfully by citing internal rules and not the law in the dismissal orders, it concluded that the issue was a "labor dispute in the competence of the courts". A month later, in November 1998, a presenter of a private TV channel, Nova Televiziya, was dismissed by the owner of the channel after a complaint was received from the head of the Sofia Customs Office. The Nova Televiziya information service later disclosed that the presenter was dismissed for having asked "provocational questions" at a press conference.

Most recently, on 26 October 1999 the journalist Antoaneta Marcheva from the Targovishte Radio was dismissed on disciplinary basis for a statement against an MP from the ruling Union of Democratic Forces. The dismissal order stated that Marcheva was behaving "in an arrogant manner" with which she was disgracing the prestige and the good name of the radio.

#### **4. Harassment of media outlets**

See above for information on the banning of the "Hushove" programme.

#### **G. Hate Speech**

Hate speech in Bulgaria is most widespread in the media, although high-ranking public officials have also been known to make such statements. Hate speech in the press is addressed most frequently against members of the Roma community, the ethnic Turks and the non-traditional religions, usually labeled as "sects". Such publications exploit and multiply the negative attitudes and bias in the everyday consciousness towards ethnic and religious minorities, generating in this way ethnic hatred and religious intolerance to the adherents of non-traditional denominations.

##### *The Roma Community*

A customary practice for many Bulgarian journalists is to multiply only the stable and entirely negative collective image of the Roma people as "lazy and irresponsible, inclined to crime, unreliable and untrustworthy, who all look alike and should live isolated from us." The ethnic belonging of the perpetrators of the crime is pointed out repeatedly when they belong to the Roma community, but is always concealed when the Roma people are the victims (especially of police brutality). Many publications exploit the suggestion "Criminal Gypsy" v. "Helpless Bulgarian".

A recent example in this regard dates from October 1999 when the *Noshen Trud* daily published an interview with Boris Dimovski, a prominent Bulgarian artist, where in response to the question "What do you find most worrying in this country?" he states "I am a tolerant man, but I think that the Gypsies should be locked in ghettos. They only bring trouble! The Gypsies are the curse for Bulgaria, not the Turks...There's too many of them..." (*Noshen Trud*, 25 October 1999).

##### *Ethnic Turks, Bulgarian Mohammedans*

Hate speech in Bulgarian mainstream press against ethnic Turks was most abundant in 1995 during the municipal elections, involving the participation of the Movement for Rights and Freedoms - the party of the majority of Bulgarian Mohammedans. In this period, the media circulated several "sensations" related to violations of the human rights of ethnic Bulgarians living in mixed population areas. The MRF is routinely presented before the mass reading public as a direct conductor of the interests of a foreign country in Bulgaria and as a real threat to the country's national security. Bulgarian press regularly publishes series of articles reporting about teachers of the Koran, illegally residing in the country with the help and support of the MRF, attempting to alter the ethnic self-identification of the Bulgarian Muslims from the regions bordering on Turkey.

##### *Religious Minorities*

Bulgarian media describe the nontraditional religious denominations as a "threat to the future generations of young Bulgarians" and a serious danger for Bulgarian national culture and traditional values. The media attack against the so called "sects" was most abundant in the period 1994-1996. The most fierce criticisms leveled against religious minorities were against the followers of the Word of Life, Jehovah's Witnesses, the Unification Church and the Society of Krishna Consciousness. The most frequent accusations to these denominations is kidnapping, drug abuse, encouragement of suicide, brainwashing.

##### *Foreigners*

Similar is the attitude to foreigners (predominantly from third world countries) residing in Bulgaria. A major

reason for this attitude on the part of some journalists to these groups of people can be cited to be the insufficient knowledge about the culture, way of life and specific problems of these communities. The lack of sufficient information in this respect allows the circulation of unreliable and exaggerated information, the distortion of facts and the manipulation of public opinion as a whole.

In a widely publicized case, in September 1997 two Liberian nationals were detained by the police on accusations of the attempted kidnapping of a baby boy with which they were playing while waiting at a bus stop. The media attack against the two was fierce and abundant in insulting qualifications and went so far as to accuse them of cannibalism. The mainstream *Trud* daily and a private television channel, Nova Televiziya, further fanned up negative attitudes by claiming that recognized refugees in Bulgaria receive an aid of 2 000 dollars per month (which at the time was 20 average monthly salaries).

The ethnic and religious minorities in Bulgaria, as well as the foreigners, do not have direct access to the national media - radio and TV - or to the pages of the major daily papers. Their specific social problems very rarely attract public attention and they are practically isolated from the general processes of a democratic transformation of the entire society. In practice, these groups proved to be deprived of the possibility to participate on an equitable basis in the social dialogue. The total lack of "adequate coverage" of these communities in the media space gradually created conditions for a multiplication of the prejudices against them, transforming them into the ideal journalistic "target" and into a constant object of "hate speech". Drawing attention to this alarming tendency in the Bulgarian media, the Dean of the Department of Journalism at the St. Kliment Ohridski University of Sofia defined it as a "communication segregation" which transforms the small ethnic groups into "new internal emigrants".

During a monitoring of the state electronic media conducted during late 1998 and the beginning of 1999 by several media monitoring NGOs, the organizations drew attention to the increasing violations of the ethnic principles in the national media. According to their data, this was most widespread in the Channel 1 news, where the sexual orientation or racial belonging of criminal offenders was routinely mentioned.

## **H. Access to Information**

### **1. Provisions regulating access to information**

Access to information is regulated with Art. 41, para. 2 of the Bulgarian Constitution that guarantees access to information from all state institutions:<sup>3</sup>

Citizens shall be entitled to obtain information from state bodies and agencies on any matter of legitimate interest to them which is not a state or official secret and does not affect the rights of others.

---

<sup>3</sup> In June 2000, the Bulgarian Parliament has adopted an Access to Public Information Act. The act regulates the right of citizens and legal entities to gain access to information from state and local government bodies, including information of public interest. In case of refusal, citizens and legal entities are entitled to turn to the courts, which may rule information to be provided if the relevant authorities have failed to make it accessible in conformity with the law. However, the act contains some ambiguities and contradictions, which make for arbitrary interpretation of what information is made accessible and what not. It gives the authorities, which are requested to give information, a wide discretion in judging what information to make accessible on the basis of the ambiguous texts. In addition, besides state and local government bodies, the act also obliges the mass media to provide information, something that could be abused for political purposes. The attempts of a number of organisations and individuals to seek information during the year met with the resistance or disregard of their applications for information by many state bodies, including the Directorate of Religious Affairs, the Ministry of Education, the Ministry of Justice and the Chief Prosecutor's Office (see *Human Rights in Bulgaria in 2000, Annual Report of the Bulgarian Helsinki Committee*, available at <http://www.bghelsinki.org>).

This right encompasses the entire information in possession of all state bodies with the exception of the information specifically determined by the Constitution as restricted.

The Constitution gives the right to access to information to “citizens”. This term is frequently used in it as synonymous with “everyone”, and not only “Bulgarian citizens”. Irrespective of the interpretation of the meaning of “citizen” in the Constitution, Art. 70, para. 2 of the Law on Bulgarian Identification Documents gives the right to access to information from the state information funds also to foreigners.

Based on the provisions of Art. 41, para. 2 of the Bulgarian Constitution, the Constitutional Court Ruling No. 7/1996 recommended the creation of a law on access to information. However, at present there is still no special law that requires the state institutions to provide information to citizens or organizations upon request and to establish an infrastructure for this.

Some other laws, in addition to the Constitution, contain provisions that regulate the right to access to information as a “special right”, i.e. by giving information in a specific field. Such is the provision of Art. 9 of the Law on the Protection of the Environment - “Every individual, state and municipal authority shall have the right to access to available information on the state of the environment”. The Law on Bulgarian Identification Documents contains provisions regulating access to information databases with personal information. The procedural basis for the protection of this right is given by the Act on Administrative Procedure. The State Administration Act regulates the right of citizens to information that is in the administration of the state authorities:

Art. 2 (3) In the carrying out of its activities, the administration shall provide information to citizens, juridical persons and the state authorities in a procedure settled by law.

(4) The administration shall respond to citizens’ and legal entities’ questions, requests, complaints, proposals and alarms concerning questions of legitimate interest on a procedure settled by law.

The Constitution sets down limitations to the right of access to information in the cases when the information concerns the rights of third parties or falls within the category of state or another secret protected by law. The three categories that comprise a state secret are national security, domestic security and state economy. A list of the facts and information that constitute a state secret was adopted by the National Assembly (promulgated *State Gazette*, 31/1991, last amendment issue no. 99/1992).

## **2. Procedure for allowing access to governmental or other official information**

Of all the laws which contain provisions regulating the right to access to information, only the Law on the State of the Environment sets a procedure for the receiving of information. Art. 11, para. 1 of the law states that the information is collected by specialized bodies at the ministries of the environment, health, land and the National Statistical Institute. Paragraph 3 provides that these bodies “shall provide and publicize the information through the mass media or in another way in a form accessible to the public.”

## **3. Access of public officials and ordinary citizens to files produced by communist secret services**

The Act for Access to the Documents of the Former State Security adopted in July 1997 provides a mechanism for access to the archives of the former State Security. Thus, Art.7, para. 1 states that:

Every Bulgarian citizen can request with a written application to the Minister of the Interior a check to be carried out if the former State Security had collected information about them.

If the check proves that the former State Security had collected information, the law goes on to establish a procedure which includes handing in an application to the Minister of the Interior to authorize the access (Art. 8, para. 1) and the ministry informs the applicant about the date and place when the access of the information will be given.

#### **4. Recent cases (since 1995) which concerned access to information was concerned**

In January 1998 the speaker of Parliament, Yordan Sokolov, announced that he was terminating the credentials of the journalists from *168 Chasa* for “tarnishing the prestige of the institution with their publications”. 32 MPs from the different opposition parties signed a petition against this decision. The Chair of the ruling Union of Democratic Forces qualified the act, somewhat reluctantly, as an “emotional outburst”. After the strong public, parliamentary and media outcry, the ban was not enforced.

The Access to Information Programme, an independent NGO, has registered 471 cases of refusals to access to information in the period 1 January 1997 - 30 September 1999. The refusals are from state authorities and do not concern state, state-office or commercial secret. Out of the total number of refusals, 251 cases came from the central authorities, 71 - from the local authorities, and the remaining 149 cases - from other various bodies. The largest number of refusals come from different ministries (102), the police (64), the courts (23), the prosecution and investigation authorities (25). According to the results of the survey carried out by the Access to Information Programme, the problems with access to information are greater in the areas outside the capital.

#### **5. Data protection**

A law on protection of personal information is part of the legislative agenda of the government for December 1999. No draft, however, is yet available. The Penal Code contains a very broad provision in Article 284 which to a certain extent protects the disclosure of personal information. This provision, however, treats disclosing of personal information which has become known in the line of work and penalizes the disclosure with up to two years imprisonment or corrective labour.

### **I. Law-Making Process**

1. Plans to amend the existing legislation or regulations with regard to freedom of expression and access to information

The government’s legislative agenda, adopted in September 1998, foresees the drafting of three separate acts to cover publicly held information:

- Access to Public Information Act,
- Personal Data Protection Act, and
- Protected Information Act (covering state secret and official secrecy).

Of the three acts, only the Access to Public Information Act has been prepared and was passed on first hearing by parliament in September 1999. During the parliamentary debates, the opposition stated that the ruling party had made an act more convenient to the state administration than to anybody else. After protests from the opposition and NGOs, however, the draft was temporarily stopped from discussion and is at present in the parliamentary legal commission.

The proposed Access to Public Information Act - prepared by the Ministry of State Administration - came under severe criticism both from domestic and international organizations, because it does not give adequate guarantees to individuals to seek and obtain information from the state administration. The draft regulates “the social relations connected with access to public information” (Art. 1). This wording was criticized by Article 19 for being imprecise and not containing a clear, explicit right of access. Furthermore, the draft introduces the term “public information” and defines it in Art. 2 as “information of public significance ... which gives citizens the right to form an opinion of their own on the activities carried out by the subjects under this act.” This wording imposes an unclear purpose that information should be of public significance in order to be accessed, thus putting individuals in a position to prove their interest in the information.



Art. 3, para. 3 of the draft does not state clearly who is obliged to disclose information by giving the possibility for a broad interpretation of individuals and legal entities: “This act shall be applied also to access to other public information connected with public services, performed by individuals and legal entities.” Para. 4 of the draft explicitly introduces the mass media as a subject to access to information: “This act shall also be applied to access to public information ensuring the transparency of the mass media.”

Some provisions of the draft give the right to access to publicly held information only to “citizens.” Foreign citizens and those without citizenship are explicitly allowed access to information under some provisions, but the draft is unclear whether this right applies also to other provisions which refer to the rights of “citizens.”

The right to access to information is constitutionally guaranteed in Art. 41, para. 2 inasmuch as it does not violate national security, state sovereignty, and the health, morals and interests of third parties. However, the limitations which the draft places on access to information are very broad and unclearly formulated. A specific problem is that the act does not take precedence over all other legislation in the field. For instance, one provision states that no restrictions are valid unless the information is a state or state-office secret, but then allows other laws to introduce different, potentially more restrictive procedures (Art. 7, para. 1). Art. 7, para. 2 provides that “Access to public information shall be full or partial,” but does not specify anywhere in the draft what partial disclosure is. Other provisions in the draft provide numerous exceptions to disclosure, beyond the state or state-office secret.

The procedure for obtaining information provides that authorities should respond within 14 days from the registration of the request (Art. 29). However, the following articles provide that failure to clarify an unclear request within 30 days invalidates the request for information. Article 19 criticized this provision as not serving any useful purpose.

Many other provisions were also criticized by domestic and international NGOs, e.g. the absence of provisions regulating the establishment of administrative departments responsible for giving this service, the contradictory regime of the cost of obtaining information - Art. 20, para. 1 states that “Access to information shall be free”, but para. 2 goes on to describe the manner of calculation of the costs of disclosure of information, the provision that appeals are lodged directly to the courts, with no possibility for an internal appeal to a designated higher authority within the public body.

Of the domestic organizations, the Access to Information Programme has been active in the sphere of lobbying for an adequate Access to Information Act. AIP prepared a concept paper on access to public information, and specific proposals for amendments to the draft Access to Information Act.

### **Bibliography**

- Access to Information Programme, *Access to Information and Public Participation* (in Bulgarian), Sofia: 1999  
 Access to Information Programme, *Concept Paper for a Draft on Access to Information*, Sofia: 1999  
 Article 19, *Memorandum on the Bulgarian Draft Law on Access to Public Information*, London: July 1999  
 Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1995*, Sofia: 1996 (written by Emil Cohen, Tanya Marincheshka, Yonko Grozev, Yuliana Metodieva; reviewed by Krassimir Kanev)  
 Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1996*, Sofia: 1997 (written by Emil Cohen, Krassimir Kanev, Tanya Marincheshka)  
 Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1997*, Sofia: 1998 (written by Emil Cohen, Krassimir Kanev, Tanya Marincheshka, Yuliana Metodieva and Stanimir Petrov)  
 Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 1998*, Sofia: 1999 (written by Emil Cohen, Krassimir Kanev, Stanimir Petrov and Tanya Marincheshka)  
 Mariana Lenkova, ed., *'Hate Speech' in the Balkans*, Athens: 1998