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The Universal Protection of Human Rights and Eastern Europe: Bulgaria

- **ABSTRACT:** *After the collapse of the communist regime and the adoption of the new democratic Constitution of the Republic of Bulgaria in 1991, human rights assumed new significance as a foundation for affirming the rule of law. Integration of self-executing international norms into the domestic legal framework marked a substantial paradigm shift in Bulgaria's approach to human rights, emphasising the promotion of effective safeguards and remedies for the breach of individual rights and freedoms. Consequently, Bulgaria's relationship with the United Nations on human rights issues has undergone a significant transformation since the end of the Cold War, bringing domestic violations to the forefront of policy discussions. However, the paradigm shift towards universal human rights protection in Bulgaria after 1991 has not been included in international public law textbooks, while true and broad applicability of UN mechanisms has remained underappreciated. Discussions about the pros and cons of communication procedures before the UN treaty bodies or evaluations of their effectiveness have been generally avoided, and Bulgaria is yet to ratify the respective Optional Protocols to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD). In general, Bulgarian international law scholarship lags behind in ongoing academic efforts to strengthen UN treaty bodies, mechanisms, and procedures. Since Bulgarian scholars did not take the lead in clarifying the conceptual changes in the UN's approach to human rights, new ideas and tools could only be introduced through the efforts of practitioners from three groups: policymakers from the executive branch, the judiciary, and NGOs and human rights activists. The Universal Periodic Review has completed three full cycles, evaluating Bulgaria's human rights records in 2010, 2015, and 2020, and has significantly influenced the reform of numerous domestic policies and legislative instruments. Only a small number of communications have been submitted against Bulgaria to UN treaty bodies,*

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specifically to the Human Rights Committee and under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

- **KEYWORDS:** *Bulgarian Constitution of 1991, paradigm shift, UPR's impact, legislative and institutional reforms, strengthening human rights protection*

1. Introduction: The historical development of human rights in Bulgaria

After World War II, Bulgaria joined the Eastern Bloc, aligning economically and politically with the Soviet Union. Nikola Dolapchiev (1897–1966), a distinguished professor of criminal law, was expelled from the Bulgarian Academy of Sciences in 1948 for ‘hostile activities’ towards the People’s Republic of Bulgaria. Later, he was deprived of Bulgarian citizenship and sought political asylum in England. On 6 November 1952, he delivered an address at Chatham House, the Royal Institute of International Affairs, titled ‘Law and Human Rights in Bulgaria’.¹ He described the legal system in the communist country as akin to the mythical Janus,² with one face portrayed as relatively decent for external display, while the other, the true face, revealed a regime where the Communist Party dominated all aspects of life, substituting its rules for the rule of law.³ Despite the Bulgarian Constitution of 1947 enumerating many ‘fundamental rights of the citizen’, these provisions were ultimately hollow and devoid of genuine content within the totalitarian regime.

The tragic experiences of World War II and the Holocaust led to the belief that the United Nations should spearhead international human rights protection. Human rights, with their universal appeal as a shared value, were envisioned to have the potential to transcend Cold War political divisions. However, both the Eastern and the Western Bloc exploited human rights issues for propaganda,⁴ creating divergent post-war human rights narratives that influenced international law and politics. Western liberal democracies emphasised civil and political rights, while socialist states prioritised social and economic rights.⁵

In post-war Bulgaria, Marxist ideological discourse embraced the rhetoric that the socialist revolution led by the Soviet Union established a state model that realised a superior form of human rights.⁶ The prevailing narrative depicted the

1 Dolapchiev, 1953.

2 Dolapchiev, 1953, p. 59.

3 Nakarada, 1990, p. 228.

4 Keys and Burke, 2013, p. 486.

5 Richardson-Little, Dietz, and Mark, 2019, p. 170.

6 Richardson-Little, Dietz, and Mark, 2019, p. 171.

imperialist West as creating 'slavery behind the veil of freedom',⁷ with rights there being fictitious entitlements unavailable to the working class – a 'pale bourgeois imitation'⁸ of the gender and racial equality already achieved in the Eastern Bloc or what could be accomplished in the future communist society. In the 1970s and 1980s, an extensive body of literature placed human rights at the forefront of socialism's ideological struggle with capitalism.⁹ Propaganda messages were prominent in book titles such as 'The Truth about Human Rights',¹⁰ 'Human Rights – Granted and Won',¹¹ 'Business with Human Rights',¹² 'Human Rights: Imaginary and Real',¹³ 'The Communist Party of the Soviet Union and Human Rights' and so on.¹⁴ Two notable activists from the Bulgarian Communist Party, Assen Kozharov (Institute for Contemporary Social Theories) and Boris Spassov (Institute for Legal Sciences), who set the ideological framework for scholarship in Bulgaria, had their works translated and published in English.¹⁵ These writings became representative of Bulgarian human rights literature in the Human Rights Quarterly.¹⁶

At the same time, international legal scholars in Bulgaria began introducing the complex infrastructure of UN international treaties and institutions, highlighting the contributions of Soviet diplomacy.¹⁷ They argued that socialist states exemplified the most consistent protection of human rights and steadfast implementation of international obligations.¹⁸ The socialist legal concept that individual rights are always accompanied by corresponding duties was projected onto the framework of international human rights law.¹⁹ According to socialist doctrine, the position of the individual was determined by internal law, not by international law; therefore, implementing international human rights norms was primarily a matter of each sovereign state's internal competence.²⁰

In the 1980s, academic literature emphasised that international norms did not provide direct rights to individuals and explicitly rejected the notion of the universal protection of human rights within UN treaties and institutions. It argued that:

7 Болшаков [Bolshakov], 1982, p. 5.

8 Richardson-Little, Dietz, and Mark, 2019, p. 171.

9 Кожаров [Kozharov], 1977; Цеков [Tsekov], 1982.

10 Иванов [Ivanov], 1978.

11 Захаров, Ананиева, Петков, and Баламезов [Zaharov, Ananieva, Petkov, and Balamezov], 1979.

12 Болшаков [Bolshakov], 1982.

13 Михайлова [Mihaylova], 1987.

14 Черненко [Chernenko], 1983.

15 Kozharov, 1978; Spasov, 1979.

16 Greenfield, 1981, pp. 141–142.

17 Векилов [Vekilov] et al., 1982.

18 Векилов [Vekilov] et al., 1982, p. 9.

19 Векилов [Vekilov] et al., 1982, p. 10.

20 Przetacznik, 1971, p. 269.

...The specific content and implementation of individual rights and freedoms is a matter within the exclusive domestic competence of states. Hence, the norms in this area aim not to create a uniform, universally applicable international human rights regime, which is impossible in the current political environment, but to impose obligations on states (legal and political) to ensure in the domestic legal and political order the minimum of rights and freedoms assumed as fundamental in contemporary human society.²¹

Within this conceptual framework, Bulgarian researchers adopted and interpreted the ‘fight against massive and gross violations of human rights’ as one of the objectives of international regulation.²² They sought to clarify why the UN repeatedly addressed these violations as a threat to international peace and security, thus contributing to the emerging doctrine of ‘Common Concern of Humankind’.²³

At the same time, academia deliberately avoided endorsing the idea of regular UN supranational oversight of human rights abuses,²⁴ which would undermine the sovereignty of the state. They vigorously opposed the view, deemed prevalent in bourgeois scholarship, that international organisations and their established committees and commissions were responsible for directly implementing international norms.²⁵ In socialist scholarship, UN bodies were regarded not as implementation bodies but as entities monitoring states’ compliance with their international obligations.²⁶

After the collapse of the communist regime in late 1989 and the peaceful transition to constitutional democracy in Bulgaria – facilitated by the Round Table of 3 January – 14 May 1990 –, human rights assumed a new significance as a foundation for affirming the rule of law. The new democratic Constitution of the Republic of Bulgaria, adopted on 12 July 1991, began with a Preamble pledging to elevate ‘the rights, dignity, and security of the individual’ as its foremost principle. Human rights were supposed to permeate the entire constitutional text.²⁷

Furthermore, the 1991 Constitution introduced a new principle regarding the relationship between international and domestic law, radically altering the existing theory of ‘realistic dualism’. The previous doctrine regarded international and domestic law as two independent legal orders without primacy for either system,²⁸ engendering ambiguities in the application of international law, especially concerning human rights. Under the 1971 Constitution, the People’s Republic

21 Векилов [Vekilov] et al., 1982, p. 266.

22 Векилов [Vekilov] et al., 1982, p. 267.

23 Bogdanova, 2022.

24 Keys and Burke, 2013, p. 487.

25 Векилов [Vekilov] et al., 1982, p. 280.

26 Векилов [Vekilov] et al., 1982, p. 281.

27 Танчев [Tanchev], 2002, p. 36.

28 Радойнов [Radoynov], 1971, p. 72.

of Bulgaria applied the concept of ‘abiding’ by international treaties,²⁹ ensuring the application of international norms through express statutory referral.³⁰

The new democratic Constitution of 1991 introduced a significant change in Article 5, paragraph 4 by incorporating all ratified, promulgated and enforced international instruments as part of domestic law, giving them precedence over parliamentary legislation. Additionally, the Constitution underscores the importance of international human rights treaties by authorising the Constitutional Court to assess the conformity of national laws with generally recognised international norms and treaties to which Bulgaria is a party (Article 148, paragraph 1, point 4). This integration of self-enforcement of international norms into the domestic legal framework marked a substantial paradigm shift in Bulgaria’s approach to human rights. What was once an unacceptable notion of universal human rights protection has become a fundamental framework for interpreting and promoting effective safeguards and remedies for individual rights and freedoms. Consequently, Bulgaria’s relationship with the United Nations regarding human rights issues has changed considerably, bringing domestic violations to the forefront of policy discussions.

2. The relationship between Bulgaria and the UN from a human rights perspective

The relationship between Bulgaria and the UN has evolved over the decades and can be historically divided into two distinct periods: before and after the end of the Cold War. In each phase, Bulgaria became a party to core UN human rights conventions; however, its differing constitutional and ideological frameworks shaped both the objectives of ratification and the methods of human rights enforcement.

■ 2.1. Bulgaria and the UN during the Cold War

From Bulgaria’s accession to the UN in 1955 until the late 1980s, the country was a member of the Eastern Bloc and closely associated with Soviet interests. A prioritisation of loyalty to the USSR heavily influenced Bulgaria’s foreign policy, supporting resolutions that aligned with Soviet policies while opposing those that were perceived as threats to communist ideology.

During the Cold War, Bulgaria became a party to several key UN human rights treaties, including:

²⁹ Decree No. 1496 on the participation of the People’s Republic of Bulgaria in international treaties (prom. SG 62 of 12.08.1975) was repealed in November 2001 by the Act on International Treaties of the Republic of Bulgaria (prom. SG 97 of 13.11.2001).

³⁰ Тодоров [Todorov], 2000, p. 316.

- 1965 International Convention on the Elimination of All Forms of Racial Discrimination, signed on 1 June 1966 and ratified on 8 August 1966.
- 1966 International Covenant on Civil and Political Rights and the 1966 International Covenant on Economic, Social, and Cultural Rights, both signed on 8 October 1968 and ratified on 21 September 1970.
- 1977 Convention on the Elimination of All Forms of Discrimination against Women, signed on 17 July 1980 and ratified on 8 February 1982.
- 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed on 10 June 1986 and ratified on 16 December 1986.

Under the 1947 Constitution of the People's Republic of Bulgaria, which remained in effect until 1971, the sole authority competent to ratify international instruments was the Presidium of the National Assembly³¹. This public body reflected the principle of unity of power inherent in communist ideology and served as the head of state. During that period and throughout the totalitarian regime in Bulgaria, no legislation existed to outline the terms and conditions for concluding, ratifying or denouncing international treaties.³² These practices were conducted according to established international practice without a domestic procedural legal framework in place. Although the Constitution of 1947 states that it is the government that enters into international treaties, both theory and practice permitted certain departmental heads or delegation leaders to sign specific international agreements.³³ However, this was limited to agreements between administrative bodies related to postal services and railways, and did not extend to UN human rights treaties.

In 1966, the Presidium of the National Assembly ratified the International Convention on the Elimination of All Forms of Racial Discrimination,³⁴ followed by the ratification of both the ICCPR and the ICESCR in 1970 through a single

31 The Presidium of the National Assembly represents the People's Republic in its international relations, and besides receiving accredited foreign representatives, appoints and recalls diplomatic and consular representatives in foreign countries upon the government's proposal, (Article 35, point 8 of the Constitution of 1947). Additionally, it is responsible for ratifying or denouncing international treaties concluded by the government (Article 35, point 9 of the Constitution of 1947).

32 Спасов and Кутиков [Spasov and Kutikov], 2000, p. 64. The authors contrast this with the situation in the USSR, where such a law was adopted in 1938, and they include a draft law with four provisions as an appendix to the article. Such a law was enacted under the democratic regime in 2001 as the International Treaties Act (prom. SG 97/13.11.2001), which comprises 32 provisions governing the entire process of preparing, signing, ratifying, promulgating, implementing, preserving and registering international treaties.

33 Спасов and Кутиков [Spasov and Kutikov], 2000, p. 66.

34 Decree No 515 of 23 June 1966 of the Presidium of the National Assembly, prom. SG 51 of 1966.

decree.³⁵ There were no public debates regarding these ratifications or any aspects of foreign or human rights policies in Bulgaria during the totalitarian regime. In Bulgarian legal literature, the international prohibition of racial discrimination and apartheid was largely credited to the USSR's initiatives aimed at opposing these policies associated with capitalism.³⁶ The doctrine, in general, prioritised economic and social rights, which were also analysed in the context of the ideological struggle of socialism against capitalism.³⁷ The 1947 Constitution of the People's Republic of Bulgaria already enshrined various economic and social rights, including the right to work (Article 73), the right to rest and leave (Article 74), the right to pensions and benefits (Article 75), the right to education (Article 79) and the right to healthcare (Article 81). In this context, international treaties were viewed not as a means of enhancing these rights but rather as a step toward the advancement of international socialism.

Subsequently, the 1971 Constitution of the People's Republic of Bulgaria emphasised the significance of human rights within the socialist state by repositioning them in the constitutional text – placing them in Chapter Two, immediately after the fundamental provisions.³⁸ Although both the 1947 and 1971 constitutions proclaimed civil and political rights, the totalitarian regime suppressed their exercise by eliminating political pluralism, stifling dissenting voices, enforcing censorship, controlling the media, and employing intimidation and imprisonment through the pervasive influence of the State Security apparatus. Political dissidents, intellectuals and activists who challenged the regime's authority faced severe repercussions, including forced labour camps and exile. This environment of fear effectively silenced public debates and marginalised any form of political opposition, thereby undermining the fundamental civil rights of free expression and assembly. Neither the constitutional provisions promoting civil and political rights nor the ratification of the ICCPR or any formally enacted laws could ensure the effective exercise of those rights during the totalitarian regime, which operated arbitrarily to enforce the directives of the Communist Party.

Under the 1971 Constitution of the People's Republic of Bulgaria, no single constitutional body was empowered to ratify international treaties; instead, the

35 Decree No 1199 of 23 July 1970 of the Presidium of the National Assembly, prom. SG 60 of 1970.

36 Векилов [Vekilov] et al., 1982, p. 189.

37 Векилов [Vekilov] et al., 1982, p. 57.

38 In contrast, the Constitution of the People's Republic of Bulgaria of 1947, which comprises eleven chapters, listed citizens' rights in Chapter Eight, found at the end of the text.

National Assembly and the Council of State held this authority concurrently.³⁹ Nevertheless, the totalitarian state maintained the tradition of ratifying international human rights conventions through decrees issued by the Council of State, which embodied the principle of unity of power and the merger of state authority and the power of the Communist Party.⁴⁰

During the Cold War, international efforts to enforce human rights were often ‘paralysed’,⁴¹ as oppressive governments could rely on the superpowers to shield them from scrutiny and international condemnation. Additionally, it was not until the mid- to late 1980s that the institutions of UN human rights treaties had become fully operational, allowing for greater focus on human rights implementation.⁴²

Due to the Bulgarian government’s coercive assimilation policies targeting the ethnic Turkish minority (e.g. forced change of names, ban on the public use of the Turkish language, etc.), in March 1986, the CERD Committee reviewed the eighth periodic report of Bulgaria.⁴³ In retrospect, the discussion that addressed some inconsistencies in Bulgaria’s national report along with some alarming media reports is considered one of the last significant confrontations of the Cold War.⁴⁴

The Bulgarian national report, submitted in October 1984, stated that ‘Also living in our country are Bulgarian citizens of Turkish, Gipsy, Armenian, Jewish, Greek and other origins’ and that ‘all Bulgarian citizens have the right to declare their national affiliation, entitling them to study and speak their native tongue, develop their national culture, maintain their traditions, etc.’ However, this report was withdrawn and replaced with a new version in January 1986, which omitted such passages.

Diplomats discussed the discrepancies between the most recent report and its predecessor, noting that while the earlier one referenced a Turkish minority, the new report’s claim that Bulgaria was now an ethnically homogeneous state was inconsistent.⁴⁵ It was suggested that a group of observers from the Committee

39 The Council of State assumed the powers previously held by the Presidium of the National Assembly, thereby representing the People’s Republic of Bulgaria in its international relations (Article 93, point 12 of the 1971 Constitution) and possessing the authority to ratify and denounce international treaties (Article 93, point 14 of the 1971 Constitution). Concurrently, the National Assembly held identical powers to ratify and denounce international treaties (Article 78, point 13 of the 1971 Constitution).

40 The Convention on the Elimination of All Forms of Discrimination against Women was ratified by Decree No 1944 of 18 September 1981 of the Council of State (prom. SG 76 of 1981). However, according to the UN database, Bulgaria ratified the convention in 1982, as per the information provided by the country to the organisation. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was ratified by Decree No 3384 of 9 October 1986 of the Council of State (prom. SG 80 of 1986).

41 Mégret and Alston, 2020, p. 8.

42 Buergethal, 1997, p. 712.

43 Alston and Crawford, 2000, p. 73.

44 Banton, 1996, p. 134.

45 Ibid.

visit Bulgaria to obtain objective information, as many concerns about human rights abuses had surfaced. It was also pointed out that it was unlikely that a large group of people would suddenly decide to change their names voluntarily. Reports of the closure of over 1,000 mosques and restrictions on the observance of the Muslim religion were also discussed.⁴⁶

Karl Joseph Partsch, a member of the CERD Committee from Germany, expressed his opinion that there was admissible evidence indicating that the Muslim minority in Bulgaria was being subjected to a coercive assimilation campaign in violation of their minority rights.⁴⁷ He recalled that Todor Zhivkov, the General Secretary of the Bulgarian Communist Party, had claimed that Bulgarian Muslims were Bulgarians forced to adopt Islam during Ottoman rule. Partsch insisted that the CERD Committee act.

At that time, Amnesty International obtained the names of over 100 ethnic Turks reportedly killed by security forces during the assimilation campaign. Many diplomats attended the conference chamber to follow the anticipated public dispute on this matter. Representatives of the Eastern Bloc argued that there were no grounds for sending observers, asserting that each State Party had domestic jurisdiction over such issues and could resolve internal problems using its own methods. They maintained that the Committee should follow its usual procedure. The Bulgarian representative assured that Bulgaria would always be very hospitable to experts from the Committee as guests, but 'under no circumstances would the government agree to a commission of inquiry'.⁴⁸

The Chairman explained that the CERD Committee had completed the review of that round of reports and could not reopen them for further questions and dialogue until the receipt of the next report. This case demonstrated that while the Cold War's East-West opposition persisted, members of the UN Committees primarily saw their roles in diplomatic terms and could do very little to intervene meaningfully in the human rights situation in Bulgaria.

Therefore, despite Bulgaria's ratification of key UN treaties, the totalitarian regime systematically suppressed dissent and violated fundamental civil rights and political freedoms. The gap between the regime's rhetoric – its proclaimed commitment to human rights – and its actual repressive practices was intended to be offset by an emphasis on economic and social rights. This occurred in a context where the principle of 'socialist legality' supplanted the rule of law,⁴⁹ and guarantees and effective remedies for human rights protection were never given significant importance.

⁴⁶ Banton, 1996, pp. 135–136.

⁴⁷ Ibid.

⁴⁸ Banton, 1996, p. 137.

⁴⁹ Марчева [Marcheva], 2021, pp. 135–224.

■ 2.2. *Changes in the relationship between Bulgaria and the United Nations after the end of the Cold War*

The end of the Cold War sparked a debate over the appropriate UN approach to human rights, resulting in a significant re-alignment of institutional responsibilities.⁵⁰ These profound conceptual changes were evident at the 1993 Vienna Conference on Human Rights, which declared that all human rights were ‘universal, indivisible, interdependent and interrelated’, rejecting cultural relativism.⁵¹ The Vienna Declaration emphasised that, despite national and regional particularities, and various historical, cultural and religious backgrounds, states must promote and protect all human rights, regardless of their political, economic or cultural systems (paragraph 5). The declaration also dispelled the myth that any government, democratic or not, could inherently protect human rights,⁵² asserting that ‘democracy, development, and respect for human rights and freedoms are interdependent and mutually reinforcing’ (paragraph 8). The conference recommended enhancing and harmonising the UN system’s monitoring capacity, leading to the creation of the post of High Commissioner for Human Rights.

However, this paradigm shift towards genuine universal protection of human rights was neither addressed in Bulgarian academic discussions in the 1990s nor mentioned in international public law textbooks. The notion of the ‘universal protection of human rights’ is seldom used even to this day.⁵³ Instead, legal scholars favour the terms ‘universal treaties’ and ‘universal mechanisms’, stressing their formal attributes, primarily meaning ‘applicable to everyone’. The concept of ‘universal mechanisms’ is rarely understood in its true sense as being broadly applicable and effective in diverse contexts and situations. Bulgarian legal scholarship has not yet openly acknowledged that the universal nature of human rights intrinsically involves rejecting cultural relativism, which is usually invoked to justify human rights abuses through reference to some special religious or cultural norms.

2.2.1. The democratic Constitution of 1991 and the new approach to human rights protection in Bulgaria

The Constitution of the Republic of Bulgaria, adopted after the collapse of communism, represented a significant shift in the nation’s approach to human rights protection and its engagement with United Nations bodies and mechanisms. The catalogue of rights and freedoms enshrined in the 1991 Constitution closely aligns with those specified in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Since the rules of the Constitution have an immediate effect (Article 5, paragraph 2),

50 Mégret and Alston, 2020, p. 15.

51 Buergenthal, 1997, p. 714.

52 Ibid.

53 Дечкова-Миланова [Dechkova-Milanova], 2013.

everyone has the right to invoke them directly in defence of their fundamental rights in administrative and court procedures.

The table below demonstrates how the 1991 Constitution incorporates most of the fundamental rights outlined in the ICCPR and the ICESCR:

Human Rights in UN treaties	Fundamental rights under the Constitution of 1991
<i>Right to life</i> Article 6 of the ICCPR	According to Art. 28, 'everyone shall have the right to life' and any attempt to take a human life shall be considered a grave crime and punished accordingly.
<i>Prohibition of torture, cruel, inhuman or degrading treatment</i> Article 7 of the ICCPR	Art. 29 reflects the language and principles of Article 7 of the ICCPR, asserting in para. 1 that no individual shall be subjected to torture, cruel, inhuman or degrading treatment, or forced assimilation. Para. 2 specifies that no one shall be subjected to medical, scientific or other experimentation without their free and informed written consent.
<i>Prohibition of slavery, servitude and forced labour</i> Article 8 of the ICCPR	The Constitution of 1991 has no explicit general provision for the prohibition of slavery and servitude, such as Art. 61 of the first Bulgarian Constitution of 1879. ⁵⁴ Currently, the Constitution explicitly prohibits only forced labour in Art. 48, para. 4.
<i>Right to liberty and security of persons</i> Article 9 of the ICCPR	The Constitution of 1991 proclaims in Art. 30, para. 1 that 'everyone shall be entitled to personal freedom and inviolability'. ⁵⁵ Para. 2 further prohibits arbitrary or unlawful arrest or detention ⁵⁶ , while para. 3 outlines constitutional guarantees ⁵⁷ that align with Art. 9, para. 3 of the ICCPR. According to Art. 31, para. 1, anyone charged with a crime must be brought before a court within the timeframe established by law.

54 Tarnovo Constitution of 1879, Article 61. No one in the Bulgarian Kingdom shall buy or sell human beings. Every slave regardless of sex, religion or nationality shall be granted freedom upon setting foot on Bulgarian territory.

55 See the official translation of the Constitution of the Republic Bulgaria on the internet page of the Bulgarian Parliament. The official translation uses the term 'inviolability', which corresponds to the Bulgarian phrase 'лична неприкосновеност', used in Article 30, paragraph 1 of the Constitution. In similar human rights instruments, this term is more commonly translated as 'privacy' or 'integrity'. However, other constitutional provisions, such as Article 32, explicitly enshrine the fundamental rights to privacy, prompting the translator to seek an alternative translation. It is unclear why the translator chose not to use the phrase 'security of the person' from Article 9 of the ICCPR, despite the close relationship between the meaning of the Bulgarian constitutional term and the one used in the ICCPR. One possible explanation could be that the official Bulgarian translation of Article 9 of the ICCPR employs different wording: 'право на лична свобода и сигурност'. However, it could be argued that Article 30 of the Constitution provides a better translation of the first sentence in Article 9, paragraph 1 of the ICCPR.

56 The constitutional provision in Article 30, paragraph 2 explicitly prohibits arbitrary or unlawful searches, as well as 'inspections or any other infringements' on personal security or integrity.

57 The constitutional provision in Article 30, paragraph 3 stipulates that arrests may only be made by competent authorities under urgent circumstances explicitly defined by law. These authorities are required to notify the relevant judicial bodies (judges and prosecutors) who must assess the legality of the detention within 24 hours. These requirements are further detailed in the Criminal Procedure Code, which states that pre-trial detention ordered by a prosecutor can be extended for only an additional 72 hours, after which any further detention must be authorised by court order.

<i>Liberty of movement and freedom to choose residence</i> Article 12 of the ICCPR	According to Art. 35, everyone has the right to choose their place of residence and to enjoy freedom of movement within the country, as well as the right to leave and return to the country. This right may only be restricted by law for reasons of national security, public health or the rights and freedoms of other citizens.
<i>Right to a fair trial</i> Article 14 of the ICCPR	The Constitution does not explicitly proclaim the right to a fair trial but incorporates some of its essential elements. These include the presumption of innocence for anyone charged with a criminal offence until proven guilty according to law (Art. 31, para. 3), the right to legal counsel and confidential communication (Art. 31, paras. 4 and 5), and the right not to be compelled to confess guilt or to be convicted solely based on a confession (Art. 31, para. 2). Art. 14 of the ICCPR contains more detailed provisions regarding the right to a fair trial than those found in the Bulgarian Constitution.
<i>Principle nullum crimen sine lege</i> Article 15 of the ICCPR	The principle of legality in criminal law is enshrined in the first chapter of the Constitution as a fundamental provision. Art. 5, para. 3 states that no person shall be convicted for any action or omission that was not defined as a crime by law at the time it was committed.
<i>Right to privacy</i> Article 17 of the ICCPR	The right to privacy is established in three constitutional provisions: <ul style="list-style-type: none"> – Art. 32, para. 1 enshrines the right to individual privacy, stating that everyone is entitled to protection against unlawful interference in their private or family affairs, as well as against encroachments on their honour, dignity and reputation. Para. 2 of the same article stipulates that no one shall be followed, photographed, filmed, recorded or subjected to similar actions without their knowledge or against their express disapproval, except as permitted by law. – Art. 33 safeguards the privacy of the home, asserting that no one may enter or remain in a home without the occupant's consent, except in cases explicitly defined by law. – Art. 34 protects the freedom and confidentiality of correspondence from unlawful interference.
<i>Freedom of thought, conscience and religion</i> Article 18 of the ICCPR	Art. 37, para. 1 guarantees everyone the freedom of conscience, thought and the choice of religion, including religious and atheistic beliefs. The state is also tasked with promoting tolerance and respect among individuals of different faiths, as well as between believers and non-believers. Para. 2 clarifies that the freedom of conscience and religion ⁵⁸ may not be exercised in ways that undermine national security, public order, public health and morals, or the rights and freedoms of others. Additionally, Art. 38 explicitly states that no one shall be persecuted or restricted in their rights due to their beliefs nor shall they be compelled to disclose their own or another person's views.
<i>Freedom of expression</i> Article 19 of the ICCPR	Art. 39 affirms the right to express opinions and disseminate them through various means, including written and oral communication, sound, images and other methods. Art. 41 further guarantees that everyone has the right to seek, obtain and disseminate information. These constitutional provisions also specify limitations on these rights, in line with Art. 19, para. 3 of the ICCPR, stating that they must not be used to harm the rights and reputation of others, incite forcible change to the constitutionally established order, promote criminal activity, or provoke enmity or violence against any individual.
<i>Freedom of assembly</i> Article 21 of the ICCPR	Art. 43 recognises the right to peaceful and unarmed assembly for meetings and demonstrations. It specifies that the procedures for organising and conducting such events shall be established by law, ⁵⁹ and that no notice to municipal authorities is required for meetings held indoors.

58 In 2002, Bulgaria enacted a new Religions Act (prom. SG 120 of 29.12.2002), which established a more democratic framework for the freedom of religion compared with the provisions in place during the totalitarian regime.

59 The Assemblies, Meetings and Manifestations Act (prom. SG 10 of 2.02.1990) was one of the first pieces of legislation enacted to guarantee political freedoms in Bulgaria following the fall of communism, prior to the adoption of the new democratic constitution. It has undergone three reforms but continues to govern the subject.

<i>Freedom of association</i> Article 22 of the ICCPR	Art. 44 guarantees citizens the freedom to associate. ⁶⁰ In accordance with democratic standards, the Constitution imposes certain restrictions on organisations, prohibiting actions that undermine national sovereignty, integrity or unity. Additionally, organisations must not incite racial, national, ethnic or religious enmity nor encroach upon the rights and freedoms of others. Furthermore, no organisation is permitted to establish clandestine or paramilitary structures or to pursue its objectives through violence.
<i>Right to participate in public affairs</i> Article 25 of the ICCPR	Art. 21 affirms the right to direct universal suffrage through secret ballot for all Bulgarian citizens aged 18 and older, except for those who are under full or partial guardianship or currently serving a prison sentence. ⁶¹ These citizens have the freedom to elect state and local authorities and participate in referendums. Additionally, specific constitutional provisions recognise the rights of Bulgarian citizens who meet certain criteria to be elected as members of parliament (Art. 65) or as President (Art. 93, para. 2), as well as to be appointed as ministers (Art. 110).
<i>Right to equality before the law and equal protection</i> Article 26 of the ICCPR	The principle of equality is enshrined in Art. 6, which asserts that all individuals are born free and equal in dignity and rights. It also establishes that everyone is equal before the law, prohibiting any privileges or restrictions of rights based on race, national or social origin, ethnic self-identity, sex, religion, education, opinion, political affiliation, personal or social status, or property status. ⁶²
<i>Right of the child to non-discrimination and protection</i> Article 24 of the ICCPR	According to Art. 47, the raising and upbringing of children until they reach legal age are both a right and an obligation of their parents, with support from the state. Children born out of wedlock have the same rights as those born within marriage. Additionally, the article stipulates that abandoned children are entitled to protection by the state and society.
<i>Protection of family</i> Article 23 of the ICCPR <i>Right to family life</i> Article 10 of the ICESCR	The Bulgarian Constitution broadly states that 'the family, motherhood and children shall enjoy the protection of the state and society' (Art. 14). It also defines marriage as 'a free union between a man and a woman' (Art. 46, para. 1), focusing on the different sexes of the spouses rather than their free will. Art. 46 recognises as legal only the civil marriage, and emphasises equal rights and obligations in matrimony and the family.
<i>Right to work</i> Article 6 of the ICESCR	Art. 48 affirms the right to work and mandates the state to create conditions that enable the exercise of this right, including for individuals with physical or mental disabilities. The Constitution explicitly states in Art. 48, para. 3 that everyone is free to choose their occupation and workplace.

60 During the totalitarian regime and the initial decade of Bulgaria's transition to democracy, NGOs, known as associations and foundations, were regulated by the Persons and Family Act (prom. SG 182 of 9.08.1949). A comprehensive reform to guarantee the freedom of association was implemented at the end of 2000 with the introduction of the Non-Profit Legal Entities Act (prom. SG 81 of 6.10.2000), which took effect on 1 January 2001.

61 There is ongoing debate about whether Bulgaria's blanket constitutional ban on voting rights for incapacitated persons and prisoners aligns with the standards of reasonable restrictions of the right to participate in public affairs. This discussion is particularly relevant in the light of judgments against Bulgaria by the European Court of Human Rights in cases such as *Kulinski and Sabev*, among others.

62 The Protection against Discrimination Act (prom SG 86 of 30.09.2003) came into effect on 1 January 2004.

<i>Right to just and favourable conditions of work</i> Article 7 of the ICESCR	Art. 48, para. 5 stresses the provision of healthy and safe working conditions, guaranteed minimum wages, remuneration for actual work performed, and appropriate rest and leave, all as defined by law. ⁶³ The Constitution does not specifically reference equal pay, equal opportunities for promotion, reasonable limitations on working hours or decent living conditions for workers and their families.
<i>Right to form and join trade unions and right to strike</i> Article 8 of the ICESCR	Art. 49 recognises the right of workers and employees to freely form trade union organisations and alliances to defend their interests related to work and social security. Art. 50 guarantees the right to strike in defence of their collective economic and social interests, to be exercised in accordance with the conditions and procedures established by law. ⁶⁴
<i>Right to social security</i> Article 9 of the ICESCR	According to Art. 51, citizens have the right to social security and welfare assistance, with the state providing social security for the temporarily unemployed in accordance with the conditions and procedures established by law. ⁶⁵ Para. 3 of Art. 51 stipulates that elderly people without relatives who are unable to support themselves, as well as persons with disabilities and the impoverished shall receive special protection from the state and society.
<i>Right to education Article 13 of the ICESCR</i> <i>Compulsory primary education</i> Article 14 of the ICESCR	Art. 52 affirms the right to education but does not specify the aims of education, as detailed in Art. 13, para. 1 of the ICESCR. The Bulgarian Constitution mandates school attendance up to the age of 16 and establishes that primary and secondary education in state and municipal schools shall be free of charge. Under certain conditions defined by law, higher educational institutions are also required to provide education at no cost. The state promotes education by establishing and funding schools, supporting capable students at both school and university levels, and offering opportunities for vocational training and retraining.
<i>Right to health care</i> Article 12 of the ICESCR	While the ICESCR guarantees 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health', the Bulgarian Constitution presents a more limited version of the right to health care. Art. 52, para. 1 affirms the right to medical insurance, ensuring access to affordable medical care and free medical care in accordance with the conditions and procedures established by law. Para. 2 outlines the sources of funding for medical care, while para. 3 generally declares that the state is responsible for safeguarding the health of its citizens and encouraging the promotion of sports and tourism. Similarly, Art. 55 recognises the right to a healthy and favourable environment that meets established standards and norms.
<i>Right to participate in cultural life</i> Article 15 of the ICESCR	Art. 54 asserts that every individual has the right to access national and universal cultural values and to cultivate their own culture in line with their ethnic identity, which shall be recognised and protected by law. Furthermore, the law will also safeguard artistic, scientific and technological creativity.

The Constitution of 1991 does not specifically address several rights enshrined in the ICCPR, including the right to recognition as a person before the law (Article 16), the prohibition of propaganda (Article 20), the right to marry (Article 23) and the rights of minorities (Article 27). Additionally, the concept of the right to an

63 The first Healthy and Safe Working Conditions Act (prom. SG 124 of 23.12.1997) was enacted in 1997.

64 The right to strike was established in March 1990, prior to the adoption of the 1991 Constitution, when the National Assembly enacted the Settlement of Collective Labor Disputes Act (prom. SG 21 of 13.03.1990).

65 Initially, the right to social security and welfare assistance was governed by amendments and supplements to the old Pensions Act (prom. SG 91 of 12.11.1957). This framework underwent a comprehensive reform with the enactment of the Social Security Code (prom. SG 110 of 17.12.1999), which came into effect on 1 January 2000.

adequate standard of living, which includes access to adequate food, clothing and housing as outlined in Article 11 of the ICESCR, is also absent from the Constitution. While Article 23 of the ICCPR and Article 10 of the ICESCR emphasise that the family is the natural and fundamental unit of society entitled to protection by both society and the state, as well as the necessity of free and full consent for intended spouses to enter into marriage, the Bulgarian Constitution broadly states that 'the family, motherhood and children shall enjoy the protection of the state and society' (Article 14). Furthermore, it defines marriage as 'a free union between a man and a woman' (Article 46, paragraph 1), focusing on the different sexes of the spouses rather than their free will.

The 1991 Constitution established the principle of the rule of law and significantly transformed the framework for human rights protection, emphasising guarantees and effective remedies. While it prompted numerous legislative reforms, it cannot be conclusively stated that these new laws or reforms were directly linked to the provisions of UN human rights treaties, as their reasoning did not make such references. Additionally, Bulgaria ratified the European Convention on Human Rights in 1992, which provides for rights and freedoms similar to those in the ICCPR and the ICESCR. Many of Bulgaria's legislative reforms can be linked to the corresponding judgments of the European Court of Human Rights.

The 2006 constitutional amendments established the Ombudsman as an advocate and defender of human rights, empowered to petition the Constitutional Court to declare any law that violates citizens' rights and freedoms unconstitutional. In Bulgaria, without the option of an individual constitutional complaint, the only means of seeking human rights protection before the Constitutional Court is presently through indirect referral by the Ombudsman, the Supreme Bar Council or the courts of all instances.

In this context, Bulgarian human rights lawyers primarily rely on international human rights courts, particularly the European Court of Human Rights, to address issues such as legislative shortcomings, systemic defects and structural discrimination in Bulgaria. Furthermore, they seek support from UN monitoring mechanisms to pressure the government and legislature into reforming the legal framework and policies to better promote and protect human rights.

2.2.2. *UN human rights conventions ratified by Bulgaria in the late 20th and early 21st century and their corresponding major legislative reforms*

The 1989 Convention on the Rights of the Child was ratified by the Grand National Assembly⁶⁶ just before the adoption of the new democratic Constitution of the Republic of Bulgaria on 12 July 1991. In March 1991, the government⁶⁷ expressed its consent to accede to the convention and proposed its ratification to the Grand National Assembly. The convention was included on the agenda for the plenary session on 11 April 1991, and was ratified almost unanimously.⁶⁸ All participants in the parliamentary debate stressed that the ratification should not be viewed as a mere formality but as a vital step in a long process aimed at ensuring the effective protection of children's rights and aligning Bulgarian legislation with international standards. It was noted that some of the requirements outlined in the Convention on the Rights of the Child were 'far beyond the current practices' in Bulgaria, particularly in schools and correctional institutions.⁶⁹ The debate also highlighted the need for significant reforms of many existing laws,⁷⁰ as well as the adoption of a comprehensive child law by future parliaments.⁷¹ However, despite this understanding and enthusiasm at the outset of democratic governance in Bulgaria, the new Child Protection Act was not adopted until 2000,⁷² and many reforms in the child justice system are still awaiting legislative action. Amid significant economic and democratic reforms, the government proposed⁷³ to parliament – the sole competent body under the new Constitution – the ratification of the 1951 Convention relating to the Status of Refugees and its Protocol of 1967. On 22 April 1992, the National Assembly held the two votes necessary for the ratification

66 The 1971 Constitution was amended and supplemented in 1990 to facilitate the transition to democracy. The April amendments established the Grand National Assembly, which was authorised to adopt the new Constitution while also serving as the National Assembly until its enactment. This body possessed full legislative powers, including the authority to ratify international treaties.

67 Decision No 67 of the Council of Ministers of 26 March 1991 on accession to the Convention on the Rights of the Child.

68 Among the members of parliament present at the plenary session, 217 voted in favour of ratifying the Convention on the Rights of the Child, one voted against it and two abstained.

69 See Ira Antonova's speech in the Transcript of the Plenary Session of the Seventh Grand National Assembly on 11 April 1991, 77–78.

70 Several laws, including the Family Code and the Civil Procedure Code, were referenced in Metodi Nedialkov's speech. The MP emphasised the necessity of establishing a new framework for exercising parental rights in divorce cases to ensure that children maintained meaningful contact with both parents. He also stressed that the divorce process should recognise the child as a party to the proceedings and prioritise their protection. (See the Transcript of the Plenary Session of the Seventh Grand National Assembly on 11 April 1991, 78–79.) However, no legislative reforms in this area have been undertaken in the years since.

71 See Petar Taslakov's speech in the Transcript of the Plenary Session of the Seventh Grand National Assembly on 11 April 1991, 80.

72 Prom. SG 48 of 13.06.2000.

73 Decision No 40 of 28 January 1992 of the Council of Ministers.

of the Convention without any discussions, and no MP voted against it. It was noted during the presentation of the ratification law that implementing the Convention required the adoption of domestic legislation governing the status of refugees shortly after ratification.⁷⁴ However, no parliamentary law was enacted until 1999 – the Refugees Act⁷⁵ – and in the meantime, only secondary domestic legislation was adopted and in force.⁷⁶ This law was short-lived, as it was repealed three years later with the adoption of a new Asylum and Refugees Act by parliament in 2002,⁷⁷ followed by numerous reforms related to Bulgaria's EU membership.

Although Bulgaria signed the 2006 Convention on the Rights of Persons with Disabilities shortly after its adoption on 27 September 2007, the government did not propose its ratification to parliament until the end of 2011.⁷⁸ On 26 January 2012, the National Assembly held the two readings of and unanimous votes on the ratification law in the presence of representatives from NGOs advocating for the rights of people with disabilities. The parliamentary report on the ratification emphasised that the Convention was a new legal instrument that clearly and explicitly outlined the obligations, mechanisms and minimum measures which Bulgaria must adopt to ensure the human rights of persons with disabilities.⁷⁹ The parliamentary discussion highlighted that numerous additional decisions would be required following ratification, such as obtaining financial resources and ensuring accessible environments. Two years later, parliament enacted the first comprehensive law – the Act on the Integration of People with Disabilities.⁸⁰ However, the implementation revealed that alignment with international and EU standards required further legislative reforms in Bulgaria, resulting in the concurrent enactment of the People with Disabilities Act⁸¹ and the related Personal Assistance Act⁸² at the end of 2018.

On 18 December 2008, Bulgaria signed the 2006 Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP to CRPD), but it remained unratified for over fifteen years, with the government failing to take the necessary measures for ratification. In the 2020 annual report on the activities of the monitoring board established under the People with Disabilities Act, the ombudsman expressed deep concern about the prolonged delay in ratification, which deprived

74 Transcript of the Plenary Session of the Seventh Grand National Assembly on 22 April 1992.

75 Prom. SG 53 of 11.06.1999, in force from 1 August 1999.

76 Decree No 207 of 23 October 1992 of the Council of Ministers on the establishment of the National Bureau for Territorial Asylum and Refugees (prom. SG 90 of 6.11.1992). The decree was repealed with the enactments of the Refugees Act.

77 Prom. SG 54 of 31.05.2002.

78 Decision No 967 of 30 December 2011 of the Council of Ministers.

79 Transcript of the Plenary Session of the Seventh Grand National Assembly on 26 January 2012.

80 Prom. SG 81 of 17.09.2004.

81 Prom. SG 105 of 18.12.2018, in force from 1 January 2019.

82 Prom. SG 105 of 18.12.2018.

affected individuals of the opportunity to lodge complaints with the Committee on the Rights of Persons with Disabilities. The government's Action Plan for Implementation of the Final Recommendations made to the Republic of Bulgaria by the Committee on the Rights of Persons with Disabilities (2021–2026) outlines the steps needed to expedite the ratification process of the 2006 OP to CRPD.

To date, Bulgaria has not ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families nor the optional protocols related to the ICESCR and CRC that provide access to communication procedures. Additionally, there has been no academic discourse in Bulgaria regarding the potential for the country to join these agreements. Bulgarian scholars have largely ignored the question of how individual communication procedures followed by UN bodies could enhance the implementation and protection of human rights. These procedures are well known for highlighting specific human rights violations, encouraging public involvement (especially of NGOs) and increasing state accountability. Despite this, contemporary Bulgarian international law studies rarely go beyond a basic overview of existing UN institutional structures and human rights monitoring mechanisms.⁸³ Discussions about the pros and cons of communication procedures or evaluations of their effectiveness are generally avoided, leading to a failure in advocating for their ratification. As a result, Bulgaria lags behind in ongoing academic efforts to strengthen UN treaty bodies, mechanisms and procedures.⁸⁴

2.2.3. Contributions of practitioners in Bulgaria to strengthening the universal protection of human rights

Since Bulgarian scholars did not take the lead in clarifying the conceptual changes in the UN's approach to human rights after the Cold War, new ideas and tools could only be introduced through the efforts of practitioners from three groups.

First, practitioners in the executive branch, particularly the Ministry of Foreign Affairs, have maintained an ongoing dialogue with UN bodies and human rights monitoring mechanisms. They coordinate the preparation of periodic national reports for these mechanisms within the national institutional framework. The government is tasked with ensuring the implementation of the UN committees' recommendations that Bulgaria has agreed to. In March 2024, the Council of Ministers established a National Coordination Mechanism for Human Rights through a decree. This mechanism is expected to improve interaction between

83 Друмева, and Каменова [Drumeva and Kamenova], 2000, pp. 56–85; Хюфнер, Константинов and Ройтер [Hyufner, Konstantinov and Royter], 2001; Илиева [Ilieva], 2005; Белова-Ганева [Belova-Ganeva], 2013; Ковачева [Kovacheva], 2018, pp. 372–382; Видин [Vidin], 2020, pp. 217–237; Йочева [Yocheva], 2020; Мулешкова [Muleshkova], 2020.

84 Alston and Crawford, 2000; Alfredsson, Grimheden, Ramcharan and de Zayas, 2009; Verdirame, 2010; Keller and Ulfstein, 2012; Subedi, 2017; Oberleitner, 2018; Sarkin, 2020; Subedi, 2017.

the Bulgarian government and UN mechanisms, align Bulgarian legislation, policies and practices with universal and European human rights standards, develop specialised expertise on human rights issues, and maintain an open dialogue with the academic community and civil society.

Second, the judiciary has increasingly incorporated provisions from ratified UN human rights treaties into case law. It has become standard practice for court judgments to reference all relevant domestic and international norms when fundamental rights and freedoms are in dispute. This shift was primarily influenced by Article 5, paragraph 4 of the 1991 Constitution, which integrated ratified international conventions into the Bulgarian legal system. Courts have been expected to apply international norms *ex officio*,⁸⁵ without requiring these norms to be specifically cited by the parties involved or known to the individuals or entities to whom they apply. While comparative analysis between constitutional and international provisions is often absent, the fact that Bulgarian judges have begun to embrace the concept of universal human rights protection is undeniable progress. Some take this further by considering General Comments from UN treaty bodies, which clarify the content of human rights, identify potential violations and recommend compliance measures.

The Constitutional Court of the Republic of Bulgaria (CC) has recognised the importance of General Comments as soft law and has utilised some of their interpretative conclusions in its jurisprudence, as demonstrated in Decision No 10 of 23 July 2020 in case No 7/2020. During the COVID-19 pandemic, the President requested the CC to declare certain legal provisions unconstitutional, where the legislature had delegated its authority to the government to set time limits and restrict rights during emergency epidemic situations. In its decisions, the CC noted that Article 4 of the ICCPR allowed for derogations from certain rights in times of war or other emergencies. The CC further explained that key terms in international treaties were clarified in various soft law instruments, including the Human Rights Committee's General Comment No 29 on Article 4 of the ICCPR, the Syracuse Principles on the Limitation and Derogation of Provisions of the ICCPR, and the Paris Minimum Standards on Human Rights Norms in the State of Emergency. The CC emphasised that General Comment No 29 explicitly stated that not every public upheaval or catastrophe qualified as a public emergency that threatened the existence of the nation. Overall, the CC's recognition of General Comments as soft law raises awareness among judges, lawyers and the public about international human rights standards. Employing these interpretative tools to clarify and enhance domestic legal norms fosters more elaborate and well-informed judicial decision-making in human rights cases.

Third, human rights activists and NGOs have played a crucial role in sensitising lawyers and the public about international human rights standards. Since

85 Тодоров [Todorov], 2000, p. 319.

the mid-1990s, they have primarily pressured the government to reform policies and institutions to align Bulgarian legal practices with the imperatives of the universal protection of human rights. The vigorous advocacy efforts of the Bulgarian Helsinki Committee initiated inspections in institutions for children with mental disabilities in 2010, uncovering a disturbing number of deaths due to neglect, as well as cases of malnourishment, violence, physical restraint through binding and treatment with dangerous drugs. These revelations triggered a comprehensive reform aimed at the deinstitutionalisation of children.⁸⁶

The NGOs in Bulgaria lack the resources to consistently participate in the Universal Periodic Review conducted by the United Nations Human Rights Council and the monitoring mechanisms of other UN treaty bodies. However, the Bulgarian Helsinki Committee managed to submit ‘alternative reports’ to supplement the official ones, such as the 2012 Alternative Report to the UN Committee of Economic, Social and Cultural Rights and the 2017 Alternative Report to the UN Committee on the Rights of Persons with Disabilities. The Bulgarian Helsinki Committee’s annual reports on human rights in Bulgaria, published in English since 1994, are also a valuable source of information on key human rights issues in the country.

The government appoints prominent human rights activists from Bulgaria to UN bodies due to their international recognition. One such nominee is Velina Todorova, an associate professor specialising in civil and family law, and an author of strategies and bills aimed at reforming policies concerning the rights of children and persons with disabilities. She has served as a member of the UN Committee on the Rights of the Child (CRC) for two consecutive terms, from 2017 to 2021 and from 2021 to 2025.

In 2018, Genoveva Tisheva, longtime managing director of the Bulgarian Gender Research Foundation and director of the Women’s Human Rights Training Institute, was nominated as the Bulgarian candidate for the Committee on the Elimination of Discrimination against Women (CEDAW). She was elected to the CEDAW for the term starting in 2019 and was re-elected for a second term in 2022.

Bulgaria completed its inaugural term as a member of the Human Rights Council from 2019 to 2021 and has been re-elected for the term of 2024–2026.

UN human rights mechanisms are often underestimated and even neglected in Bulgaria. These instruments are not designed to offer direct remedies to victims of human rights violations; rather, they focus primarily on monitoring state compliance. The interactions of UN bodies predominantly occur with governments rather than individuals, causing these mechanisms to be perceived more as political tools than judicial ones. Furthermore, the UN human rights machinery encounters significant challenges in today’s multi-polar world, and

86 Ivanova and Bogdanov, 2013.

its effectiveness has long been considered problematic.⁸⁷ This situation partly explains the scarcity of theoretical research on the impact of universal human rights protection in Bulgaria.

3. The impact of UN mechanisms on Bulgaria's domestic policies

■ 3.1. *Human Rights Council special procedures for Bulgaria since 1998*

Bulgaria has been the focus of special UN mechanisms on several occasions. In November 1998, the Special Rapporteur on extreme poverty visited Bulgaria as part of a 'case study' that also included Portugal and Yemen.⁸⁸ The ensuing report highlighted that vulnerable groups such as disabled individuals, street children, Roma children and very poor women⁸⁹ received insufficient attention in the country. Recommendations were put forth to enhance the involvement of local communities in identifying poverty and delivering social welfare. The Special Rapporteur on extreme poverty also pointed out the need for monitoring the growing impact of organised crime and corruption, which often exploit disadvantaged populations.

After visiting Bulgaria in May 2011, the Special Rapporteur on the independence of judges and lawyers concluded that achieving true judicial independence required a clearer separation of roles and functions of the prosecution and investigative services from that of the courts, along with distinct career paths for judges and prosecutors.⁹⁰ She also urged the Bulgarian government to identify methods to eliminate undue political and external influence on the Supreme Judicial Council. Specifically, she stressed the need to reform the Council's election process to enhance transparency and integrity. The Special Rapporteur presented a comprehensive list of recommendations aimed at advancing judicial reform in Bulgaria to establish an independent, impartial and transparent justice system that upholds human rights for all.

The Special Rapporteur addressed sensitive topics in greater detail and with less diplomatic language compared with the EU Cooperation and Verification Mechanism reports on similar issues at the time.⁹¹ For instance, she underscored the importance of strengthening criminal investigations and establishing a coordinated mechanism for cooperation among police, investigative bodies and

⁸⁷ Subedi, 2017, pp. 2, 28.

⁸⁸ UN doc. E/CN.4/1999/48, 29 January 1999. Bulgaria was part of a case study, alongside Portugal and Yemen.

⁸⁹ See Илиева [Ilieva], 2005, pp. 175–176. Irena Ilieva discusses the concept of 'vulnerable groups' in the context of safeguarding women's human rights within UN mechanisms.

⁹⁰ UN doc. A/HRC/20/19/Add. 2, 21 May 2012, 94, 97 (b).

⁹¹ The Cooperation and Verification Mechanism (CVM) for Bulgaria and Romania was established following their accession to the European Union in 2007 and continued until September 2023.

prosecution offices. Additionally, she stressed the necessity of restricting wiretapping and ensuring that the evidence obtained through it always supplemented other evidence. She pointed out that it was essential to ensure that courts were properly resourced and equipped, including facilities for persons with disabilities, and that adequate workspace was provided to prevent interference in judicial functions. The Special Rapporteur recommended measures to abolish secondment arrangements as a substitute for the promotion of judges, and proposed actions to evaluate the performance, integrity, transparency and accountability of the judicial system, along with its human rights aspects.

Despite two successive constitutional amendments and numerous legislative changes aimed at reforming the judiciary, most of the issues identified by the Special Rapporteur on the independence of judges and lawyers persist today. Bulgaria's primary focus has been on major structural changes through constitutional reform. In 2015, the Supreme Judicial Council was divided into two colleges – one for judges and the other for prosecutors and investigators. By the end of 2023, two constitutional bodies were established: the Supreme Judicial Council and the Supreme Prosecutorial Council. However, despite these extensive reform efforts, the anticipated improvements have not yet been realised. Issues such as undue external influence on the judiciary appear to have worsened rather than resolved.

After a mission to Bulgaria in July 2011, the UN independent expert on minority issues reported to the Human Rights Council⁹² that despite long-standing policies for Roma integration, this minority group continued to face 'discrimination and exclusion in all walks of life', perpetuating ongoing marginalisation and persistent poverty. In critical areas such as education, employment, healthcare and housing, the Roma occupy the lowest socio-economic status. The Bulgarian Government's efforts have been severely rebuked as inadequate and superficial, relying solely on an inconsistent, pilot project-based approach that fails to achieve the transformative tipping point needed to address these issues.

In response to strong criticism from a UN independent expert and pressure from the EU, the Bulgarian parliament adopted the National Strategy of the Republic of Bulgaria for Roma Integration (2012–2020). Although the strategy was praised for setting specific targets in critical areas, it lacked an effective monitoring and evaluation mechanism,⁹³ resulting in insufficient tangible results. To address these shortcomings, the Council of Ministers adopted the subsequent National Strategy of the Republic of Bulgaria for the Equality, Inclusion and Participation of the Roma (2021–2030). This new strategy aims to enhance national efforts through rigorous monitoring and more effective implementation, supported by adequate funding.

⁹² UN doc. A/HRC/19/56/Add. 2, 3 January 2012.

⁹³ Kolev et al., 2021.

In 2019, Bulgaria hosted two special mechanisms: the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material in April,⁹⁴ and the Special Rapporteur on violence against women, its causes and consequences in September.⁹⁵ These special procedures aligned with the efforts of other universal mechanisms under the United Nations, such as the Universal Periodic Review, and the observations and recommendations of the CRC and the CEDAW. These mechanisms often reference one another and work together to pressure Bulgaria to reform its existing system, which fails to protect children and women from human rights abuses.

■ 3.2. *Key conclusions and recommendations concerning Bulgaria in the Universal Periodic Review*

The Universal Periodic Review (UPR) was established in 2006 by the UN Human Rights Council (HRC) as a state-led, peer-review mechanism designed to enhance human rights globally through non-confrontational means.⁹⁶ The UPR process consists of several distinct phases: (I) preparation and compilation of reports for review; (II) state review by the HRC Working Group; (III) issuance of a draft outcome report; (IV) adoption of the final outcome report; and (V) the implementation period.⁹⁷ All UN member states undergo this review every four and a half years. Since its inception, the UPR has completed three full cycles, with Bulgaria's human rights records reviewed in 2010, 2015 and 2020.

In the second cycle, Bulgaria fully or partially accepted 174 out of 182 recommendations, and in the third cycle, it did the same for 193 out of 233.⁹⁸ In 2015, Bulgaria grouped certain recommendations under 'Not accepted/Noted recommendations'⁹⁹ if they seemed non-applicable or irrelevant (e.g. Timor-Leste urged Bulgaria to consider ratifying the CAT, which it had already ratified in 1986) or were influenced by historical and cultural controversies in the Balkans (e.g. Turkey requested the adoption of legislation to remove Bulgarian-Slavic names forcibly given to Turkish and Muslim minorities under the communist regime during the assimilation campaign; and executive decisions on the restitution of properties confiscated from the Muslim community, including the Saint Alexander Nevsky Cathedral).

94 UN doc. A/HRC/43/40/Add. 1, 14 February 2020.

95 UN doc. A/HRC/44/52/Add. 1, 19 May 2020.

96 Etone, Nazir and Storey, 2024, p. 1.

97 Etone, Nazir and Storey, 2024, p. 5.

98 See Infographic [Online]. Available at: <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session36/BG/infographic-BULGARIA.pdf> (Accessed: 9 July 2024).

99 See Addendum 1 to Outcome of the Review, Second Cycle, pp. 5–6 [Online]. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/30/10/Add.1&Lang=E> (Accessed: 13 July 2024).

In 2020, recommendations that were not fully or partially accepted were classified as ‘Recommendations noted’.¹⁰⁰ This category included those deemed unfeasible to implement for legal or constitutional reasons, those whose content was not supported and those outright rejected. During this period, Bulgaria’s views and responses were influenced by anti-gender ideology, as reflected in the Constitutional Court’s decision declaring the Istanbul Convention unconstitutional. Bulgaria rejected all suggestions to strengthen the protection of migrants’ human rights. Additionally, Bulgaria stated that there were no immediate plans to introduce new legislation on civil partnerships to protect the rights of LGBT individuals.

During the first two cycles of the UPR for Bulgaria, recommendations mainly emphasised the ratification of international human rights instruments and the strengthening of institutions like the ombudsman and the Commission for Protection against Discrimination. Bulgaria largely addressed these recommendations through legislative reforms of the relevant laws. Following amendments to Bulgarian legislation in 2018,¹⁰¹ the national ombudsman achieved ‘A’ status, fully complying with the Paris Principles. However, in the third cycle, attention shifted to Bulgaria’s failure to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

The outcome of the UPR Bulgaria’s first cycle¹⁰² highlighted the necessity of reforming the judicial system and implementing consistent measures to combat corruption, organised crime and conflicts of interest. In response, Bulgarian authorities introduced numerous new pieces of legislation, institutions and policies.¹⁰³ The fight against corruption and organised crime advanced through various institutional and legislative reforms. In 2011, the Commission for the Prevention and Ascertainment of Conflict of Interest was established under existing law, followed by the adoption of the Act on Forfeiture of Unlawfully Acquired Assets in Favour of the State in 2012, which created a corresponding commission. These entities were later merged into a unified institutional framework.

100 See Addendum 1 to Outcome of the Review, Third Cycle, pp. 4–5 [Online]. Available at: <https://undocs.org/en/A/HRC/46/13/Add.1> (Accessed: 13 July 2024).

101 In 2018, the Ombudsman Act was reformed to highlight the ombudsman’s role as a human rights advocate rather than merely a mediator between citizens and public administration (Article 2). A new requirement was introduced for the ombudsman’s electability, mandating experience in human rights protection (Article 9). Additionally, the ombudsman’s powers were strengthened to enable monitoring and promotion of the effective implementation of ratified international human rights treaties (Article 19, paragraph 1, point 12).

102 See Report of the Working Group, First Cycle [Online]. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/16/9&Lang=E> (Accessed: 9 July 2024).

103 See National Report for the second cycle, pp. 5–7 [Online]. Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WG.6/22/BGR/1&Lang=E> (Accessed: 9 July 2024).

The Legal Assistance Act was also amended to broaden the scope of socially disadvantaged groups with effective access to justice. With financial support from the Norwegian Financial Mechanism, the National Legal Aid Bureau launched a 'Legal Aid Hotline' and Regional Legal Aid Centres in 2013 to provide free legal advice. By 2017, these improvements had been legally institutionalised.

The outcomes of all three completed cycles of the Universal Periodic Review indicated that Bulgaria was expected to intensify efforts to combat xenophobia, racism and hate-based acts, including hate speech and hate crimes. Suggested measures included educational programmes and criminal justice reforms to ensure the effective investigation and prosecution of such acts.

Recommendations from the second¹⁰⁴ and third¹⁰⁵ cycles were more specific, extending the focus beyond ethnic minorities, such as the Roma, to include LGBT individuals, refugees and asylum-seekers. These rounds highlighted the need to address the rights of LGBT individuals and called for legislative amendments to broaden the definition of hate crimes and speech to encompass sexual orientation. Consequently, such amendments were adopted in the Bulgarian Criminal Code in August 2023.

It should be noted that between the second and third UPR cycles, some recommendations regarding the prevention of ill-treatment of prisoners and detainees by the police were likely omitted due to the active work and effective efforts of the ombudsman as the National Preventive Mechanism. However, the focus shifted to the conditions in the reception centres for asylum-seekers and their compliance with prohibitions of torture and cruel, inhuman or degrading treatment. This includes ensuring the provision of adequate food and essential non-food items, strengthening social services for all migrant children, particularly their right to education, and identifying vulnerable asylum-seekers to provide them with safe accommodation and appropriate support.

Children's rights have been a central topic in all three cycles of UPR Bulgaria. The UN bodies commended Bulgaria for its efforts in the deinstitutionalisation of children from 2011 to 2020, which aimed to replace existing shelters with alternative housing and care better suited to the needs of orphans and individuals with mental disabilities. Bulgaria was also urged to continue improving the quality of children's education, especially in rural areas, and to take steps toward a more sustainable reduction in school dropouts.

In 2011, in response to recommendations to reform the juvenile justice system, the government adopted a Concept for State Policy in the Field of Juvenile

104 See Matrices of Recommendations, Outcome of the Review, Second Cycle [Online]. Available at: https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/session22/BG/UPR22_Bulgaria_recommendations.doc (Accessed: 9 July 2024).

105 See Matrix of Recommendations [Online]. Available at: https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session36/BG/UPR36_Bulgaria_Thematic_List_of_Recommendations.docx (Accessed: 9 July 2024).

Justice. This envisioned specialisation within the judicial system without creating specialised courts. However, recommendations in this regard persist in the outcomes of subsequent UPR cycles, indicating that this area is not a priority for Bulgaria. Suggestions to incorporate restorative justice principles into the juvenile justice system have not yet been implemented, and punitive measures continue to be the main response to juvenile crimes.

During the second cycle, a proposal urged Bulgaria to establish a children's ombudsman to safeguard, protect and promote the rights of the child. However, such institutional changes were not implemented. Instead, legislative amendments were introduced to expand the competence of the national ombudsman, with a specific focus on children's rights.

A recommendation from the second and third cycles of the UPR stated that Bulgaria should eliminate all forms of child marriage. The country explained that exceptions to the minimum marriage age were granted by the court to persons aged 16 and over only in extraordinary and strictly defined cases, justified by strong reasons. The authorities stated that they had no immediate plans to amend the relevant provisions of the Family Code. However, at the end of 2023, the Bulgarian parliament amended the Family Code to remove exceptions allowing marriage before the age of 18, thereby complying with the recommendation.

Protection of children and women from domestic violence and human trafficking remains a priority within the Universal Periodic Review. In the third round of UPR for Bulgaria, many states called attention to the importance of reconsidering the decision not to ratify the Istanbul Convention to strengthen legislation against gender-based violence. However, ratification was halted after the Constitutional Court ruled that the Istanbul Convention was incompatible with the Constitution, citing its terms 'gender' and 'gender identity' as ambiguous and unacceptable.¹⁰⁶

Bulgaria's national reports to the UPR reveal that over the years, a series of national strategies and action plans for promoting equality between women and men have been adopted and implemented. These initiatives include measures to improve the work-life balance for parents, provide vocational training for unemployed women, encourage entrepreneurial activities among women, particularly those with disabilities, support raising children with disabilities, and enhance the legal framework against violence towards women.

Bulgaria has made significant efforts to demonstrate strong engagement in preventing and combating domestic violence. In February 2019, legislative amendments to the Criminal Code were adopted, categorising offences committed 'under conditions of domestic violence' as special cases warranting more severe penalties. In August 2023, the Protection against Domestic Violence Act underwent

106 Decision No 13, issued on 27 July 2018 by the Constitutional Court of the Republic of Bulgaria in Case No. 3/2018.

a major reform, addressing most of its procedural deficiencies, making access to justice easier, improving the enforcement of protection orders, etc. The new law has expanded the legal definition of domestic violence to include not only cases between individuals related by blood, marriage or *de facto* cohabitation but also those in an 'intimate relationship'. Initially, the new legal term was expected to cover most of the protected cases under the Istanbul Convention, including relevant relationships of LGBT people. However, during the parliamentary debates, the concept of an intimate relationship was narrowed down only to heterosexual relationships (regardless of whether the partners share the same household) and to ones lasting at least 60 days. So far, the reforms have not addressed the existing structural discrimination. Despite the presence of legislative frameworks, internal guidelines and training, the police and prosecutors fail to follow the appropriate procedures. Consequently, the burden of protection against domestic violence in Bulgaria still falls largely on NGOs, which provide shelters, legal aid and psychological support on a project basis.

One of the most visible areas where the UPR has affected human rights in Bulgaria is the protection of persons with disabilities. Following the recommendations after the first cycle, parliament ratified the Convention on the Rights of Persons with Disabilities (CRPD) and amended the existing legislative framework to strengthen their national protection. Moreover, between 2011 and 2015, the government allocated resources and implemented several policies to reform the care of people with disabilities, including the introduction of personal assistants funded by national programmes. A Long-term Strategy for the Employment of Persons with Disabilities (2011–2020) was developed, and the governmental agency supported projects in three areas: first, the startup of enterprises by persons with disabilities; second, ensuring access, adaptation and equipment for their workplaces; and third, financing targeted projects for specialised enterprises and cooperatives. Bulgaria also took steps to increase the number and variety of community-based social services.

In 2014, the government adopted a National Strategy for Long-Term Care aimed at creating the conditions for an independent and dignified life for the elderly and persons with disabilities. This strategy initiated the process of deinstitutionalising their care, with a deadline set for closing all existing homes for adults with disabilities by 1 January 2035.

Following the second cycle of UPR recommendations, Bulgaria sustained and further deepened the rights-oriented approach to issues affecting persons with disabilities. Several new legal acts were adopted to improve their quality of life. Notably, the new Persons with Disabilities Act, effective from 1 January 2019, was introduced to provide a comprehensive legal framework aimed at promoting, protecting and safeguarding their human dignity and other rights, while also supporting their social inclusion. A new Monitoring Council was set up, comprising representatives from all relevant institutions, NGOs and the academic community,

to coordinate national efforts. Numerous regulations and methodologies have also been implemented to streamline procedures and practices in various areas, such as conducting individual assessments and providing auxiliary devices for persons with disabilities. Specific focus was given to inclusive education for children with disabilities within the Bulgarian general school system.

One area where Bulgaria falls behind in complying with the UPR recommendations¹⁰⁷ is the revision of the laws concerning the legal capacity of individuals with mental disabilities to comply with Article 12 of the CRPD. The National Strategy for Persons with Disabilities 2021–2030¹⁰⁸ acknowledges the need for legal reform to put in place measures supporting decision-making by individuals with mental disabilities rather than appointing guardians to decide for them. Compliance with Article 12 is essential for exercising other rights, such as political participation, access to justice and family rights. This reform, however, requires a radical shift from the persisting law and practice of ‘incapacitation’ where individuals are stripped of their legal capacity, excluded from social and legal activities and have a guardian appointed to make all decisions on their behalf. The new approach is expected to introduce concepts such as supported decision-making and protective measures, ensuring that individuals with mental disabilities can exercise their rights independently, have their will and personal choice respected and are provided with protection in high-risk situations.

4. Cases against Bulgaria before the monitoring bodies of the UN treaties

Since Bulgaria has not ratified the optional protocols on communication procedures under the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, only a small number of communications have been submitted against Bulgaria to UN treaty bodies, specifically the Human Rights Committee and CEDAW.

■ 4.1. *Naidenova et al. vs Bulgaria, Communication No 2073/2011, Human Rights Committee*

The case of *Naidenova et al. vs Bulgaria*¹⁰⁹ involved an impoverished Roma community that had resided for over 70 years in an informal settlement on municipal land in Sofia. They faced an eviction order because their buildings were erected

107 See Matrices of Recommendations, Outcome of the Review, Second Cycle, pp. 123, 143.

108 NSHU 2021–2030 [Online]. Available at: <https://www.mlsp.government.bg/uploads/41/test/nshu-2021-2030-translated.pdf> (Accessed: 9 July 2024).

109 *Naidenova et al. vs Bulgaria*, Communication No 2073/2011, UN doc. CCPR/C/106/D/2073/2011 (2012).

without proper permits. The public authorities recognised their housing by providing individual mail services, police registration of their addresses and publicly regulated services such as electricity.

In July 2006, the city mayor requested the authors of the communication to voluntarily leave their housing, citing that it had been constructed without proper permits on municipal land. When they failed to comply, the mayor issued an eviction order, which was appealed in all court instances. During the court proceedings, an injunction was granted to prevent any eviction pending the examination of the appeals. However, following the final court judgment in October 2009, which upheld the eviction order as lawful, it was set to be imminently enforced. In March 2011, the eviction order was scheduled for execution, with the protocol handed to the community on 23 June 2011.

By the time the communication was submitted to the Human Rights Committee, ten households in the Roma community were facing imminent forced eviction and demolition of their dwellings. None of them had been offered alternative housing and no meaningful consultation had taken place. In this instance, the Human Rights Committee issued its initial request for interim measures to halt forced evictions,¹¹⁰ asserting that such actions would constitute unlawful interference with the right to home (Article 17 of the ICCPR).

Despite this, the Bulgarian authorities allowed the community's water supply to be cut off in May 2012. In response, the Human Rights Committee reminded the state that the interim measures were still active and requested the reinstatement of water service for the community. It also noted that cutting off the water supply could be considered an indirect means of achieving eviction.¹¹¹

In November 2012, the Committee issued a permanent injunction to prevent the eviction until the authorities and the community agreed on satisfactory alternative housing. The key point in this decision was that an 'effective remedy' had to, at least, involve refraining from evicting the community until satisfactory replacement housing was immediately available.¹¹² It was emphasised that the state had a general obligation to prevent similar violations in the future. Hence, Bulgaria is required to guarantee the immediate provision of adequate alternative housing before any future evictions of communities from their illegal residences. The Human Rights Committee's responsiveness to the critical developments, in this case, has been praised in academic analyses as 'lessons of good practices'.¹¹³

110 Langford et al., 2016, p. 311.

111 Ibid.

112 *Naidenova et al. vs Bulgaria*, Communication No 2073/2011, UN doc. CCPR/C/106/D/2073/2011 (2012), para. 16.

113 Langford et al., 2016, p. 311.

■ 4.2. *VK vs Bulgaria, Communication No 20/2008, CEDAW*

In the case of *VK vs Bulgaria*,¹¹⁴ the author of the communication alleged that she experienced systematic domestic violence, including economic and emotional control, and was isolated from social contacts by her husband. Before and especially after the family moved to Poland in 2006 for her husband's work, she was not allowed to work despite her education and qualifications. Upon expressing her intention to divorce, her husband threatened to deny her custody of their children.

On 31 December 2006, while on holiday in Sofia, the husband became aggressive and violent during an argument, insulting and hitting her, and VK's parents intervened by calling the police. In the following months, the physical abuse escalated, including incidents of attempted strangulation and locking the children in a room. In April and May 2007, VK filed an application with the Warsaw District Court for protective measures and financial support for basic needs, but these proceedings remained unresolved. She decided to leave her husband and seek refuge in a shelter in Warsaw for herself and her children. On 27 July 2007, she returned to the family apartment to collect her belongings, but her husband arrived early and locked the children inside. The police intervened, allowing VK to take her daughter, but her son remained with her husband.

VK and her daughter stayed at a shelter in Warsaw until 23 September 2007. During this time, her husband visited twice, becoming aggressive and violent on the second visit, prompting the staff to call the police. Meanwhile, she was denied any contact with her son. On 21 September 2007, she discovered her son's location and went to see him at the kindergarten, but the director refused her access, therefore she called the police. Her husband arrived and behaved violently, resulting in the police restraining him.

Subsequently, VK took her son and, along with her daughter, left Poland for Bulgaria to seek protection and support from her family. Initially, she and her children stayed with friends in Bulgaria, as no shelter could accommodate them immediately. The CEDAW found that the lack of shelters for VK and her children upon their return to Bulgaria in September 2007 constituted a violation of Bulgaria's obligation to provide immediate protection for women from violence.

On 27 September 2007, VK filed an application with Bulgarian courts for an immediate protection order against her husband and temporary custody of their children, which was granted the same day. However, after the conclusion of the court proceedings, VK's request for a permanent protection order was denied because no act of domestic violence had occurred during the relevant one-month period before the application, and there was no imminent threat to her life or health.

114 *VK vs Bulgaria*, Communication No 20/2008, UN doc. CEDAW/C/49/D/20/2008 (2011).

The CEDAW concluded that the Bulgarian courts' interpretation of the one-month application period for protection orders lacked gender sensitivity and reinforced the notion that domestic violence is a private matter. In addition, the courts' narrow focus on physical violence and immediate threats, along with stereotypical views of women's roles, led to the denial of a permanent protection order for VK. Furthermore, the courts' interpretation of procedural requirements excluded consideration of past incidents of violence and imposed an excessively high standard of proof, contrary to international human rights and anti-discrimination standards.

The Committee acknowledged that VK suffered moral and financial harm, fear and anguish due to the absence of state protection and the gender-based stereotypes inherent in the court decisions, albeit not enduring physical violence after her protection order was denied in April 2008. Consequently, the Committee recommended that Bulgaria provide VK with adequate financial compensation commensurate with the severity of the rights violations she experienced.

The case *VK vs Bulgaria* highlighted significant deficiencies in the country's response to domestic violence, emphasising the urgent need for comprehensive reforms to protect victims. The CEDAW made several recommendations to Bulgaria, including amending legislation to remove the one-month restriction for submitting protection order requests. The Committee also stressed the need to reduce administrative and legal burdens on applicants and to ease the burden of proof for victims. Bulgaria was urged to ensure sufficient state-funded shelters and support NGOs providing refuge, legal aid and assistance to domestic violence victims. Mandatory training was recommended for judges, lawyers and law enforcement officials on the law, definitions of domestic violence, gender stereotypes and relevant international protocols.

■ 4.3. *Isatou Jallow vs Bulgaria, Communication No 32/2011, CEDAW*

In the case of *Isatou Jallow vs Bulgaria*,¹¹⁵ the Committee once again addressed significant failures by the Bulgarian authorities to protect victims of domestic violence.

In February 2007, Jallow, a Gambian citizen, married a Bulgarian national, gave birth to a child and moved to Bulgaria. There, she and her minor daughter endured severe physical, psychological and sexual abuse. Her husband tried to force her into pornographic films and photos, withheld her documents and did not allow her to leave the house without his permission or seek employment. He repeatedly asserted that her stay in Bulgaria depended on him and threatened to have her imprisoned, confined to a mental institution or deported to Gambia

¹¹⁵ *Isatou Jallow vs Bulgaria*, Communication No 32/2011, UN doc. CEDAW/C/52/D/32/2011 (2012).

without her daughter if she resisted. He also began abusing their daughter by masturbating in front of her and watching pornographic films in her presence.

Social workers visited Jallow's home, saw pornographic pictures and called the police who responded immediately, seized the photographs and notified the prosecutor's office. Jallow was advised to take her daughter and leave her husband, but no further guidance or protection was offered by the social workers or the police. She and her daughter sought refuge in two different shelters for a few days, but her husband located them and convinced her to return home. In March 2009, the prosecutor's office declined to continue the investigation, citing insufficient evidence, as the photos were considered part of the husband's private collection and consensually taken. Jallow was never interviewed during the investigation.

In the following months, the police were repeatedly called to stop the husband's domestic violence but they only issued verbal warnings. The husband then filed applications for protection, claiming that he and their daughter were victims of Jallow's violence, requesting her admission to a mental hospital. Initially, these applications were rejected, but after adding new allegations and testimonies, the court issued an emergency protection order on 29 July 2009. This order removed Jallow from the family home and placed their daughter under her father's temporary custody. When the police executed the order, they did not provide Jallow with a translation or appeal option. She later sought help from various authorities but was repeatedly denied information and assistance.

In the court hearings from September to October 2009, Jallow denied the allegations and asserted that she and her daughter were victims of her husband's abuse. However, the official social report omitted references to domestic violence and did not assess her parental capacity. In December 2009, the court dismissed the husband's application for a permanent protection order due to insufficient evidence, yet the emergency order remained in effect as the husband appealed. In late 2009, he initiated divorce proceedings seeking custody of their daughter. By March 2010, Jallow felt forced to agree to disadvantageous terms for a divorce by mutual consent to obtain custody of her daughter.

The CEDAW noted that Bulgarian authorities failed to act with due diligence in Jallow's case, neglecting her vulnerable position as an illiterate migrant woman with a young daughter, lacking local relatives or knowledge of Bulgarian. The Committee found Bulgaria in violation of multiple CEDAW Convention articles and recommended appropriate monetary compensation for the victims of domestic violence. It urged effective access to protection services and justice, including document translation for migrant women. Bulgaria was advised to ensure that incidents of violence are considered in child custody and visitation decisions, prioritising the rights and safety of victims and children. Strong emphasis was put on the need for regular, gender-sensitive training on the Convention, its Optional Protocol and General Recommendations for judges, prosecutors, the State Agency for Child Protection staff and law enforcement personnel focusing on

cross-sectoral discrimination to ensure that complaints of gender-based violence are adequately addressed.

■ 4.4. *V.P.P. vs Bulgaria, Communication No 31/2011, CEDAW*

The case of *V.P.P. vs Bulgaria*¹¹⁶ involved a seven-year-old girl who was sexually assaulted by an adult neighbour in 2004. This attack resulted in severe psychological disorders, lasting trauma and developmental issues, necessitating her attendance in a special needs school.

It took two years for the prosecutor's office to indict the perpetrator for 'sexual molestation', which at the time was not considered a serious offence. The court approved a plea bargain that resulted in a three-year suspended sentence. Due to this plea bargain, the victim was denied the opportunity to claim moral damages in the criminal proceedings.

Subsequently, the victim's mother filed a civil lawsuit seeking compensation for the trauma inflicted on her daughter and was awarded 30,000 leva (approximately 15,000 euros) by the court. However, the execution of this judgment was problematic, as efforts to recover the awarded compensation from the perpetrator's assets largely failed. The victim's family incurred significant costs in attempting to enforce the judgment, yet only a small portion of the compensation has been collected.

Furthermore, despite the conviction of the child molester, no measures were taken to ensure the girl's ongoing safety. The perpetrator continues to live nearby, causing the victim constant fear and distress. The author of the communication to CEDAW highlights the inadequacy of Bulgarian legislation in protecting victims of sexual crimes post-trial and ensuring the enforcement of court judgments for compensation.

The Committee concluded that Bulgaria had failed to adopt adequate criminal law provisions to effectively punish rape and sexual violence. The investigation and prosecution of perpetrators were neither diligent nor effective. The Committee also noted that Bulgaria lacked mechanisms to protect victims of sexual violence from re-victimisation, such as restriction orders. Furthermore, the state had not provided a reliable system for compensating victims of sexual violence for moral damages or for offering proper rehabilitation services and counselling.

The CEDAW recommended that Bulgaria provide reparations to the victim, commensurate with the gravity of the violations of her rights under the Convention. Specific legislative amendments were mentioned. First, criminal legislation needs to ensure that all sexual violence against women and girls, especially rape, is defined in line with international standards, is effectively investigated, and perpetrators are prosecuted and sentenced in proportion to the gravity of their crimes. Second, effective mechanisms to prevent re-victimisation, including

116 *V.P.P. vs Bulgaria*, Communication No 31/2011, UN doc. CEDAW/C/53/D/31/2011 (2012).

protection and restriction orders against perpetrators, are expected to be implemented. Additionally, the Committee recommended amending the law to ensure that legal aid is provided for executing judgments that award compensation to victims of sexual violence. Bulgaria was urged to enact and apply policies, including healthcare protocols and hospital procedures, to adequately address sexual violence against women and girls.

5. Conclusion

The analysis underscores that the universal protection of human rights offered by UN treaty bodies and mechanisms should not be underestimated. Their impact on Bulgarian national legislation and policies is unequivocal and undeniable. These mechanisms establish and uphold global standards for human rights, providing Bulgaria with a benchmark to assess its progress and identify areas for improvement. They serve as a vital platform for state and civil society stakeholders to report on human rights issues and to receive feedback and guidance for enhancement. They also foster transparency and accountability. Regardless of whether UN mechanisms evolve towards judicialisation, they will continue to serve as invaluable sources of moral authority in human rights matters. They play a crucial role in raising awareness and mobilising both international and local actors to advocate for change.

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