



*Représentation Permanente de la République de Bulgarie
auprès du Conseil de l'Europe*

Ref. 1.2-106

NOTE VERBALE

The Permanent Representation of the Republic of Bulgaria to the Council of Europe presents its compliments to the Secretariat General of the Council of Europe and has the honour to send enclosed herewith the information provided by Bulgaria in response to the request of the Secretary General of the Council of Europe under Article 52 of the European Convention on Human Rights.

The Permanent Representation of the Republic of Bulgaria wishes to avail itself of this opportunity to renew to the Secretariat General of the Council of Europe the assurance of its highest consideration.



Strasbourg, 20 February 2006

Secretariat General of the Council of Europe

INFORMATION

provided by Bulgaria in response to the request of the Secretary General of the Council of Europe under Article 52 of the European Convention on Human Rights

The information provided hereunder is in strict compliance with the requirement of Art.52 of the European Convention on Human Rights. It furnishes “an explanation of the manner in which” the “internal law” of the Republic of Bulgaria “ensures the effective implementation of any of the provisions of the Convention”.

Bulgaria, as a Member State Council of Europe, is deeply committed to the core common values of our Organisation – the defence and promotion of human rights, parliamentary democracy and the rule of law. It is equally strongly committed to their universal applicability.

Furthermore, these basic principles are central to Bulgaria’s constitutional order and its domestic and foreign policy. Therefore, the implementation of these core principles fully guaranteed at the national level.

The Constitution of the Republic of Bulgaria stipulates in Article 4. para.1 that “The Republic of Bulgaria is a state committed to the rule of law. It is governed according to the Constitution and the laws of the land.”

Furthermore, Art. 5, para. 4 of the Constitution of the Republic of Bulgaria provides that “Any international treaty, which has been ratified according to a procedure established by the Constitution, which has been promulgated, and which has entered into force for the Republic of Bulgaria, shall be part of the domestic law of the land. Any such treaty shall take priority over any conflicting standards of domestic legislation.”

Consequently, the European Convention on Human rights, including its Articles 2, 3, 5, 6, 8 and 13, and Article 2 of Protocol № 4 to the Convention, are part of the domestic legislation, applicable directly in the Republic of Bulgaria and shall take priority over any conflicting provisions of domestic law.

Bulgaria is also a Party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its two Protocols. As provided by Art. 5, para. 4 of the Constitution of the Republic of Bulgaria, these instruments are also part of the domestic legislation.

- With respect to provisions in internal law ensuring adequate controls over acts of officials of foreign agencies:

The terms and procedures whereunder foreigners (i.e. persons who are not Bulgarian citizens, incl. stateless persons) are allowed to enter, reside in and leave the Republic of Bulgaria, as well as their rights and obligations are stipulated in the **Foreigners in the Republic of Bulgaria Act (FRBA)**.

Art. 3 (1) of the FRBA provides that “Foreigners in the Republic of Bulgaria shall have any and all rights and obligations under the laws of Bulgaria and all ratified international treaties to which the Republic of Bulgaria is a signatory, excepting those rights and obligations expressly requiring Bulgarian citizenship.

Para. 2 of Art.3 of the FRBA provides that “Applicable with regard to foreigners enjoying diplomatic or consular immunities and privileges shall be also the universally accepted norms of international diplomatic and consular law, as well as all ratified international treaties to which the Republic of Bulgaria is a signatory.”

Art. 4 of the FRBA stipulates that “Foreigners staying in the Republic of Bulgaria shall be obliged to abide by the laws and the established legal order...”, while Art. 6 provides that “Foreigners staying in the Republic of Bulgaria shall be amenable to the same civil, administrative and criminal laws as Bulgarian citizens, inasmuch as a special law or an international convention whereto the Republic of Bulgaria is a signatory do not provide otherwise.”

- with respect to the safeguards aimed at preventing unacknowledged deprivation of liberty of any person:

The Constitution of the Republic of Bulgaria stipulates that:

Article 26. (2) Any alien resident in the Republic of Bulgaria shall have all the rights and duties under this Constitution, with the exception of such rights and duties wherefor the Constitution and the laws require Bulgarian citizenship.

Article 27. (1) No alien who legally resides in Bulgaria may be expelled therefrom or surrendered to another State against the will of the said alien, except under the terms and according to the procedure prescribed by statute.

Article 28. Everyone shall have the right to life. Any trespass to human life shall be punished as a most serious crime.

Article 29. (1) No one shall be subjected to torture or to cruel, inhuman, or degrading treatment, or to forcible assimilation.

Article 30. (1) Everyone shall have the right to liberty and inviolability of person.

(2) No one shall be detained or subjected to inspection, search or any other interference with the personal inviolability thereof except under terms and according to a procedure established by statute.

(3) In instances of urgency expressly specified by the law, the competent state authorities may detain a citizen and shall immediately notify the judicial authorities of any such detention. The [competent] judicial authority shall pronounce on the legal conformity of any such detention within 24 hours thereafter.

(4) Everyone shall have the right to legal counsel from the time of detention or arraignment.

(5) Everyone shall have the right to meet their defence counsel in private. The confidentiality of such communication shall be inviolable.

Article 31. (1) Anyone charged with a criminal offence must be brought before an authority exercising judicial power within the time limit established by statute.

(3) A defendant shall be presumed innocent until otherwise proven by an effective sentence.

(4) The rights of a defendant may not be restricted beyond what is necessary for the administration of justice.

(5) Persons deprived of their liberty shall be afforded conditions conducive to the exercise of the fundamental rights thereof as are not restricted by the effect of the sentence.

(6) The penal sanction of deprivation of liberty shall be implemented solely in the places designated by statute.

Article 32. (1) The privacy of citizens shall be inviolable. Everyone shall have the right to protection against any unlawful interference in their private or family life and against any attack on their honour, dignity, and reputation.

(2) No one shall be followed, photographed, filmed, recorded, or subjected to any other similar actions without their knowledge or despite their express disapproval, save in cases provided for in the law.

Article 33. (1) The home shall be inviolable. No one may enter a home or stay inside a home without the consent of the occupant thereof, save in the cases expressly stipulated in the law.

(2) Entering a home or staying inside a home without the consent of the occupant thereof or without authorization from the judiciary shall be permissible solely for the prevention of an imminent crime or a crime in progress, for apprehension of the perpetrator of any such crime, as well as in the cases of extreme necessity.

Article 35. (1) Everyone shall have the right to freely choose a residence, to move within the national territory, and to leave the country. This right may be restricted solely by statute for protection of national security, public health, and the rights and freedoms of other citizens.

(2) Every Bulgarian citizen shall have the right to return to the country.

Article 38. No one may be persecuted or restricted in his rights because of his convictions, or be obligated or forced to provide information about his own or another person's convictions.

The **Criminal code** of the Republic of Bulgaria provides as follows:

Article 1 (1) The objective of the Criminal code shall be to protect the person and rights of citizens and the whole legal order established in this country against criminal encroachments.

Article 3 (1) The Criminal code shall apply to all crimes committed on the territory of the Republic of Bulgaria.

(2) The issue of liability of foreign citizens who enjoy immunity with respect to the penal jurisdiction of the Republic of Bulgaria shall be decided in compliance with the norms of international law adopted thereby.

Article 4 (1) The Criminal code shall apply to the Bulgarian citizens also for crimes committed by them abroad.

Article 6 (2) The Criminal code shall also apply to other crimes committed by foreign citizens abroad, where this is stipulated in an international agreement, to which the Republic of Bulgaria is a party.

Article 31 (1) Penally responsible shall be any person of full age - who has completed 18 years of age, and who has perpetrated a crime in the state of being responsible for his acts.

Article 35 (1) Penal responsibility is personal.

(2) A punishment may be imposed only on a person who has committed a crime provided for by the law.

(3) The punishment shall correspond to the crime.

(4) A punishment for a crime shall be imposed only by the established courts of law.

Article 116 (1) For murder:

2. by an official, as well as by a representative of the public, by a person from the Police Force, during or in connection with the performance of his duty or function;

9. performed with premeditation;

10. committed by an individual acting at the orders or in implementing a decision of an organized criminal group;

the punishment shall be deprivation of liberty for fifteen to twenty years, life imprisonment or life imprisonment without substitution.

Article 131 (1) For inflicting bodily injury:

2. by an official, a representative of the public, a person from the Police Force in the course of or in connection with the fulfilment of his duty or function;

8. (new, SG No. 92/2002) by a person acting at the orders or in implementing a decision of an organized criminal group;

the punishment shall be deprivation of liberty: for three to twelve years for severe bodily injury; for one to five years for medium bodily injury; for up to three years for trivial bodily injury under Article 130, paragraph (1), and for up to one year or corrective labour under Article 130, paragraph (2).

Article 142 (1) A person who kidnaps another person in view of unlawfully depriving him/her of liberty shall be punished by deprivation of liberty from one to six years.

(2) The punishment shall be deprivation of liberty from three to ten years if:

1. the perpetrator has been armed;

2. the act has been committed by two or more persons;

3. the kidnapped person has been a pregnant woman or under 18 years of age;

4. the kidnapped person has been entitled to international protection;

5. the act has been perpetrated with regard to two or more persons.

6. the act has been perpetrated by a person engaged in security business, by an employee of an organisation carrying out security and insurance activities, by a person who acts on order of such an organisation or presents himself as acting on such order, by a person on the staff of the Ministry of Interior or a person who presents himself as such;

7. the kidnapping has been carried out with a venal goal in mind or for the purpose of taking the person over the borders of this country;

8. the act has been perpetrated by a person who acts at the orders or in implementing a decision of an organization or a group under art. 321a or of an organized criminal group.

Article 142a (1) A person who unlawfully deprives another of liberty shall be punished by deprivation of liberty for up to two years.

(2) Where the act has been committed by an official or by a representative of the public, in violation of his duties or functions, or a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be deprivation of liberty for one to six years.

(3) Where the act under the preceding paragraphs has been committed in respect of a pregnant woman, a minor or an underage person, the punishment shall be deprivation of liberty for three to ten years.

(4) Where the act under the preceding paragraphs has been committed in a manner painful or dangerous to the health of the victim, or where the deprivation of liberty has continued for more than 48 hours, the punishment shall be deprivation of liberty for three to ten years.

(5) The punishment under the preceding paragraph shall be imposed also on a person who consciously admits to or holds a healthy person at a health establishment for mentally ill persons.

Article 143 (1) A person who compels another to do, to omit or to suffer something contrary to his will, using for that purpose force, threats or abuse of his authority, shall be punished by deprivation of liberty for up to six years.

(2) Where the act has been perpetrated by a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be deprivation of liberty for three to ten years.

Article 143a (1) A person who holds someone hostage, whose release he makes dependent upon the fulfilment of a certain condition by the state, a state or public organisation, or by a third party, shall be punished by deprivation of liberty for one to eight years.

(2) Where in the cases of the preceding paragraph the perpetrator threatens to cause the death or severe or medium bodily injury to the person held if the condition put by him fails to be fulfilled, the punishment shall be deprivation of liberty for two to ten years.

(3) Where the act under the preceding paragraphs has been committed by a person under Article 142, paragraph (2), subparagraphs 6 and 8, the punishment shall be:

1. under paragraph (1) - deprivation of liberty for two to ten years;
2. under paragraph (2) - deprivation of liberty for five to twelve years.

Article 285 An official who consciously allows a person subordinated to him to commit a crime, related to his office or work, shall be punished by the punishment provided for the committed crime.

Article 287 An official who, in the course or on the occasion of discharging his service, acting alone or through another, takes unlawful coercive action in respect of a suspect, defendant in police proceedings, an indicted individual, a witness or an expert witness, in order to extort confession, testimony, a conclusion or information therefrom, shall be punished by deprivation of liberty from three to ten and by withdrawal of rights under Article 37, paragraph 1, sub-paragraphs 6 and 7.

Article 311 (1) An official who within his official duties draws up an official document, in which he certifies untrue facts or makes untrue statements, for the purpose of this document to be used as proof of such facts or statements, shall be punished by deprivation of liberty for up to five years, and the court may also rule deprivation of the right under Article 37, sub-paragraph 6.

The **Ministry of Interior Act** stipulates as follows:

Article 70 (1) Police bodies may detain persons:

1. Who, reportedly, have committed a crime;
2. Who, having been duly warned, deliberately hamper a police body from fulfilling their official duties;

3. Who demonstrate serious mental disorder and whose behaviour transgresses public order or who expose their life to obvious danger;

4. Who are underage offenders who have left their homes, custodians, guardians or the public establishment where they were accommodated;

5. Whose identity is impossible to establish;

6. Who have evaded a prison sentence or the premises where they were detained as accused by virtue of a police administrative measure or by an order of a judicial body;

7. Who are announced for international search by request of another country for the purpose of extradition;

8. In cases stipulated by act.

(2) In the cases under paragraph 1 the persons may be accommodated in special premises and may be placed under personal security measures if their conduct and the purpose of detention so require.

(3) Where the detained person does not understand Bulgarian, he/she shall immediately be informed of the grounds for the detention in a language that he/she understands.

(4) The detained person shall have the right to appeal before the court against the lawfulness of the detention. The court shall review the appeal and pass a judgment immediately.

(5) From the moment of detention the persons shall be entitled to defence by a lawyer.

Article 71 To persons, detained under the conditions of Article 70, paragraph 1 (1)-(5), may not be imposed restrictions of other rights except the right of free movement. The term of detention in these cases may not be longer than 24 hours.

Article 72 (1) Police bodies shall issue written orders in order to take detainees to the locations designated for such purposes.

(2) Police bodies must release immediately the detainee if the grounds for detention have ceased to be valid.

The **Criminal Procedure Code** provides as follows:

Article 152 (1) The "detention in custody" measure of procedural restriction shall apply in cases of crimes which are punishable by deprivation of liberty or another heavier punishment, where the data of the case point out that there is real danger for the accused to abscond or to commit a crime.

Article 152a (1) Detention in custody as a measure of procedural restriction in pre-trial proceedings shall be taken by the respective first instance court or from the closest court equal in jurisdiction upon request of the prosecutor.

(2) Where the prosecutor fails to grant the motion of the respective investigating body to file a request under paragraph (1), the investigating body itself may make the request before the court.

(3) The appearance of the accused before the court shall be ensured forthwith by the body of pre-trial proceedings which has made the request. Where necessary, the respective body may issue a warrant for the detention of the accused until he is brought before the court. This detention may last no longer than 72 hours, if it has been issued by the prosecutor, and no longer than 24 hours, if it has been issued by the investigating body.

(4) Where it has issued a warrant for detention under paragraph (3), the investigating body shall notify forthwith the prosecutor thereof.

- (5) The court shall consider forthwith the case in single-judge panel in an open sitting participated by the prosecutor, the accused and his defence counsel. In the cases under paragraph (2), the court may hear out the investigating body, if it appears in the court sitting.
- (6) The court shall order detention in custody as a measure of procedural restriction, where, on the basis of the data in the case, a justified supposition can be made that the accused has committed a crime and the grounds pursuant to article 152 are at hand.
- (7) Where the grounds under paragraph (6) are not at hand, the court shall order a lighter measure of procedural restriction.
- (8) The court shall issue in single-judge panel a ruling that shall be announced to the parties in the court sitting and shall be executed forthwith. Along with the announcement of the ruling, the court shall fix the hearing of the case before the intermediate appellate review instance court within a time limit no longer than seven days in case of appeal or protest.
- (9) The ruling shall be subject to appeal and protest before the respective intermediate appellate review instance court within a time limit of three days.
- (10) The intermediate appellate review instance court shall consider the case in three-judge panel in an open sitting participated by the prosecutor, the accused and his defence counsel. The failure of the accused to appear without valid reasons shall not be an obstacle to the examination of the case.
- (11) The intermediate appellate review instance court shall issue a ruling to be announced to the parties in the court sitting. The ruling shall not be subject to appeal and protest.
- (12) Where by virtue of said ruling which has come into force bail has been imposed as a measure of procedural restriction the accused remanded in custody shall be released following its deposition.

Article 152b (1) The accused or his defence counsel may request amending of the taken measure of procedural restriction "detention in custody".

- (3) The request of the accused or of his defence counsel shall be filed through the respective body of pre-trial proceedings which shall be obliged to notify forthwith the prosecutor and to forward the case file to the court.
- (4) The hearing of the case shall be fixed within three days after its receipt at the court and shall be examined in an open sitting participated by the prosecutor, the accused and his defence counsel. The case shall be heard in the absence of the accused, if the accused declares that he or she does not wish to appear or where it is impossible to bring him before the court for health reasons.
- (5) The court shall consider all circumstances related to the lawfulness of the detention and shall make pronouncement by a ruling which is to be announced to the parties in the court sitting. Along with the announcement of the ruling, the court shall fix a new hearing of the case before the intermediate appellate review instance court within a time limit no longer than seven days in case of appeal or protest.
- (6) The ruling shall be executed forthwith after the expiry of the time limits for appeal, unless protest has been filed which is not in the interest of the accused.
- (7) Where the request has been made by the accused or his defence counsel and the ruling under paragraph (5) confirms the measure of procedural restriction, the court may set a time limit within which a new request from the same persons shall not be allowed. This time limit may not be longer than two months after the ruling comes into force, and shall not be applied where the request is based on sudden deterioration of the health status of the accused.
- (8) The ruling shall be subject to appeal and protest before the respective intermediate appellate review instance court within three days.
- (9) The intermediate appellate review instance court shall consider the case in three-judge panel in an open sitting participated by the prosecutor, the accused and his defence counsel.

The case shall be considered in the absence of the accused, where the accused declares that he or she does not wish to appear or where it is impossible to bring him before the court for health reasons.

(10) The intermediate appellate review instance court shall make pronouncement by a ruling that is to be announced to the parties in the court sitting. The ruling shall not be subject to appeal and protest.

(11) Where by virtue of a ruling that has entered into force bail is ordered as a measure of procedural restriction, the accused shall be released following its deposition.

(12) The preceding paragraphs shall apply respectively as well in the cases where the accused is detained due to failure to deposit the bail set by the court.

Preliminary detention

Article 202 (1) The investigator may, even without the consent of the prosecutor, order preliminary detention for a crime of general nature, for which it is obligatory to conduct preliminary proceedings, where:

1. the perpetrator was caught in the act or immediately after the perpetration;
2. an eye-witness points out the perpetrator of the crime;
3. obvious traces of the crime have been discovered on the body or on the clothes of the person, or in his/her dwelling;
4. the person has tried to escape, the respective inspection cannot establish the identity or the place of residence of the person, and there is sufficient data that the person has committed a crime.

(2) Where in the cases under the preceding paragraph the investigator orders preliminary detention, the ruling must state the grounds therefor.

Term of preliminary detention

Article 203 (1) The investigator shall be obliged to inform the prosecutor about the detention, providing the reasons therefor not later than 24 hours.

(2) The prosecutor shall be obliged to approve or revoke the detention immediately. In cases under Article 202, paragraph (1), sub-paragraphs 1 and 3, if the detention is for grave crime of general nature, the prosecutor may extend the term up to three days.

(3) If by the expiry of the term under paragraphs (1) and (2) no charges are pressed against the suspect, the investigator shall be obliged to release that person.

The Implementation of Penal Sanctions Act provides as follows:

Article 128 The provisions regarding the persons sentenced to deprivation of liberty shall furthermore apply to the accused and the defendants whereof the liberty is restrained by remand in custody, save in so far as otherwise provided in this Chapter.

Article 129 (1) Any persons who are remanded in custody as a restraint of the liberty thereof shall be placed at the investigative detention facility of the judicial district wherein the pre-trial proceedings are conducted or the case is heard.

(2) The following shall furthermore be placed at the investigative detention facilities:

1. the persons sentenced to deprivation of liberty, who have been transferred on a warrant by the court or by the public prosecutor for appearance at hearings of court cases, for participation in investigative actions, or who have been remanded in custody as a restraint of the liberty thereof in the capacity of accused and defendants in connection with other criminal offences;

2. the persons who figure on a national wanted list;

3. the persons remanded in custody by the investigating authorities and the public prosecutor according to the procedure established by the Criminal Procedure Code.

(3) Persons in staged transit under escort may also be placed at the investigative detention facility should the relevant division of the Ministry of Interior lack the appropriate conditions for placement of such persons.

Article 129a (1) No person may be admitted to an investigative detention facility without a written apprehension warrant for the said person.

(2) Each newly admitted person shall be submitted to a search, sanitary treatment, and a medical examination.

(3) The identity documents of the persons remanded in custody shall be seized and kept in the safe custody of the detention facility. The documents of the said persons shall be returned thereto upon release, or shall be transmitted to the competent director upon transfer of the said persons to a prison or a reformatory.

(4) A memorandum in three copies shall be drawn up on the documents, money and articles seized under Paragraph (3), of which one copy shall be inserted into the case file, one copy shall be attached to the documents and the articles, and one copy shall be delivered to the person remanded in custody.

Article 129b (1) Each person remanded in custody shall have the right to inform immediately the family or relatives thereof in writing of his or her admission to the detention facility or prison. Should the person do not wish that the family or relatives be informed, the said person shall sign a declaration to this effect. If any such declaration exists, the administration may not provide such information to the relatives of the person remanded in custody on its own initiative.

(3) The persons remanded in custody, who are not Bulgarian citizens, shall be informed of the right thereof to contact the diplomatic agents or consular officers of the State whereof the citizenship they hold and shall be immediately ensured conditions to do so.

The **Ombudsman Act** provides as follows:

Article 21. The Ombudsman shall maintain a public register on the received oral and written complaints and alerts and their movement.

The **Security Business Act** provides as follows:

Article 31. (1) When a check establishes a violation of the prescribed admission regime or of the internal order rules in the guarded facility the guards shall notify thereof their chief forthwith.

(2) In the presence of data on a committed crime the prosecutor and the respective police bodies shall be informed immediately, and in the presence of data on a committed crime in guarded facilities of the Ministry of Defence and the Bulgarian army - the Military Police And Military Counter Intelligence Security Service.

- regarding the manner in which the internal law provides an adequate response to any alleged infringements of Convention rights of individuals within their jurisdiction:

The **Constitution of the Republic of Bulgaria** stipulates that:

Article 7. The State shall incur liability for any detriment caused by unlawful acts or actions by authorities and officials of the State.

Article 56. Everyone shall have the right to legal defence whenever his rights or legitimate interests are violated or endangered. He shall have the right to be accompanied by legal counsel when appearing before an agency of the state.

Article 58. (1) Citizens shall observe and implement the Constitution and the laws. They shall respect the rights and the legitimate interests of others.

(2) Obligations established by the Constitution and the law shall not be defaulted upon on grounds of religious or other convictions.

Article 117. (1) The judicial branch of government shall safeguard the rights and legitimate interests of all citizens, juridical persons and the state.

(2) The judicial branch shall be independent. In the performance of their functions, all judges, court assessors, prosecutors and investigating magistrates shall be subservient only to the law.

Article 120 (1) The courts shall supervise the legality of the acts and actions of the administrative bodies.

(2) Citizens and juridical persons shall be free to contest any administrative act which affects them, except those listed expressly by the laws.

Article 124 The Supreme Court of Cassation shall exercise supreme judicial oversight as to the precise and equal application of the law by all courts.

Article 125 (1) The Supreme Administrative Court shall exercise supreme judicial oversight as to the precise and equal application of the law in administrative justice.

(2) The Supreme Administrative Court shall rule on all challenges to the legality of acts of the Council of Ministers and the individual ministers, and of other acts established by law.

Article 127. The Prosecutor's Office shall ensure that legality is observed:

1. by bringing charges against criminal suspects and supporting the charges in common criminal trials;
2. by overseeing the enforcement of penalties and other measures of compulsion;
3. by acting for the rescission of all illegitimate acts;
4. by taking part in civil and administrative suits whenever required to do so by law.

Article 128. The investigating bodies shall be within the system of the judicial branch. They shall perform the preliminary investigation in criminal cases.

Article 134 (1) The Bar shall be free, independent and autonomous. It shall assist citizens and juridical persons in the defence of their rights and legitimate interests.

The **Act on the Liability Incurred by the State for Damage Inflicted on Citizens** provides as follows:

Liability for Activities of the Law-Enforcement Authorities

Article 2. The State shall be liable for any damage inflicted on citizens by preliminary criminal investigation or criminal investigation authorities, or public prosecution authorities or judicial or special jurisdiction authorities as a result of unlawful:

1. arrest, including court-ordered arrest awaiting trial, where annulled on account of the absence of legal grounds;
2. criminal indictment, if the defendant is acquitted or if the criminal proceedings are dismissed on account of the alleged offence not having been committed by the person concerned or, else, such person's behaviour not constituting a crime, or the criminal proceedings having been brought after the prescribed statute of limitation period, or the alleged offence being an administrative one;
3. sentence under the Criminal Code or an administrative penalty, where the person concerned is subsequently acquitted or, as the case may be, the administrative penalty is annulled;
4. court-ordered involuntary medical treatment or other involuntary medical measures, where such are annulled on account of the absence of legal grounds;
5. court-ordered administrative measure, where such order is annulled as being unlawful;
6. execution of a punishment or penalty in excess of the prescribed term or amount.

Compensation Owed by the State

Article 4. The State shall owe compensation for all damage to property or any other damage being the direct and immediate consequence of damaging behaviour and regardless of whether inflicted by the officer concerned in a culpable manner.

The **Criminal Procedure Code** provides as follows with respect to the institution and conduct of preliminary proceedings:

Conditions for the institution of preliminary proceedings

Article 186 (1) Preliminary proceedings shall be instituted where there is a legal occasion and sufficient information about a perpetrated crime.

(2) Preliminary proceedings may also be instituted where it is necessary to carry out urgent investigative actions.

(3) Where so has been provided for in the Special Part of the Criminal Code, preliminary proceedings shall be instituted in the event the victim submits a complaint to the prosecutor in line with the requirements of art. 188. Preliminary proceedings thus instituted may not be terminated on grounds of art. 21, para. 1, item 8.

Article 187. Legal occasions for the institution of preliminary proceedings shall be:

1. information to the prosecutor or the investigator about a perpetrated crime;
2. articles, notes and letters about a perpetrated crime, published in the press;
3. appearance of the perpetrator in person before the prosecutor or the investigator with confession about a perpetrated crime;
4. direct discovery by the prosecutor or the investigator of signs of a perpetrated crime;
5. a decision of the National Audit Office to enforce liability, supported by audit materials or the audit report under Art. 52, para 1 National Audit Office Act attached.

Article 188 (1) The information about a perpetrated crime must comprise data about the person who is the source of such information. Anonymous pieces of information shall not be legal occasions for instituting preliminary proceedings.

(2) The information may be oral or written. Written pieces of information may be legal occasions for the institution of preliminary proceedings only if signed. For oral information protocol shall be drawn up, which shall be signed by the informant and by the body who receives the information.

Article 190 (1) Sufficient data for instituting preliminary proceedings shall be considered to be at hand, where a justified supposition can be made that a crime has been committed.

(2) For instituting preliminary proceedings no data shall be necessary, from which inferences can be made about the persons who have perpetrated a crime, or about the applicable criminal law.

The **Ombudsman Act** provides as follows:

Article 19. (1) The Ombudsman shall exercise the following powers:

1. receive and consider complaints and alerts regarding violations of rights and freedoms by the State and municipal authorities and the administrations thereof, as well as by persons commissioned to provide public services;
2. make examinations on the complaints and alerts received;
3. reply in writing to the person who has lodged the complaint or alert within one month; if the case requires a more thorough examination, this time limit shall be three months;
4. make proposals and recommendations for reinstatement of the violated rights and freedoms to the respective authorities, the administrations thereof, and persons under Item 1;
5. mediate between the administrative authorities and the persons concerned for overcoming the violations committed and reconcile their positions;
6. make proposals and recommendations for elimination of the reasons and conditions which create prerequisites for violation of rights and freedoms;
7. notify the authorities, listed under Article 150 of the Constitution, to approach the Constitutional Court, when he or she is of the opinion that it is necessary to interpret the Constitution or to declare a law unconstitutional;
8. notify the prosecuting magistracy when there is reason to believe that an indictable offence has been committed.

(2) The Ombudsman may act on his or her own initiative as well when he or she has established that the conditions necessary for protection of citizens' rights and freedoms have not been created.

The **Criminal code** stipulates as follows:

Article 21 (1) All accomplices shall be punished by the punishment provided for the perpetrated crime, with due consideration of the nature and degree of their participation.

(2) Abettors and accessories shall be held responsible only for what they have intentionally abetted or by what they have assisted the perpetrator.

(3) Where because of certain personal characteristics or attitude of the perpetrator the law treats the perpetrated act as a crime, liable for this crime shall be both the abettor and the accessory with respect of whom such circumstances do not exist.

The relevant internal legislation is supported by various implementing rules and regulations, instructions issued by line ministers, etc.

Consequently, the internal law of Bulgaria fully ensures that acts by officials of foreign agencies are subject to adequate controls, that safeguards exist to prevent

unacknowledged deprivation of liberty of any person within its jurisdiction and that it provides an adequate response to any alleged infringement of the Convention rights of individuals within its jurisdiction.

In addition, notwithstanding that the question does not strictly fall within the scope of Art. 52 of the Convention, it is hereby confirmed that according to all the available verified information in possession of the competent Bulgarian authorities, in the period from 1 January 2002 until 20 February 2006, no public official or other person acting in an official capacity has been involved in any manner in the unacknowledged deprivation of liberty of any individual, or transport of any individual while so deprived of their liberty, including by and/or at the instigation of any foreign agency. Consequently, no official investigation is either under way or completed.

It should be further emphasized that, according to all the available verified information in possession of the competent Bulgarian authorities, there are no secret prisons or detention facilities, nor have such prisons and/or facilities ever existed, in the territory of the Republic of Bulgaria.

The Minister of Justice of Bulgaria has never ordered or authorized the establishment of places of deprivation of liberty which may not be known to the Bulgarian public, nor has he ever been entrusted with such powers by the Council of Ministers.

Currently, there are twelve prisons functioning in the country, one correctional facility for minors, twenty-two prison hostels of open, transitional and closed type, as well as fifty-one facilities for pre-trial detention. They are all declared public by order by the Minister of Justice, and their location is well-known, including to the CPT.

Lastly, the competent Bulgarian authorities are not in possession of evidence suggesting that in the said period there have been any overflights in Bulgarian airspace of United States aircraft with prisoners on board.

Sofia, 20 February 2006