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BULGARIA

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report focuses on Bulgaria’s failure to respect the rights of the child as well as parental rights, notably by introducing legislation that provides for undue interference with family life.

(a) Rights of the child, parental rights, right to family life

3. The right to family life is well established within the Bulgarian legal framework. Article 14 of the Constitution states that ‘The family, motherhood and children shall enjoy the protection of the State and society.’ Article 32 (1) protects the privacy of family by stating that ‘Everyone shall be entitled to protection against any unlawful interference in his private or family affairs.’
4. Furthermore, the Constitution underlines the primary role played by parents in the upbringing of their children. Article 47 (1) affirms that ‘until they [children] come of legal age [raising and upbringing] shall be a right and primary obligation of their parents’.
5. Bulgaria claimed praise for its commitment to child welfare during the previous Universal Periodic Review reporting cycle. Among highlighted achievements was the successful placement of children, previously living in institutions, ‘into a family or similar to a family type of environment’ (so-called deinstitutionalisation). This programme exemplifies Bulgaria’s commitment to upholding the role of the family as a natural and fundamental unit of society, even in cases of disruption.
6. Among others, Bulgaria accepted a recommendation by Egypt, to ‘provide effective protection for the family as the natural and fundamental unit of the society, in accordance with its respective obligations under international human rights law.’ It also supported a recommendation received from the United Kingdom of Great Britain and Northern Ireland to ‘develop an effective State family policy based on the prevention of separation of children from parents.’¹

The National Strategy for the Child 2019-2020

7. In early 2019, the Government of the Republic of Bulgaria proposed the ‘National Strategy for the Child 2019-2020’ (‘the Strategy’). It adopted “All rights for all children” as its motto and aimed at ensuring that ‘every child... lives and develops his or her potential in an integrated, healthy, secure and development-friendly environment.’² The document specifies five strategic goals into numerous operational objectives.

¹ UN Human Rights Council, Addendum to the Report of the Working Group of the Universal Periodic Review (Bulgaria), *Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, (2 September 2015) A/HRC/30/10/Add.1 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/197/95/PDF/G1519795.pdf?OpenElement>>.

² ‘National Strategy for the Child 2019-2020’, 1, <<http://www.strategy.bg/publicconsultations/View.aspx?lang=bg-BG&Id=4012>>.

8. The Strategy recognizes that the welfare of the child is inextricably linked to the welfare of the family and parental support.³ Nevertheless, parents' and pro-family organisations were not included in the relevant consultation process. Such disregard for the role of parents in the development of the Strategy discredited this initiative and the process of its adoption in the eyes of a significant portion of Bulgarian civil society.
9. Notably, the Strategy, instead of explicitly listing such actors as key in the implementation of the Strategy, downgraded parents as mere beneficiaries of 'competence development' support:

'Successful implementation of the vision requires focusing the efforts of the legislature and the executive branch, including local authorities, the academic community, civil society, business, the media, and the risk prevention communities, to provide timely and effective support the child and the development of his or her competences, as well as the competences of his or her parents and relevant professionals.'⁴
10. The process of adopting the Strategy was also criticized for its lack of transparency. A pro-family organization called 'National March for the Family' requested information to the State Child Protection Agency (SCPA) as to the persons and organizations involved in the preparation of the Strategy. The request, made under the Access to Public Information Act, was rejected by SCPA officials and has subsequently been appealed by the National March for the Family. The case is still pending before the Administrative Court of the City of Sofia.
11. The Strategy contained provisions that would allow the State agencies to unnecessarily interfere with family life. For example, with regard to the stated strategic goal of ensuring maternal and child health and promoting healthy lifestyles and a healthy culture, it entailed among its key measures regular home visits by a healthcare provider for all children of age 0-3 years.⁵
12. Furthermore, Operational Objective 1 called for 'Improving coordination between health, education and social systems with regard to promoting children's health and promoting healthy lifestyles.'⁶ This meant that 'regular home visits' could not only inspect the health conditions, but also provide unspecified information on the social and educational standards of the family.
13. This initiative sparked massive demonstrations around in over 30 Bulgarian cities.⁷ Protesters claimed that the draft strategy curtailed parents' rights, downplayed the role of the family and aimed at giving social services excessive powers. Two national political parties also joined the protests.⁸
14. Following pressure from civil society, the Government stopped working on the adoption of the Strategy. However, legitimate interests of family organizations, Churches and other relevant civil society actors were again blindsided by the Government with the adoption of the Regulations for Implementation of the Child Protection Act (CPA) and the new Social Services Act (SSA), which re-propose some

³ Id, 15.

⁴ Id, 21.

⁵ Id, 25.

⁶ Id.

⁷ Family News, 'The Bulgarian Group against the proposed "National Strategy for the Child 2019—2030"', (September 2019) <<http://familynews.ro/wp-content/uploads/2019/09/The-Bulgarian-Group-against-the-proposed-1.pdf>>.

⁸ Bulgarian News Agency, 'Two Parliamentary Parties Join Outcry against National Child Strategy', <<http://www.bta.bg/en/c/DF/id/1999470>>.

of the controversial measures previously provided in the Strategy, including in particular the attribution of excessive, *ex officio* powers to the Social Assistance Directorate and the provision of preventive social services in undefined cases of risk.

The right to family life in international law

15. International law is very clear that the removal of children from the custody of their parents is a grave interference that can only be justified in the most compelling of circumstances.
16. Article 12 of the Universal Declaration of Human Rights enshrines the right to privacy and family life. Moreover, Article 9 of the Convention on the Rights of the Child provides that:

“States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.”
17. The government of Bulgaria should ensure that its child welfare policies and regulations do not infringe with international legal protections afforded to family life, and that children are separated from their families only when strictly necessary for safeguarding their integrity and well-being, with full respect for the principles of proportionality and necessity.
18. As a reaction to the continued opposition of various civil society actors to such legislation, and in an attempt to curb their right to to gather and disseminate information, the police and the secret services recently questioned a number of parents’ rights activists regarding their information materials on the dangers of the new social laws and policies for parental rights.
19. In particular, these activists were told that the questionings were taking place as part of a criminal investigation of a possible crime under Article 108 of the Criminal Code of Bulgaria – which punishes *inter alia* any attempt to forcefully disrupt the “social and state order ... established by the Constitution”.

(c) Recommendations

20. In light of the aforementioned, ADF International suggests the following recommendations be made to Bulgaria:
 - (a) Ensure that the right to private and family life is duly recognised and respected, in accordance with relevant international human rights law and standards;
 - (b) Ensure that family integrity is not arbitrarily undermined, and that parental rights are not unjustly deprived, by the activity of child welfare services;
 - (c) Provide, in accordance with its obligations under international human rights law, the widest possible protection and support for the family as the natural and fundamental unit of society;
 - (d) Respect the right of parents to raise their children in accordance with their moral and religious convictions, and review all laws and regulations that may threaten to arbitrarily and unjustly deprive individuals of their parental rights and the integrity of families.

(e) Provide adequate support and other services to prevent separation of children from their families.



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