

ПОСТОЯННО ПРЕДСТАВИТЕЛСТВО НА
РЕПУБЛИКА БЪЛГАРИЯ ПРИ СЛУЖБАТА НА ООН И
ДРУГИТЕ МЕЖДУНАРОДНИ ОРГАНИЗАЦИИ В ЖЕНЕВА



MISSION PERMANENTE DE
LA REPUBLIQUE DE BULGARIE AUPRES DE L'ONU ET
DES AUTRES ORGANISATIONS INTERNATIONALES A GENEVE

Statement by

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of the
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**at the
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**Mr. President,
Distinguished Members of the UPR Working Group,
Ladies and Gentlemen,**

It is an honour for me to address you today on behalf of the Bulgarian Government and to present our second national report to the Working Group of the Human Rights Council on the Universal Periodic Review.

1. Cooperation and transparency

The report was prepared in a fully transparent way with the active participation of all authorities and institutions, dealing with human rights, and with the involvement of NGOs, working in the field of human rights, which provided valuable comments. The draft was published on the official page of the Ministry of Foreign Affairs for broad public discussion and subsequently approved by the National Coordination Mechanism on Human Rights.

Our delegation includes representatives from the ministries and institutions most involved in the preparation for this dialogue today: the Ministries of Justice, of Interior, of Labour and Social Policy, as well as the State Agency for Child Protection, the State Agency on Refugees, the Supreme Prosecutor's Office of Cassation, the Council for Electronic Media and the National Council for Cooperation on Ethnic and Integration Issues.

Since the first review of Bulgaria almost five years ago, we have focused on the implementation of the recommendations, which enhance the national capacity for the promotion and protection of HR to the benefit of all persons residing in the territory of the country.

In this context Bulgaria also submitted a voluntary mid-term report in June 2013.

2. Implementation of adopted recommendations – Institutional and legislative developments

Mr. President,

Let me briefly present some further significant **developments in the institutional and legislative framework for the promotion and protection of human rights since 2010.**

2.1. In 2013, by decision of the Council of Ministers a National Coordination Mechanism on Human Rights (NCMHR) was established. It is aimed to improve coordination among public authorities involved in the implementation of the tasks arising from Bulgaria's obligations and commitments in the sphere of human rights. The NCMHR considers signature of and accession to new international instruments and recommends amendments in the domestic legislation and administrative practices. Its members are ministers, heads of State agencies and independent institutions. NGOs are also represented.

2.2. In 2011, the Commission for Protection against Discrimination (CPD) and the Ombudsman were accredited by the International Coordinating Committee and its Subcommittee on Accreditation at the UNHCHR with the status "B" as **National Authority on Human Rights.**

2.3. The last changes to the Ombudsman Act provide that the **Ombudsman** is acting as the National Preventive Mechanism (NPM) in accordance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

2.4. Since April 2011, by a decree of the CM ethnic issues have been transferred from the Ministry of Labour and Social Policy (MLSP) to the Government administration. The **National Council for Cooperation on Ethnic and Integration Issues (NCCEII)** is a coordinating and consultative body, assisting the Government in formulating the policy on the integration of minority groups. The policy related to demographic development has been transferred to the portfolio of the MLSP. The NCCEII coordinates and controls the implementation of the National Action Plan for the “Decade of Roma Inclusion 2005 – 2015”. The Chairman of the NCCEII is assigned as National Coordinator for the international initiative “Decade of Roma Inclusion 2005-2015”.

2.5. Bulgaria has introduced the practice of establishing **working groups on the process of follow-up of the recommendations**. The National human rights institutions are involved as members of the WGs. The action plans prepared by the WGs are adopted by the Government.

2.6. In 2013 and in 2014, new **Election Codes** were adopted. The recommendations of PACE, the Venice Commission and the ODIHR/OSCE had been taken into consideration in the process of elaborating the new Bulgarian Election Code, which entered into force in March 2014.

2.7. In the final report, the Human Rights Council Special Rapporteur on the independence of the judges and lawyers, who visited Bulgaria in May 2011, addressed recommendations relating to the judicial reform in the country, which were taken into consideration.

The following year amendments were adopted to the **Judicial System Act (2012) (JSA)**, which enhanced the institutional capacity of the Supreme Judicial Council (SJC), the Inspectorate of the Council and the National Institute of Justice (NIJ)

On 21 January 2015 the **Updated Strategy for continuing the reform of the judiciary** was adopted by the Parliament. Its aim is within the next 7 years to modernize the judiciary and to complete the reform, to achieve guarantees of independence of the court by taking effective measures against corruption, political and economic pressure.

A new draft law amending the JSA is scheduled for discussion in the National Assembly in the coming months.

2.8. A procedure was established for compensating citizens and legal entities for damages resulting from unreasonable delays of completed civil, administrative and criminal procedures, and of discontinued pre-trial procedures. The National Assembly (2012) also tasked the Government to submit an annual report on the implementation of the decisions of the European Court on Human Rights against Bulgaria.

In 2014, the Government adopted a decision for one-time **payment of compensation** to all individual complaints for which damages had been recommended by the Treaty Bodies of the UN universal instruments on human rights. The NCMHR approved on 22.01.2015 a legal mechanism for financial compensation under the recommendations of the Treaty Bodies on individual complaints.

2.9. Recently, Bulgaria has been under the increasing pressure of **mixed migration and asylum flows**. The authorities are trying to apply a comprehensive and balanced approach for addressing this difficult situation. Based on the experience and good practices, the National Integration Strategy for Individuals Granted International Protection in Bulgaria (2014-2020) was adopted in 2014.

2.10. In the reporting period, **my country acceded to important international Human Rights instruments:**

- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The Convention on the Rights of Persons with Disabilities;
- The Convention on the Reduction of Statelessness;
- Protocol 15 to the European Convention for the Protection of the Human Rights and Fundamental Freedoms (ECHR) --to be ratified soon.

Bulgaria also confirms its commitment to consider ratifying the Optional Protocols to the International Covenant for Economic, Social and Cultural Rights and the International Convention on Protection of Persons from Enforced Disappearances. Inter-departmental discussions are currently continuing.

2.11. **Bulgaria presented** the Consolidated Third, Fourth and Fifth periodic report on the implementation of the UN Convention on the Rights of the Child and its Optional Protocol and the Initial report on the implementation of the Convention on the Rights of Persons with Disabilities.

It would also be recalled that we have extended a standing invitation to all Special procedures which could avail themselves of this invitation.

In the reporting period Bulgaria has achieved significant progress in enhancing the national capacity for the promotion and protection of HR and the HR situation in general has substantially improved, though **certain areas require further efforts**. In this regard, the NCMHR approved as national HR priorities for the forthcoming years – the protection of the rights of the child, including conclusion of the process of deinstitutionalization; enhancement of gender equality; promotion and protection of the rights of people with disabilities; further consolidation and active promotion of the historical tradition of ethnic and religious tolerance in the Bulgarian society; focusing efforts on the effective integration of Roma; protection of the rights of migrants and refugees; increasing the effectiveness of the national legislation and practices of national institutions on HR issues.

In 2013/2014 Bulgaria successfully chaired the work of the Third Committee during the 68 Session of UNGA.

In Bulgaria November 2015 will be assuming the rotating chairmanship of the Committee of Ministers of the Council of Europe. We will continue our campaign for election as member of HRC for the period 2019-2021, and will pursue the opportunity to host the Informal human rights Seminar of ACEM in 2017.

3. Replies to advanced questions

Mr. President,

Allow me now to proceed to answer the questions we received in advance, and I would like to thank the delegations of Belgium, Czech Republic, Germany, The Netherlands, Norway, Slovenia, the UK, Spain, Mexico and Liechtenstein for their contributions.

3.1. Let me begin by addressing the questions of Germany, The Netherlands, Norway and the United Kingdom related to the **refugees** in Bulgaria. Access to the right of asylum in Bulgaria is fully granted through the Asylum and Refugees Act, in line with international standards and EU legislation. However, as the migration pressure towards our country started to grow since 2013, we face an

unprecedented situation.

In response, the Bulgarian authorities undertook a number of measures and steps and the asylum granting capacity of our country has increased significantly. Both national and EU funds are invested to improve the living and recreation condition of those in need of protection. Facilities and infrastructure, providing capacity for 6000 people, have been constructed; considerable renovation took place. The European Commission, EASO and UNHCR have noted significant progress in Bulgaria with regard to the registration, the processing of requests for international protection and the overall reception conditions.

In July 2014, the Government adopted a National Integration Strategy for Individuals Granted International Protection in Bulgaria (2014-2020). The document is based on the experience and good practices of other member states and aims to successfully integrate people, who have received international protection, in order to effectively use their potential for the social and economic development of the country. The strategy focuses special attention on vulnerable persons with specific needs and on unaccompanied minors. We pay special attention to the protection and promotion of the rights of the most vulnerable refugees – the children, especially unaccompanied refugee children. All children receive legal aid, health care and have the right to continue their education. With regard to the appointment of guardians or trustees for the unaccompanied minors, a draft law, currently pending examination in the National Assembly, introduces a representative of the child appointed by the Agency for Social Assistance.

The Bulgarian institutions in close co-operation with the international organizations and the NGOs are working towards minimizing any cases of intolerance and xenophobia.

3.2. Concerning the questions on the timeline for implementing in practice the Updated Strategy for continuing the **reform of the judiciary** and the steps that the government will take in order to ensure the right to due process, presented by Norway and Spain, the main efforts of the Bulgarian authorities will continue in order to turn the judiciary into an effective guarantor of the rule of law and the strengthening of State governance and the institutions in the country. The Updated Strategy was adopted by the Council of Ministers on 17 December 2014 and approved by the National Assembly in January 2015. It has a timeframe of seven years for implementation.

The key priority of the reform of the judicial system is to further guarantee the independence of the court. To this aim the State will take measures to achieve effective guarantees of independence of the court and the judiciary; to ensure good governance of the judicial authorities and their highly effective functioning; to unfold the potential of human resources in the judiciary and guarantee the high motivation, competence and social responsibility of judges, prosecutors and investigating magistrates; to implement a modern and effective criminal policy through the necessary institutional and regulatory reforms; to ensure a full-fledged right to a fair trial to each citizen and effective protection of human rights.

3.3. Concerning the questions presented by Czech Republic, Belgium Norway, Slovenia and Mexico regarding **hate crime, hate speech, intolerance and xenophobia**, it would be stressed that Bulgaria has an adequate solid legal framework for combating all cases of hate crime, racism, intolerance and xenophobia. According to established case-law racist motivation is considered by the Court as an aggravating circumstance in criminal offences. In cases of murder, bodily injury, cases of incitement to discrimination, violence or hatred on the grounds of race, nationality or ethnic origin, damaging of property, and forming organisations or groups with such objectives racist motivation is set as a qualifying element of the crime. Proposed amendments to the Penal Code introducing the criminalization of public incitement to violence or hate on religious grounds are currently under consideration in the National Assembly.

There is substantial improvement in the interaction between the Prosecutor's Office and the investigating authorities in identifying and reporting discriminatory motives at the earliest possible stage of pre-trial proceedings. During the investigation process, particular attention is paid to evidence which may result in qualifying the act as having been committed with a discriminatory motive. Although sexual orientation and gender identity are not explicitly defined as aggravating circumstances in the Penal Code, any such elements of the crime are duly taken into account during the trial and in establishing the verdict. Consistent case-law shows that discriminatory motives are correctly established in the prosecuting acts.

Regular training is provided in subjects related to enhancing the qualification and specialisation of prosecutors. The Bulgarian institutions have undertaken consistent public awareness measures to promote tolerance and informational awareness and to tackle any manifestation of the hate speech and incitement to racial or ethnic violence in political discourse, including in the media.

3.4. Regarding the questions on the measures planned to implement the recommendations of the CPT, the issue of **overcrowding in prisons** and the measures taken to address instances of ill-treatment by custodial officials, presented by the delegations of Norway, The Netherlands and United Kingdom, let me assure that the Bulgarian prison authorities have stepped up efforts to provide better conditions in prisons and detention centres.

Since the publishing of the report by the Committee for the Prevention of Torture, two new detention centres (in Burgas and Shumen) have been opened. Under the Norwegian Financial Mechanism, the General Directorate Execution of Sentences is implementing an infrastructural project aimed at improving conditions of detention and material conditions of inmates in nine sites (prisons and detention centres) across Bulgaria, in line with international standards, and alleviating the worst situations of overcrowding in several detention locations by February 2016.

Together with Norway the Bulgarian authorities work on a joint project for the introduction of electronic monitoring over individual categories of law offenders, with a view to the submission of proposals for amendments in the legislation by the end of 2015.

Appropriate training of the newly appointed prison staff is also provided.

3.5. With regard to the questions raised by the delegations of Germany and the United Kingdom concerning with the **improvement of the childcare system**, support of the families with children with disabilities, and the measures taken to guarantee an effective justice system for children, the Child Protection Act clearly defines disabled children as children at risk, for which specific protection measures are taken. Legislation in the field of child protection and support for their families provides for a coherent policy aimed at guaranteeing equal opportunities, social inclusion and ensuring the rights of children with disabilities by creating optimal conditions for their development.

For instance, children up to the age of 3 and children with disabilities are accommodated with priority as a particularly vulnerable group in professional foster families. Other important measures include the provision of financial support to families raising children with disabilities and of affordable social care services in the community, including in family environment.

Work also continues to improve legislation on guaranteeing the rights of minors involved in legal proceedings as witnesses, victims, suspects, accused, indicted or sentenced in full compliance with the UN Convention on the Rights of the Child.

Likewise, an interdepartmental working group has been established in the Ministry of Justice to prepare a draft law amending the Criminal Procedure Code related to ensuring access to justice for minors, to review the Roadmap on the implementation of the Concept of the State Policy in the Field of Justice for the Child, and to offer a Concept for a special law in the field of juvenile justice.

3.6. Concerning the questions of Germany on **equal treatment**, we are strengthening the legislative, strategic and practical measures to ensure non-discrimination and equal opportunities for **people with disabilities**, as well as their integration in all areas of public life.

Concerning **LGBT**, all Bulgarian citizens have the opportunity to freely state their sexual orientation and gender identity. The authorities have continued to pursue consistent policies aimed at preventing and eliminating any form of discrimination, including against LGBT persons.

3.7. With regard to the question of the Czech Republic on strengthening the fight against **domestic violence and other forms of violence**, this is an issue of particular attention for all Bulgarian institutions. Government bodies and NGOs are united in the Alliance for Protection against Domestic Violence for supervising compliance with international regulations and for ensuring maximum protection for the victims. Regular public campaigns and initiatives are carried out to raise the general awareness of the phenomenon of domestic violence and increase knowledge about the existing protection procedures. Such activities are included in the annual National Programmes for Prevention and Protection against Domestic Violence. A National Coordination Mechanism for support and assistance to victims of domestic violence and the standards for services provided to victims of domestic violence is to be approved.

Social services have a significant role in providing support for the victims of violence. As of March 2015 there are 15 crisis centres for children; 10 centres "Mother and baby"; 107 Centres for social support; 37 centres for social rehabilitation and integration for children and 76 centres for adults.

3.8. Regarding the question of the UK on the **scope of sexual assault offences**, these offences are clearly described in the Penal Code and other relevant legal acts. According to Bulgarian law, the lack of consent is a necessary precondition for fulfilling the *corpus delicti* of the crime against the inviolability of the person. The evaluation is made case-by-case by the court. According to the judicial practice, the consent must be given voluntarily as a result of the victim's free will.

3.9. In response to the questions raised by Belgium, Slovenia and Mexico regarding the measures taken to strengthen the prosecution of perpetrators of **trafficking in human beings**, to strengthen the prevention measures and to address the needs of minorities and other vulnerable groups as victims of trafficking, let me reiterate that the National Commission for Combating THB will continue working consistently with vulnerable groups, especially the Roma community, women and children. Comprehensive measures of prevention aimed at reducing the number of victims of THB for the purpose of labour and sexual exploitation are being implemented, including the conduct of targeted annual campaigns. The Commission will likewise continue to focus its work on young people.

For the purpose of ensuring assistance to victims, the NCCTHB plans to re-open the two state shelters for victims and to establish a new service - transition homes, where victims can be accommodated while being re-integrated into society and acquire new skills. In 2015 a national toll free hotline for victims of trafficking is also foreseen to be launched which will serve both as a prevention tool and a mechanism for identification, referral and support of victims of THB.

Additional specific measures are being taken to strengthen the prosecution of perpetrators of trafficking in women and children. The competent authorities are also working on the improvement of the cooperation with the respective authorities of other countries in the process of investigating transnational forms of trafficking.

3.10. In reply to the question raised by the Netherlands, I would like to inform that the main emphasis in the **new Anti-corruption Strategy**, adopted by the Government in April 2015, is the creation of an independent anti-corruption body. The new unit comes with a real guarantee for

independence and integrity: public procedures will be put in place for testing the integrity of the management and staff of the unit. Following public and transparent nominations for appointment of senior management and staff, integrity tests will complete the selection process. Specific guarantees for the independence of the unit will be included in a new law, which should be finalized by the middle of 2015. The nominations for senior management of the new institution will be put forward by one branch of government, for example- the executive, and voted in by another, say, the legislative. The unit will function as a free standing state body and will be independently funded.

3.11. Norway raised the question about the **freedom of media in the context of media ownership**. Bulgarian society is especially sensitive towards the links between political, economical and media interests and the transparency of media ownership. Amendments to the Mandatory Deposit of Copies of Printed and Other Works Act introduced the requirement for all publishers of periodical printed media to submit a declaration in a standard form to the Ministry of Culture identifying the actual owner of the media. The Council for Electronic Media maintains a public register of legal entities controlling the management of media operators. In 2015, the government presented its programme, foreseeing new regulations for the acquisition and merger of media, aimed at eliminating the possibility of influence on the media environment by a single owner and persons affiliated to him.

3.12. In relations with the **International Convention for the Protection of All Persons from Enforced Disappearance**, question from Belgium, the issue has been discussed in the National Coordination Mechanism on Human Rights. It was concluded that a review of the national legislation is needed. For this purpose a Working group was established to review the national legislation and propose texts for amendments in accordance with the provisions of the Convention. As to the **Optional Protocol on children and Armed Conflict to the Convention on the Rights of the Child**, Bulgaria ratified it on 12 February 2002.

3.13. Answering another question from Belgium, let me recall that Bulgaria has fully **accepted the individual complaints procedure** under the human rights conventions to which it is already a State party. As already mentioned, at the end of 2014, the Government adopted an ad hoc decision on the payment of compensation of Bulgarian citizens for violated rights in relation with individual complains upheld by them to the UN treaty bodies. The decision was in pursuance of the recommendations made by the Committees. Another step was the establishment, in early 2015, of a Mechanism for the payment of benefits under individual complains upheld against Bulgaria for infringement of rights, implementing recommendations made by the Committees. The mechanism was set up within the National Coordination Mechanism on Human Rights. I hope that this reply covers also the question of the Czech Republic about the **effective implementation of the OP-CAT**.

3.14. Regarding the question of Mexico about the **representation of the civil society organizations in the National Coordination Mechanism on Human Rights**, there are no specific criteria to meet, neither a registration process. All NGO, working in the sphere of human rights, are welcome to participate in the formats of the mechanism. All of them have been invited to take part both in the meetings and the preparatory process.

3.15. Several delegations – The Netherlands, Norway, Slovenia and the UK, have requested information about steps we have taken to ensure better access to public services and facilities of the **Roma population** in order to improve their standard of living, to improve the integration of the Roma children into the educational system and to prevent acts against Roma people. The National Roma Integration Strategy (2012-2020) was developed. The Strategy's Action Plan is structured to be

implemented in two phases: 2012 - 2014 and 2014 - 2020. Both the Strategy and the Action Plan were adopted by the Government and approved by the Parliament. In 2012, regional and local strategies for the integration of Roma and action plans to them were also elaborated. Currently, there are 28 regional strategies and 220 municipal action plans in place, developed on the basis of analysis of the needs and specifics of local communities.

The National Strategy for Roma integration puts **education** first among the priority areas of the integration policy. The efforts for the integration of children of Roma origin in the general education system have been increased. The state provides equal access to education for all children up to the age of 16. The existing regulation in the pre-school education and preparation and school education guarantees equal access to education of all children and students, regardless of their ethnicity. The programmes for early childhood development and preschool education have been expanded with the purpose of becoming more accessible to more children.

With the amendment of the Public Education Act, mandatory two-year training before entering the first grade has been introduced for children at the age of 5. Training in Bulgarian, free transport and/or boarding school, textbooks for free use, all day organization of the school day and canteen meals are provided.

With a view to reducing the share of early school leavers in the period 2013-2020 activities have been implemented to improve intercultural competence of all participants in the educational process. Various forms of work with parents of children and pupils from ethnic communities and vulnerable groups have been conducted to create a positive attitude towards education. Creating conditions for equality and adaptation of children and students of Roma origin in the educational environment is a priority for the Ministry of Education and Science, the regional education inspectorates and the municipalities. The Ministry of Education and Science, in cooperation with the Regional Education Inspectorates and the municipalities, supervises kindergartens and schools for not allowing the forming of ethnic groups and classes.

3.16. Concerning the questions of Liechtenstein about the implementation of the crimes under the **Rome Statute** and possible ratification of the Kampala Amendments, I would like to inform that the Bulgarian legislation is largely in accordance with the Statute in regard to the criminalization of the offences under its scope. A comprehensive review on the compliance of our domestic legislation with the provisions of the Rome Statute was done and the introduction of relevant amendments is under consideration. Concrete steps for the ratification of the Kampala Amendments have not yet been taken.

Mr. President,

I have addressed some of the main questions raised in advance of today and look forward to answering the inquires which the esteemed members of this panel might have in the course of today's session.

Thank you.