

BULGARIA: AMNESTY INTERNATIONAL CALLS ON PRESIDENT ZHELEV TO
GUARANTEE FREEDOM OF EXPRESSION FOR JOURNALISTS HADZHIEV AND
SHTIRKOV

Today, Amnesty International informed the President of Bulgaria, Zhelyu Zhelev, that if Valentin Hadzhiev and Mitko Shtirkov are reimprisoned the organization will adopt them as prisoners of conscience and will call for their immediate and unconditional release.

The human rights organization urged President Zhelev to initiate a judicial review of Article 148, paragraph 1, point 3, of the Penal Code before the Constitutional Court. This article has been enforced on a number of occasions recently to prosecute journalists.

“Criminal legislation should not be used in such a way as to stifle criticism of state authorities or to intimidate those who voice legitimate concerns about the actions or practices of state authorities,” Amnesty International said today.

BACKGROUND

On 20 February 1996 in Smolyan, Valentin Hadzhiev, the correspondent of *24 chasa*, and Mitko Shtirkov, the correspondent of *Trud*, were arrested on the order of the Smolyan County Prosecutor for publishing articles in which a local prosecutor was described as a former police officer who was dismissed from the force for bribe-taking. The two journalists were detained in the lock-up of the Regional Police Directorate until the following day when the Smolyan Regional Court released them. Valentin Hadzhiev and Mitko Shtirkov have been charged under Article 148, paragraph 1, points 2 and 3, of the Penal code for defaming in the press a public official.

Two other journalists have also been sentenced recently under Article 148, paragraph 1, point 3. In October 1995 Gergina Bankova, a journalist of *Standart*, was fined for offending a prosecutor from the General Prosecutor's Office. Zoya Ivanova, a journalist of *168 chasa*, was fined in November 1995 for offending Sofia City Prosecutor. Neither official had filed criminal complaints. Both sentences have been appealed by the defendants.

LEGAL GROUNDS

Amnesty International is concerned that Article 148, paragraph 1, point 3, providing special protection from defamation for public officials and representatives of the authorities is in violation of the right to freedom of expression set out in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR), both of which Bulgaria has ratified and is legally bound to observe.

Both Article 10 of the ECHR and Article 19 of the ICCPR recognize a wide latitude for robust criticism of government officials, including the police. In a 1992 ruling the European Court of Human Rights¹, held that conviction of a person for criticism of police brutality by the Reykjavik police force “in particularly strong terms”, based largely on reports of others, violated Article 10 of the European Convention.

The European Court declared that the conviction and sentence “were capable of discouraging open discussion of matters of public concern” (para. 68). It emphasized that “freedom of expression constitutes one of the essential foundations of a democratic society; subject to paragraph 2 of Article 10, it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb” (para. 27).

The European Court has made it clear that “[t]he limits of permissible criticism are wider with regard to the Government than in relation to a private citizen” and that “the dominant position which the Government occupies makes it necessary for it to display restraint in resorting to criminal proceedings, particularly where there are other means available for reply to the unjustified attacks and criticisms of its adversaries in the media”.

ENDS\

¹Thorgeirson v. Iceland, Vol. 239, Series A, Judgment (1992)