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Report of the Working Group on the Universal Periodic Review

Bulgaria

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*

* The present document was not edited before being sent to the United Nations translation services.

Response of the Government of Bulgaria to recommendations in the report of 12 November 2010 of the Working Group on the Universal Periodic Review (A/HRC/WG.6/9/L.7)¹

The Government of the Republic of Bulgaria welcomes the recommendations made during its Universal Periodic Review on 4 November 2010. After careful evaluation, Bulgaria **accepts** the following recommendations: 4, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 26, 27, 29, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 46, 53, 58, 61, 63, 65, 66, 67, 68, 76, 84, 86, 88, 89, 101, 102, 103, 104, 105, 109, 110, 111, 112, 113.

Bulgaria **accepts** recommendations No. 1, 10, 21, 28, 30, 45, 47, 48, 49, 50, 51, 52, 54, 55, 56, 57, 62, 69, 70, 71, 72, 73, 74, 77, 78, 80, 82, 83, 85, 87, 90, 92, 93, 94, 95, 96, 97, 98, 100, 106, considering them **already implemented or under implementation**.

On the remaining recommendations, Bulgaria wishes to enunciate the following responses:

Recommendation No. 2

Not accepted.

Bulgaria **cannot accept** the recommendation and notes that the Bulgarian legislation already guarantees the majority of rights proclaimed in the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. However, Bulgaria cannot accede to the proposed instrument because it does not draw a distinction between regular and irregular migrant workers. Furthermore, its ratification requires coordination with our EU partners due to the fact that most provisions of the Convention fall within the European Union domain.

Recommendation No. 3

Accepted.

Bulgaria **accepts the recommendation** and would like to recall that by signing the UN Convention on the Rights of People with Disabilities and its Optional Protocol of 2007 and 2008, respectively, the Bulgarian government has demonstrated strong political will to abide by their provisions. At the same time, it recognizes that there are still problems concerning the necessity to elaborate and adopt a long-term strategy, including legislative amendments, aimed at resolving issues related to the effective implementation of the policy of non – discrimination and inclusion; access to justice; employment; education; participation in political and community life; de-institutionalization. Bulgaria is committed to ratifying the abovementioned instruments for the purpose of which an intergovernmental working group has been recently established.

Recommendation No. 5

Bulgaria takes note of the recommendation and would like to clarify that the large scope of ICESCR, notably economic, social and cultural rights, predetermines its relevance to the competences of a variety of institutions such as the Ministry of Labour; the Ministry of Economy, Energy and Tourism; the Ministry of Culture, the Ministry of Education, Youth and Science; the Ministry of Health. Currently, the Ministry of Foreign Affairs is coordinating the positions of these ministries in respect of the eventual accession to the Optional Protocol to the ICESCR; however, this process has not been completed, yet. Nonetheless, Bulgaria considers itself not yet prepared enough to make immediate steps towards accession due to the lack of adequate administrative capacity and resources. Therefore, a working group shall be established to deal with the issue.

Recommendation No. 8**Accepted.**

Bulgaria **would like to underline** that it has already implemented the recommendation. The principle of non-discrimination on the grounds of sexual orientation is explicitly mentioned in Art. 4, paragraph 1 of the Anti-Discrimination Act.

Recommendation No. 9

Bulgaria **takes note of the recommendation.** However, it should be recalled that even though the Penal Code does not contain a provision which qualifies racist motivation as an aggravating circumstance upon commission of all types of offences, the provisions of the General Part of the Penal Code expressly state that in determining the penal sanction, the court takes into consideration, *inter alia*, the motives for the commission of the act (Article 54, para1), including possible racist motives. If it is established by the Court that the motivation for the commission of a particular offence is a racist one, this in all cases is considered as an aggravating circumstance.

Recommendation No. 24**Not accepted.**

Personal data, related to ethnic or religious affiliation, could be collected only on voluntary basis by the National Statistical Institute, the main body responsible for gathering, analyzing and disseminating statistical information in all areas of public life during national census. In its data collection system the NSI strictly follows the requirements for protection of personal data according the Personal Data Protection Act (Article 5 of the Act) as well as the principle of free will, e.g. every person can freely and voluntarily identify his/her ethnic belonging, mother tongue and religion, or, if he/she so chooses - not to identify at all (Article 21 para.2 of the Law on statistics).

Recommendation No. 25**Accepted.**

Bulgaria **accepts** the recommendation within the framework of the available budgetary resources.

Recommendation No. 31

Bulgaria **takes note** of the recommendation and **would like to recall that** it extended a standing invitation to all Special procedures which could avail themselves of this invitation.

Recommendation No. 36**Accepted.**

Bulgaria **accepts** the recommendation **on the understanding that** this is not a serious and widespread problem.

Recommendation No. 59**Not accepted.**

Regretfully, the recommendation **could not be implemented** by Bulgaria for the following legal reasons: initiating of new criminal proceedings is impossible due to the expired statute of limitations.

Recommendation No. 60**Accepted.**

Bulgaria **accepts** the recommendation **on the premise that** this is not a serious and widespread problem.

Recommendation No. 64

Partially not accepted.

Bulgaria **cannot accept** the recommendation in its first part regarding introducing constitutional changes along the lines of the recommendation. We consider that the rights of individuals belonging to minorities are fully guaranteed by the Constitution and the other domestic legislation.

Recommendation No. 75

Accepted.

Bulgaria **accepts** the recommendation within the framework of the available budgetary resources.

Recommendation 79

Bulgaria **takes note of the recommendation** which will be given careful consideration during the elaboration of the new Penal Code.

Recommendation No. 81

Not accepted.

Bulgaria **cannot accept** the recommendation because the Bulgarian government has no right to interfere in the process of appointing religious leaders as it is exclusively a prerogative of the religious denominations. The responsibility for registering religious communities, which wish to obtain a legal personality, is conferred on a judicial body – the Sofia City Court. The State promotes and encourages tolerance and respect among adherents to different faiths, as well as among believers and non-believers. As to restoring the property of the foundations, the Religious Denominations Act allows restitution for such property until the end of 2013 in accordance with administrative or judicial procedures.

As to the alleged “refusal for construction of mosques”, a relevant construction permit has to be issued according to a standard procedure by the Directorate for National Construction Control.

Recommendation No. 91

Bulgaria **takes note of the recommendation** but would like to point out that according to the Bulgarian Ministry of Health, the recommendation is not clear enough.

Recommendation No. 99

Accepted.

Bulgaria **accepts** the recommendation and **would like to underline** that the status of migrants is regulated by the Foreigners Act which stipulates the requirements for obtaining residence permits. According to the said Act and the Constitution (Art. 26, paragraph 2) the legally residing foreigners enjoy all rights, provided by the Constitution, except for those that require Bulgarian citizenship.

Recommendation No. 107

Not accepted.

As a State Party to the Framework Convention for the Protection of National Minorities, Bulgaria strictly implements its provisions vis-à-vis all persons belonging to

minorities. We would like to recall that the Convention relates to the rights of persons belonging to minorities and does not provide for collective rights. In Bulgaria, any party could be registered if it meets the requirements for Court registration.

Recommendation No. 108

Partially accepted.

Bulgaria **accepts** the recommendation on the understanding that as a State Party to the International Covenant on Civil and Political Rights, Bulgaria fully implements all provisions of the Covenant. Likewise, as a State Party to the European Convention of Human Rights, Bulgaria abides by its provisions and strictly implements the decisions of the European Court of Human Rights vis-à-vis Bulgaria. Referring to the European Convention on Human Rights, it should be recalled that there is no provision related to “minority rights”. Therefore, Bulgaria considers this part of the recommendation inappropriate.

Notes

¹ Final document issued on the 4th of January 2011 under the symbol A/HRC/16/9.
