

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

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### **Bulgaria: Proposed counter-terrorism bill would be a serious step back for human rights**

A proposed counter-terrorism bill in Bulgaria would threaten human rights and undermine the rule of law, said Amnesty International today. The bill, in line with a regional trend, consolidates excessive power in the hands of the Bulgarian executive and security services; proposes measures that would threaten freedom of expression, association, movement, peaceful assembly, and the right to privacy; and permits the government to declare a “state of emergency” in the aftermath of an attack with no independent oversight mechanism to monitor for abuses of special powers employed under such an emergency regime.

The Council of Ministers approved the bill on 6 July. Earlier this week, the bill was adopted by the National Assembly in the first reading and it is currently pending final adoption.

Although the bill reaffirms Bulgaria’s commitment to respect human rights and fundamental freedoms in general terms, it fails to provide the very safeguards that would make this a reality. The bill states that it gives precedence to “saving lives and health over all other activities,” implying that Bulgaria could dispense with human rights in the event of a state of emergency. International law is clear that some rights, including the right to be free from torture and other ill-treatment, and fundamental principles of a fair trial can never be restricted, even in times of emergency. Moreover, measures taken under a state of emergency must never be applied in violation of the principle of non-discrimination. The Constitution of Bulgaria also explicitly affirms these principles.

#### **Definition**

As with problematic counter-terrorism laws in other countries, the definition of “terrorism” in Bulgarian law is vague and overly broad. Under the Criminal Code (Article 108a), “anyone who, in view of causing disturbance or fear among the population or of threatening or forcing a competent authority, a representative of a public institution or of a foreign state or international organization to perform or omit part of his/her duties commits a crime...[and] shall be punished for terrorism...”

Bulgarian law defines a “terrorist act” as carrying out an explosion, arson, pollution or otherwise endangering the population or threatening the life or health of a person; causing substantial property damage; hostage-taking; and the threat to take such actions in order

to create disturbance or fear among the population or of threatening or forcing a competent authority, a representative of a public institution or of a foreign state or international organization to perform or omit part of his/her duties.

Unclear and overly broad definitions of terrorism violate the principle of legal certainty, and also can be invoked by governments to target political opponents, ethnic and religious minorities, human rights defenders, and environmental, LGBTQ, and other activists.

### **Lack of oversight**

The Bulgarian bill would concentrate all counter-terrorism responsibilities in a number of executive bodies, including the Council of Ministers, Security Council, National Counter-terrorism Centre within the National Security Agency (SANS), Ministry of the Interior and the armed forces, with virtually no mention of meaningful, effective and independent oversight.

While Article 25 provides for an undefined role for the National Assembly, such a consolidation of power in the hands of the executive and its agencies must be accompanied by an independent oversight mechanism with well-defined duties. Such a mechanism must be empowered to monitor authorizations for counter-terrorism operations and their implementation to ensure that there is no abuse of those powers and if so, that those responsible for abuses are held to account. In the last decade and a half, Amnesty International has documented numerous human rights violations that have occurred in the context of counter-terrorism operations.

### **Administrative control measures**

One of the more problematic provisions of the Bulgarian bill involves the application of administrative control measures to those “for whom there exists a reasonable suspicion that they are planning or preparing a terrorist act.” Such preventive measures could include:

- forced residency;
- a ban on leaving the country;
- a ban on visiting certain neighbourhoods or locations and regions;
- a ban on maintaining contact with specified persons;
- periodic reporting to a police station on a routine basis;
- the withdrawal of a passport or other travel documents; and
- a prohibition on applying for and being granted a new passport or other travel document.

Administrative controls would be ordered by the President of SANS or the General Secretary of the Ministry of Interior with an appeal process, with no suspensive effect, to the Supreme Administrative Court under the Administrative Procedure Code. It is unclear in the bill whether a person to whom a control measure was improperly or mistakenly applied would have a right to a remedy.

Amnesty International opposes the use of administrative control measures that alone or in combination amount to a deprivation of liberty. If a person is reasonably suspected of

planning or preparing a terrorism-related offence, he or she should be charged and tried in a process that complies with international fair trial standards. The proposed bill appears to invoke the use of administrative control measures as a proxy for the criminal justice process, which affords individuals more and stronger procedural safeguards and guarantees. These administrative measures threaten to violate a person's freedom of movement, expression, association, and the right to privacy.

### **State of Emergency**

Article 31 of the bill provides for the President, with approval of the National Assembly, to declare a "state of emergency" in the aftermath of an act of "terrorism" against the territory. Under international law binding on Bulgaria, a state of emergency can only be declared in cases of "public emergency threatening the life of the nation." It must be written in law, and every measure proposed and employed under such an emergency regime must be strictly required by the exigencies of the situation. They must be absolutely necessary and proportionate to the pursuance of a legitimate governmental aim.

According to the bill, in a formally declared state of emergency, the Bulgarian authorities would be able to impose blanket bans on public rallies, meetings and demonstrations, very likely in violation of freedom of expression and peaceful assembly. A key concern is that prohibitions on public protests could be applied to circumstances that have no relationship whatsoever with the purported reasons behind the state of emergency. Political opponents, human rights defenders, and others who disagree with government policy or action risk becoming victims of a crackdown on such freedoms, as Amnesty International has documented elsewhere [in Europe](#).

The Bulgarian bill also authorizes the disruption of electronic communications in a state of emergency in a way that could potentially be in violation of the right to privacy.

Amnesty International calls on the Bulgarian authorities to ensure that the country's counter-terrorism legislation and implementing measures conform with Bulgaria's international human rights obligations. In addition, the government should not fast-track this bill to adoption without engaging in a consultation exercise with experts and civil society actors and taking into account concerns regarding human rights and accountability for human rights violations.

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