

## **BULGARIA REVIEW**

---

### **I. Justice System**

#### **B. Quality of justice**

Accessibility of courts (e.g. court/legal fees, legal aid, language)

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination found that Bulgaria has to ensure that immigration detention is applied only as a measure of last resort and for the shortest possible period, after an assessment of its legality, necessity and proportionality on a case-by-case basis, and that those detained in reception centers are provided with legal safeguards and have access to legal counsel, as well as interpretation services, particularly in police detention facilities ([CERD/C/BGR/CO/23-25](#), para. 29 (f)).

Resources of the judiciary (human/financial/material) (Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended the following to Bulgaria: (b) Intensify efforts to address the shortcomings in dealing with complaints of racial discrimination, including by ensuring that prompt, thorough and impartial investigations are carried out into all racist incidents and those responsible are prosecuted and punished with adequate penalties, and provide fair and adequate reparation to victims; (c) Carry out public awareness campaigns, in particular among Roma and non-citizens, on the rights under the Convention, on remedies available and on how to file complaints about acts of racial discrimination; (d) Intensify its efforts to ensure access to justice for Roma and non-citizens and guarantee their right to due process and an adequate defence, including by ensuring access to qualified lawyers with knowledge of their languages and interpreters to enable them to understand judicial proceedings ([CERD/C/BGR/CO/23-25](#), para. 7).

*Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)*

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination expressed concern about reports indicating persistent shortcomings in the administration and functioning of the criminal justice system in dealing with cases of racial discrimination, including insufficient investigations and prosecutions by law enforcement bodies and the judiciary, and the lack of public awareness of the rights and remedies available. The Committee is further concerned about reports of discriminatory practices in the criminal justice system, which significantly hamper access to justice by Roma and noncitizens and result in violations of

their right to due process and an adequate defense. Amend the Penal Code to ensure that offences and crimes motivated by racism and xenophobia are separate and distinct from the offence of hooliganism and provide for adequate and appropriate penalties ([CERD/C/BGR/CO/23-25](#), para. 6 and 7).

Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

In its 2023 concluding observations for Bulgaria, the Committee on the Elimination of Racial Discrimination expressed deep concern about the reported persistence of deaths in custody, acts of torture, ill-treatment, abuse of authority, racial profiling and excessive use of force by law enforcement officials during detention and inside police stations against individuals and groups, including ethnic minorities and migrants, in particular Roma. The Committee is also concerned about the lack of a clear prohibition of racial profiling in the legislative framework on law enforcement; and about the lack of information provided on the complaints relating to racial profiling and racially motivated police violence. Moreover, it is concerned about reports of inadequate investigations into those cases and that impunity for abuse by law enforcement officials continues to be widespread (art. 4). Recalling its general recommendations No. 13 (1993) on the training of law enforcement officials in the protection of human rights and No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, the Committee recommends that the State party:

- (a) Adopt and effectively implement laws that define and prohibit racial profiling and racially motivated police violence, and adopt policies to counter racial profiling, including by providing intensive training on human rights to law enforcement officials in order to guarantee that, in the course of their duties, they respect and protect the fundamental rights of all persons without discrimination on the grounds of race, colour or ethnic or national origin;
- (b) Ensure that all allegations of excessive use of force by law enforcement officials are promptly and effectively investigated, that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions;
- (c) Ensure that victims of racial profiling by law enforcement officials have access to effective remedies and adequate compensation, and are protected against reprisals for reporting such cases;
- (d) Establish comprehensive data-collection mechanisms to monitor all incidents of racial profiling and report on their outcome ([CERD/C/BGR/CO/23-25](#), paras 14, 15).

### **C. Efficiency of the justice system**

Other

**Statistics:** In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended Bulgaria to collect and publish statistics on the ethnic composition of the prison populations (CERD/C/BGR/CO/23-25, para. 5).

**Implementation of anti-discrimination provisions:** While noting the amendments to the Penal Code in 2023, as well as the amendments to the Code of Criminal Procedure in 2023, aimed at improving the criminal law provisions on hate speech and hate crime, the Committee on the Elimination of Racial Discrimination expressed concern that the Penal Code does not distinguish between crimes motivated by hooliganism and those motivated by racism or xenophobia, and that penalties are not commensurate with the gravity of the offences ([CERD/C/BGR/CO/23-25](#), paras. 6).

### **C. Framework for journalists' protection, transparency and access to documents**

*Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)*

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended that Bulgaria's reports should be made readily available and accessible to the public at the time of their submission and the concluding observations of the Committee with respect to those reports be similarly publicized on the website of the Ministry of Foreign Affairs, in the official and other commonly used languages, as appropriate ([CERD/C/BGR/CO/23-25](#), para. 34).

## **IV. Other institutional issues related to checks and balances**

### **B. Independent authorities**

*Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions*

In its 2023 concluding observations for Bulgaria, the Committee on the Elimination of Racial Discrimination welcomed the reaccreditation of the Ombudsman with category A status by the Global Alliance of National Human Rights Institutions. It also noted the increase in the number of complaints received by the Ombudsman between 2017 and 2019. However, the Committee raised concern about the low number of complaints in relation to racial or ethnic discrimination, which might indicate a lack of awareness of the mandate of the Ombudsman. While noting that the Commission for Protection against Discrimination is a quasi-judicial body in the State party, the Committee was concerned about its limited independence and the lack of clear and explicit functional immunity for its members.

Moreover, the Committee recommended that Bulgaria take effective measures to raise awareness about the mandate, competences and work carried out by the Ombudsman, including the possibility of receiving complaints about racial and ethnic discrimination, and provide the Ombudsman with the necessary resources to discharge its role efficiently. The Committee also recommended that Bulgaria strengthen the independence of the Commission

for Protection against Discrimination, including by guaranteeing in law and in practice the functional immunity of its members ([CERD/C/BGR/CO/23-25](#), paras 10, 11).

*Follow-up by the public administration and State institutions to final (national/supranational, including the European Court of Human Rights) court decisions, as well as available remedies in case of non implementation*

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended that Bulgaria intensify its efforts to give full effect to the judgments of the European Court of Human Rights in *Budinova and Chaprazov v. Bulgaria* and *Behar and Gutman v. Bulgaria*, concerning hate speech against Roma and Jews by one of the leaders of the United Patriots coalition ([CERD/C/BGR/CO/23-25](#), para. 13).

#### **D. The enabling framework for civil society**

*Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)*

In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination recommended Bulgaria to produce statistics, disaggregated by sex and age, on the socioeconomic situation of ethnic groups and foreign nationals, including migrants, refugees, asylum-seekers and stateless persons [...] on their participation in public and political life with a view to creating an empirical basis for assessing the equal enjoyment of the rights enshrined in the Convention ([CERD/C/BGR/CO/23-25](#), para. 5).

Moreover, the Committee on the Elimination of Racial Discrimination recommended that Bulgaria continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations ([CERD/C/BGR/CO/23-25](#), para. 33).

#### **E. Initiatives to foster a rule of law culture**

*Other*

**Racist hate speech and hate crimes:** In its 2023 concluding observations, the Committee on the Elimination of Racial Discrimination welcomed measures implemented by Bulgaria to address racist hate speech and hate crimes, including amendments to the Radio and Television Act. The Committee, however, expressed concern about the persistence of racist hate speech and hate crimes in Bulgaria, including in the media and on the Internet, in particular:

- (a) That sanctions handed down by the Council for Electronic Media in relation to hate speech disseminated through media channels are not commensurate with the gravity of the offences and do not have a deterrent effect, and the lack of information on cases investigated by the Council and the outcome of these investigations;

(b) Racist hate speech by political party representatives and other public figures, particularly during election campaigns, as well as reports of lenient judgments by the courts against politicians and other public figures in cases of incitement to hatred and discrimination against minorities and migrants;

(c) Underreporting of racist hate crimes, the investigations carried out, the prosecution and conviction of perpetrators and penalties imposed on them, and the protection and reparation measures afforded (arts. 2, 4 and 6).

The Committee recommended that Bulgaria:

(a) Adopt effective measures to prevent and combat racist hate speech and incitement to racist violence and intensify its efforts to monitor and address the spread of racist hate speech in the media and on the Internet, in close cooperation with media outlets, Internet service providers, social media platforms and members of groups vulnerable to racist hate speech;

(b) Take all measures necessary to ensure that the Council for Electronic Media can carry out its mandate effectively and independently and ensure that all cases of racist hate speech in the media are investigated and that appropriate penalties are imposed on those responsible;

(c) Firmly condemn any expression of racist hate speech by politicians or public figures, especially during election campaigns, and ensure that such acts are investigated and adequately sanctioned; ([CERD/C/BGR/CO/23-25](#), paras. 12 and 13).