



European network against racism

ENAR Shadow Report 2010-2011

ENAR SHADOW REPORT

Racism and related discriminatory practices in Bulgaria

**Dr. Elena DYANKOVA
(Justice 21)**

**Dr. Valeria ILAREVA
(Legal Clinic for Refugees and Immigrants)**

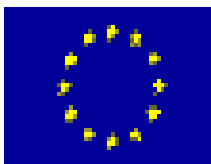
Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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I. Executive summary

The collected data and expert analysis carried out when compiling this Shadow Report led to the conclusion that racism and discriminatory practices on ethnic and religious grounds increased from March 2010 to March 2011 in Bulgaria. The Roma remain the largest and most disadvantaged minority group in Bulgaria.

This report covers a wide variety of issues and deals with direct, indirect, and multiple discrimination; as well as hate speech and racial violence. The research is grounded in statistics, documentation, and media publications. The ENAR National Coordination and other NGOs, government agencies and academic institutions are also used as information sources. The opinions and viewpoints of victims of racism and discrimination are also included.

Manifestations of racism and discrimination are reported in different areas: employment, housing, health, education, access to goods and services, policing, racist violence and crime, the media and Internet. The groups that are most vulnerable to discrimination are the Roma, immigrants, Muslims, Jews, and people of African descent. While the Roma are Bulgarian citizens and therefore are formally recognised as holders of equal rights, the most powerless minority group in Bulgaria are undocumented immigrants. Their access to fundamental human rights as human beings is completely obstructed at present.

As indicated in previous Shadow Reports for Bulgaria¹, the Roma continue to be the most discriminated against minority group in the area of **employment**.² According to the Census 2011 the highest rate of unemployment measured was among the Roma ethnic group – 49.9% or three times higher than the average rate for the entire population.³ The government should recognise the complex character of integration and its policy, national programs and projects should follow a long term strategy and produce real results. The representatives of the **Turkish ethnic minority** have more access to the labour market and the unemployment rate is 25.27%.⁴ Access to the labour market for **migrants** is made harder by the fact that they often don't know Bulgarian. A socially excluded group among immigrants that has no access to the labour market at all is that of **undocumented immigrants**. This holds true also for long-term undocumented immigrants who have lived in Bulgaria for decades. Another group with barred access to the labour market is the

¹ European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2008), http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN accessed 29 August 2011 and European Network Against Racism, Shadow Report 2009-2010: Racism and Discrimination in Bulgaria (Brussels: ENAR, 2009), http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN accessed 29 August 2011

² 'Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons Learned' – Report from the Workshop, 16 May 2011, Holiday Inn, Policy Area: Employment

³ National Statistics Institute, 2011 Census (final data), available online at www.nsi.bg/EPDOCS/Census2011final.pdf accessed 29 August 2011

⁴ Census 2011, National Statistical Institute, on-request data

one of **asylum seekers**, who are allowed to work in Bulgaria only after one year of their stay in Bulgaria has elapsed.

- The government should introduce incentives for employers who hire Roma people;
- Labour mediators should be introduced in to the system of employment offices in the country and their main role is to be 'mediators' with regard to migrants and Roma people's access to public services like employment and education.

The **housing** situation of **Roma** in Bulgaria is a clear case of discrimination. Roma people are often directed towards areas and quarters where the percentage of socially deprived Bulgarians is quite high - Ghettos. Forced evictions are increasing among Roma.⁵ In many places the authorities have consistently refused to include Roma residential areas in urban planning or to regulate them.⁶

Refugees in Bulgaria are effectively excluded from access to public housing. To qualify for such accommodation, at least one household member must be a Bulgarian national who has resided continuously in Sofia for a minimum of ten years and who is officially registered there. Despite the discriminatory nature of this regulation, no proposal for its amendment has been included in the NPIR⁷ for 2011-2013. Given the widespread prejudices in Bulgaria, many refugees have difficulties in finding landlords who are prepared to rent to foreigners. If refugees included in the NPIR⁸ manage to find an apartment, they are entitled to receive rental subsidies. Little is known about the housing situation of **asylum seekers** who are not eligible for SAR-State Agency for Refugees reception services, although homelessness appears to be an emerging problem. During the first ten months of 2010, the Bulgarian Red Cross reported that it had to deal with up to 35 refugees and asylum seekers who found themselves in this situation.⁹ A number of these cases involved asylum seekers who had waived their entitlement to reception assistance in order to be released from detention. The conditions in the two SRP registration and reception centres in Bulgaria remain below acceptable standards

⁵ Bulgarian Helsinki Committee, 'Bulgarian Helsinki Committee congratulates the ombudsman for his initiative to stop the compulsive eviction of Romas from their sole homes' (Originam title in Bulgarian: 'Български хелзински комитет приветства омбудсмана за инициативата му да спре принудителното извеждане на роми от единствените им жилища'), <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3717> accessed on 21 August 2011

⁶ European network of legal experts in the non-discrimination field – Report of measures to combat discrimination Directive 2000/43/EC and 2000/78/EC, Country report 2009, Bulgaria, p.49

⁷ National Programme for Integration for Refugees (NPIR) 2011-2013, <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=667>, accessed 14 September 2011

⁸ National Programme for Integration for Refugees (NPIR) has been in place since 2005, funded by the government. Last update of NPIR was from the January 2011 for 2011-2013.

⁹ Bottinick Larry and Areti Sianni, No place to stay - A review of the implementation of UNHCR's urban refugee policy in Bulgaria, 2011, <http://www.unhcr-centraleurope.org/en/resources/evaluation-and-research.html>, accessed 14 September 2011

and are in urgent need of improvement.¹⁰

- The government should prepare a government programme with the regional authorities in order to regulate the illegal constructions in the Roma neighbourhood;
- The local authorities should be clearly involved and include the Roma in the infrastructural plans of these regions;
- The conditions in reception centres in which asylum seekers and refugees live should be improved.

The **educational** level of the Roma is the lowest in Bulgarian society - the rate of illiterate Roma is 11.8% or 23.5 times higher than the average percentage in Bulgaria¹¹ and the level of illiteracy among the Turkish ethnic group is 4.7% or 9.5 times higher than that of citizens of Bulgarian origin. The low level of qualification among Roma people, the high dropout rate and segregation within the education system leads to many Roma not applying, not attending, rarely attending, or not graduating from school.

- Segregation in education should be discontinued;
- Effective public awareness campaigns must be conducted to overcome the stereotypes and negative attitudes towards Roma and migrant children;
- A system for monitoring the integration of refugee children into the school system should be established and implemented.

Some diseases are more prevalent among the Roma than in the general population, having an epidemic character: this is partly due to their crowded living situations and lack of public services such as running water. The factors and reasons that led to a substantial decrease in the **health** status of Roma people include: a dysfunctional Health System; a lack of services for children up to seven years of age; prevention not being treated as a priority; the lack of health education for/about infectious diseases; social problems and institutional discrimination towards the Roma population

Migrants, including foreigners with refugee or humanitarian status have the right to health insurance and to visit a GP, and the chronically ill have the right to discounted medicine. The situation of **undocumented migrants** with regard to the Bulgarian health care system, is critical. They can only use the legal right to medical treatment in an emergency situation.¹²

¹⁰ Bottinick Larry and Areti Sianni, No place to stay - A review of the implementation of UNHCR's urban refugee policy in Bulgaria, 2011, <http://www.unhcr-centraleurope.org/en/resources/evaluation-and-research.html>, accessed 14 September 2011

¹¹ National Statistics Institute, 2011 Census (final data), p. 31 available online at www.nsi.bg/EPDOCS/Census2011final.pdf accessed 21 August 2011

¹² Law on Asylum and Refugees, Art.29, <http://www.aref.government.bg/?cat=25> accessed 14 September 2011

- A health education programme for Roma people must be introduced;
- Special education should be provided to GPs on how to work with Roma and migrants
- Bulgaria adopted a National Health Strategy three years ago. At the time, refugees were not included in the definition of 'disadvantaged minorities' which the strategy identifies and seeks to target,
- To facilitate medical consultations for Roma people, refugees and asylum seekers who lack health insurance so that they be screened for dangerous conditions such as diabetes, TB and cancer.

Criminal justice

Ethnic and religious profiling in stop and search police practices and counter-terrorism measures are common in Bulgaria. In parallel, racially motivated violence committed by neo-Nazi groups is on the rise. There have been a number of physical attacks stemming from religious intolerance directed against Jews, Muslims and non-Orthodox Christians in Bulgaria. Immigrants have been especially vulnerable to arbitrary detention by the authorities and attacks by non-state groups.¹³

- Education of law enforcement officials must take place as it is key to overcoming ethnic profiling in policing;
- Racially and ethnically motivated hate crimes must be criminalised in practice: investigation and prosecution services, as well as judges, must be trained to recognise and address these types of crimes;
- The rise of neo-Nazi extremism should be combated through knowledge-based awareness raising in society, as well as among politicians and law-enforcement officials. The problem should not be underestimated and adequate measures should be taken to address it;
- The authorities should release the results of counter-terrorism measures against Muslims and immigrants and these should be examined in order to assess their proportionality with the aims pursued and also assess the negative effects of these measures.

Access to goods and services

Two of the main obstacles for the Roma when trying **to access public goods and services** are problems with communication and a lack of knowledge of their rights in the area of public goods and services. Low income is another factor with regard to access to goods and services in the public and private sector. **People of African descent** also belong to a 'visible minority' and suffer discrimination because of rejection, and language issues with regard to Bulgarian and the lack of information in English. The necessary information is rarely provided in languages other than Bulgarian.

¹³ For further information on these, please see chapter IX of this report.

- Mediators should be introduced in to the system of employment offices in the country and their main role is to be 'mediators' with regard to migrants and Roma people's access to public services like employment and education.

During 2010 hate speech regarding ethnic, religious, and sexual minorities sometimes dominated in areas of the **media**: TV SKAT with its show 'Paralaks' and the ATAKA newspaper of the extreme nationalistic political party with the same name.¹⁴ Manifestations of hate speech were also noticed in media outlets which have signed the Ethic Code of Bulgarian Media.¹⁵ Increased hatred speech without punishment by public persons (the leader and the Parliament members from the far-right party ATAKA).^{16,17} The control of the government over the media regulators and online correspondence led to limiting human rights.

- The media should play a role in popularising and reporting on good practices for the integration of Roma and migrants as well as cases of successful judicial precedents against racial violence instead of publications that encourage racism, discrimination and hatred;
- More journalists from ethnic minorities and immigrant backgrounds should be hired.

General

Political and legal developments in anti-racism and anti-discrimination

The Bulgarian equality body, the Commission for Protection against Discrimination, has been the target of political attacks by the government, its parliamentary majority (the political party GERB), and the far-right party ATAKA. The government has submitted a proposal in the Parliament for the reduction of CPD membership, while ATAKA requests its closure. Several minority-related issues have entered the political discourse – the mis-spending of funds accorded for the integration of the Roma, the counter-terrorism actions in Muslim villages, as well as the attacks on the Sofia mosque. In the legal field, Bulgaria is exerting efforts to transpose European legal standards, but implementation in practice is scarce as of yet. Law-enforcement officials should acquire knowledge about the applicable law and its implementation;

¹⁴ 'Paralaks', TV SKAT, <http://www.skat.bg/products.php?type=1&genre=5&page=17>, accessed 21 November 2011

¹⁵ Media Development Center: <http://www.mediacenterbg.org/Index/Media/Default.aspx?evntid=13469>, accessed 20 September 2011

¹⁶ Capital.bg, American (Original title in Bulgarian: 'Американски прелести' <http://www.mediacenterbg.org/Index/Media/Default.aspx?evntid=13469>, accessed 20 September 2011

¹⁷ BHC, 'Tsetska Tsacheva refused to take any action regarding the publication of Siderov's antisemitic books', (Original title in Bulgarian: 'Цецка Цачева отказа да предприеме действия спрямо антисемитските книги на Сидеров', <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3838>, accessed 20 September 2011

- State institutions should respect and listen to Equality bodies such as the Commission for Protection against Discrimination and the Ombudsman;
- Bulgaria should pay attention to the fact that in 2010 it ranks sixth worst among the 47 Member States of the Council of Europe regarding judgments in which the State was found to be violation of fundamental human rights. Appropriate measures should be taken to address repetitive problems such as the lack of effective remedies.

Migration and integration

2010 has seen unprecedented public support for undocumented immigrants. This resulted in the adoption of a narrow regularisation mechanism for stateless persons from the ex-Soviet Union residing in Bulgaria since before 1998 and some minor improvements with regard to access to judicial review of immigration detention orders. However much more progress is needed as there is no access to fundamental human rights by the rest of long-term undocumented immigrants in Bulgaria. Bulgaria made efforts to transpose the Employers Sanctions Directive 2009/ 52, the EU Blue Card Directive 2009/50 and the EU Long Term Residents Directive 2003/109 via legal amendments. However, their practical implementation is lacking. Bulgarian citizens and their third country national family members are treated in a discriminatory manner compared to other EU citizens and their third country family members living in Bulgaria: there are two different sets of conditions for entry and residence of third country national family members. Lawfully residing immigrants lack security around their status and face a number of obstacles to their full-fledged integration.

- Migration authorities should acquire knowledge about the applicable European and international legal standards in the migration field
- A regularisation mechanism should be introduced in law to allow undocumented immigrants to access their fundamental human rights;
- Asylum seekers' access to the asylum procedure should be guaranteed by appropriate amendments in the law and the administrative process;
- Discrimination against Bulgarian citizens and their third country national family members should be discontinued through recognising their rights as equal to those of other EU nationals in the country;
- An overhaul of the Law on Foreign Nationals in the Republic of Bulgaria is necessary and should provide for legal certainty of residence rights and the genuine integration of immigrants lawfully residing in the country.

The results of the negative developments in racism and discrimination are social exclusion, an increase of poverty, and divisions in society. Thus, the participation of minorities in the creation of integration policies is important. We believe the future will give the ethnic and religious minorities in Bulgaria a new chance to become a part of a multi-cultural society with equal rights for everybody. An active attitude of acceptance from the majority would guarantee this process.

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III. Introduction

This report covers the period between March 2010 and March 2011. During this time frame, Bulgaria was governed by the parliamentary party 'Citizens for European Development of Bulgaria' (GERB),¹⁸ which lacks absolute majority in parliamentary voting. The party that has the balancing power between the government and the opposition is the extremist nationalist party ATAKA, known for its anti-minority, xenophobic and homophobic rhetoric.

As indicated in the previous Bulgarian Shadow reports (2008 and 2009), respect for the rights of ethnic and religious minorities, and immigrants, have been hardly attained.¹⁹ In the political context the challenges to human rights in Bulgaria increased in 2010:

- A draft law was submitted by the government to reduce the number of members of CPD from nine to five, limiting the possibilities for victims of discrimination to seek protection.

The hostile attitude of the government and the majority of the Parliament towards the CPD is a worrisome sign, especially as the adoption of the Law on Protection against Discrimination and the creation of the CPD is considered to be the most significant achievement in the human rights field in Bulgaria in the years of the transition to democracy. The negative attitude of the government has resulted in problems such as:

- A vast increase in random phone tapping and the checking of personal electronic e-mails by security agencies;
- The use of physical force and firearms by the police officers;
- Racially motivated attacks and public exhibitions of extreme nationalism and neo-Nazism;
- The government limiting the freedom of media through control of the media regulators: decreasing the number of members of the Council of Electronic Media (CEM) and the Communications Regulation Commission (CRC);
- The intentions of the GERB parliamentary group to introduce a Law against slander instead of decriminalising it in accordance with the European practice;
- The media and internet publishing hate speech by politicians regarding ethnic and religious minorities.

These tendencies have affected immigrants, asylum seekers, and ethnic and religious minorities, deepening their social exclusion and further hindering integration.

¹⁸ The political party's platform can be viewed on the website: www.gerb.bg, accessed 29 August 2011.

¹⁹ Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2009) and Shadow Report 2009: Racism and Discrimination in Bulgaria (Brussels: ENAR, 2010) http://www.enar.eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN, accessed 28 August 2011.

With regard to changes in the law, the following are noteworthy:

- Amendments in the Bulgarian Criminal Code now criminalise racially motivated crimes. However case law on these provisions is, as yet, scarce;
- The European Union directives in the field of immigration were transposed in January and June 2011 – these include the EU Employers Sanctions Directive 2009/52²⁰, the EU Blue Card Directive 2009/50²¹ and the EU Long Term Residents Directive 2003/109²². To date, administrative and judicial practice with regard to these are, lacking;
- In the ‘Law on Foreign Nationals in the Republic of Bulgaria’ a narrow regularisation mechanism was introduced for stateless persons from the ex-Soviet Union residing in Bulgaria since before 1998 and some minor improvements were made with regard to access to the judicial review of immigration detention orders.

This report presents the manifestations of racism and discrimination in different spheres: employment, housing, education, health, access to goods and services, media and Internet. It covers also manifestations of discrimination in criminal justice, policing and ethnic profiling, racist violence and crime and counter-terrorism measures. Information is provided for each of these fields, regarding the political and legal context of reported events. The report analyses the political and legal developments in anti-racism and anti-discrimination, as well as the field of immigration and integration. Recommendations are also included.

In general the information and statistics in the above-mentioned areas are limited and insufficient. The Shadow Report is based on the following sources of information: statistics and data from the National Statistical Institute (Census 2011), including specific data requests by the authors; expert data and analyses; information from members of the Bulgarian network of ENAR; reports from NGOs; project reports; media publications, etc. These information sources have helped to obtain a clearer understanding of the situation of ethnic and religious minorities in Bulgaria; and to make a number of conclusions and concrete recommendations, calling for further action.

²⁰ The Employers Sanctions Directive could be accessed here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>, accessed 21 September 2011.

²¹ The Blue Card Directive could be accessed here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF>, accessed 21 September 2011.

²² The Long Term Residents Directive could be accessed here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:en:NOT>, accessed 21 September 2011.

IV. Communities vulnerable to racism and discrimination

This section gives an overview of the groups most vulnerable to racism and related discrimination in Bulgaria. Where available, statistical data is provided in accordance with the results of the 2011 Census carried out by the National Statistical Institute.²³

The most discriminated and marginalised minority group in Bulgaria is the **Roma community**. According to the 2011 Census, the number of Roma minority people in Bulgaria is 320 761.²⁴ However, as highlighted in the previous annual reports of ENAR, the real figure of the Roma people in Bulgaria is in fact estimated to be higher.²⁵ The Roma's access to basic human rights, social inclusion, and personal development, is hindered by long-lasting stigmatisation, poverty, and a hostile public climate. At the same time, it should be noted that as a matter of official state policy, the Bulgarian government does not carry out open, forcible, segregation and ghettoisation of the Roma. The authorities have undertaken a number of initiatives to address the deep-rooted disadvantages suffered by the Roma people, but the political will is questionable considering the low budget accorded and the effect that this has on the possibility of achieving effective results.²⁶

Another large ethnic group that is vulnerable to discrimination are the **Turkish** in Bulgaria. According to the 2011 Census, the Turkish minority numbers 585 024. A subtle climate of dislike towards Turks is grounded historically in the Ottoman rule over Bulgaria (1396-1878). After Bulgaria gained independence in 1878 there were constant migrations (both voluntary and forced) towards Turkey. Hundreds of thousands of Turks left Bulgaria as a result of policies of the communist regime in the second half of the 20th century.²⁷ Recently, Turks are often associated with allegations regarding the spread of extremist Islamic movements in the country.²⁸

With regard to **religious minorities**, Muslims and non-Orthodox Christian believers are vulnerable to discrimination and harassment in Bulgaria. According to the 2011 Census, in Bulgaria there are 546 004 Sunni Muslims, 27 407 Shia Muslims and 3 728 persons have identified themselves only as Muslims. With regard to non-orthodox Christian faiths, the 2011 Census reveals the following figures: 48 945 Catholics, 64 476 Protestants and 1 715 Apostolic Armenians. There are 706 Jews. Over the last year attacks against **Muslims** and **non-**

²³ National Statistical Institute, Population and Housing Census in the Republic of Bulgaria at 1 February 2011, <http://www.nsi.bg/census2011/indexen.php>, accessed 17 August 2011

²⁴ Ibid.

²⁵ Vassilev, Rossen, The Roma in Bulgaria: A pariah minority, *The Global Review of Ethnopolitics*, Vol. 3, no. 2, January 2004, pp. 40-51

²⁶ McDougall, Gay, *Bulgaria's Duties to Its Roma People*, July 18 2011, <http://intlwgrrls.blogspot.com/2011/07/bulgarias-duties-to-its-roma-people.html>, accessed 17 August 2011

²⁷ See Zhelyazkova, Antonina, 'Turks', p.392, in: Krasteva, Anna, (ed), *Communities and Identities*, Petekston, 1998

²⁸ Detailed information and references on the issue are provided in Chapter IX of this report.

Orthodox Christian believers have become highly visible and politicised, attracting media attention. In the case of Muslims, there are many instances of multiple discrimination, for example when the person is of Turkish ethnicity or a foreign national. According to the Bulgarian Helsinki Committee, the Bulgarian Law of Confessions of Faith from 2002 is restrictive and discriminatory.²⁹

A vulnerable community among Muslims is the **Pomaks or Bulgarian Muslims**. As explained in the previous annual Shadow report, the issue of the Pomak identity has been controversial.³⁰ The prevailing opinion is that Pomaks are of Bulgarian ethnic origin, but have Muslim religion. During Communism there were several attempts to convert them into Christianity; Pomaks were subjected to name changing and other culturally restrictive policies.³¹

Another minority group susceptible to discrimination are the **Macedonians** in Bulgaria. According to the 2011 Census, 1 609 Bulgarian citizens identify themselves as Macedonians by their ethnicity. The previous ENAR Bulgarian Shadow Report contains information regarding Bulgarian policies towards the Macedonian identity and their impact on the statistical figures.³² According to the Bulgarian Helsinki Committee, there is discrimination against Macedonians, if they openly identify themselves as Macedonians by ethnicity in Bulgaria.³³ If we refer strictly to 'nationality' there are 1 091 Macedonian citizens in Bulgaria according to the 2011 Census.

Immigrants in Bulgaria are another vulnerable group that should be highlighted. These are third country nationals whose situation in the country is regulated by the 'Law on Foreign Nationals in the Republic of Bulgaria'³⁴. The vulnerability on the grounds of their nationality is often combined with other factors such as race and religion, resulting in 'multiple discrimination'. **Undocumented immigrants** in Bulgaria include long-term residents in the country who find themselves in a legal vacuum for decades without access to basic human rights. Even legally residing immigrants face many obstacles towards their fully-fledged integration, because of

²⁹ Bulgarian Helsinki Committee, Annual Report on Human Rights in Bulgaria in 2010, March 2011, <http://issuu.com/bghelsinki/docs/godishen-doklad-2010-bg-last-1-?viewMode=magazine>, accessed 17 August 2011.

³⁰ Serafimov, Victor, ENAR Shadow Report 2009/2010. Racism and Discrimination in Bulgaria, available at <http://cms.horus.be/files/99935/MediaArchive/publications/Bulgaria.pdf>, visited on 21 September 2011.

³¹ See Georgieva, Tsvetana, "Pomaks – Bulgarians and Muslims", pp.286-309, in: Krasteva, Anna, (ed), *Communities and Identities*, Petekston, 1998

³² Ibid, footnote 31

³³ Frog News, BHC: there is repression and discrimination against the Macedonians in the country, 27 January 2011, http://93.123.36.114/news_31237/BHK_Ima_represii_i_diskriminatsiia_sreshtu_makedontsite_u_na_s/, accessed on 18 August 2011.

³⁴ The updated text of the law (in Bulgarian) is published at <http://lex.bg/bg/laws/ldoc/2134455296>, accessed 21 September 2011.

the legal uncertainty created by outdated laws and administrative practices.³⁵ Bulgarian citizens who have family members that are third country nationals are victims of discrimination in comparison with other EU nationals and their third country family members in Bulgaria. The process of being joined by their family in Bulgaria is harder for Bulgarians than for other EU citizens.³⁶

A particularly vulnerable group to be pointed out among immigrants in Bulgaria is **people of African descent**. The 2011 Census registered 429 persons from the African continent in Bulgaria: 62 from Egypt, 59 from Algeria, 50 from Nigeria, 37 from South Africa, 36 from Tunisia, 32 from Morocco, 31 from Ethiopia, 25 from Sudan, 14 from Libya, 8 from Cameroon, 8 from Tanzania and 64 'others'. However this data hardly encompasses asylum seekers and undocumented immigrants who are present in the country. Thus according to the State Agency for Refugees³⁷, only from Nigeria there have been 518 asylum seekers within the period from 1993 till 2011. At the beginning of 2011 the following nationalities from Africa are among the 'top 10' asylum countries in Bulgaria: Syrians, Somalis, Moroccans and Nigerians.

The visibility of their racial difference is often an object of violent attacks by criminal (Nazi) gangs and police profiling in checks and searches.³⁸ A worrisome trend that has been observed recently is the rise of far-right extremism and its actions in Bulgaria.³⁹

Another vulnerable group that is often the target of far-right extremism and societal stigma is that of **sexual orientation minorities (LGTB)**. Traditionally, Bulgarian society remains strongly conservative towards sexual differences and is reluctant to accept the cohabitation of same sex couples. There is a significant presence of police at the gay parades (Sofia Pride) in Sofia in order to protect the participants.

³⁵ Migrant Integration Policy Index, Bulgaria, 2011, <http://www.mipex.eu/bulgaria>, accessed 18 August 2011

³⁶ Ilareva, Valeria, *Free Movement of Workers in the Republic of Bulgaria. National Report.*, The European Commission, 2010

³⁷ State Agency for Refugees, *Statistics and Reports*, <http://www.aref.government.bg/?cat=8> accessed 21 September 2011

³⁸ For references, please see Chapter IX of this report

³⁹ As a civil society reaction to this trend, in 2010 a new organization 'People against Racism' was founded. Its web site is <http://stopnazi-bg.org/>, accessed 18 August 2011

V. Racism and related discrimination in employment

V.i Manifestations of racism and related discrimination in employment

There is rather limited data available regarding discrimination in employment in Bulgaria. The main source of information is from the complaints filed in the Commission for Protection against Discrimination (CPD) which are listed by year in table 1.⁴⁰

	Type	2005	2006	2007	2008	2009	2010
1	Complaints	26	279	566	673	967	777
2	Signals ⁴¹	1	10	79	65	72	61
3	Total	27	289	645	738	1 039	838

Later in the Shadow Report we will highlight and explain the number of cases and decisions issued by CPD in 2010 with regard to discrimination on the basis of ethnicity, race, citizenship, religion, the right to labour, and the right to education, according to article 4 of the Protection from Discrimination Act.

The main problem, in the Bulgarian national context in 2010/2011, was unemployment. According to the official census in Bulgaria in February 2011 there are 3 282 740 economically active people between the ages of 15 and 64 in the country. The activity rate of the population is 59.7%, considerably lower than that of the EU – 64.2%⁴² The number of unemployed people is 493 079 and the rate of unemployment in the country is 15% - 16.4% for men and 13.5% for women.⁴³ The highest rate of unemployment is measured among the **Roma ethnic group** – 49.9% or three times higher than the average coefficient for the entire population.⁴⁴ Low levels of education and qualification is one of the main reasons for their restricted access to the labour market – in 2011 the employment rate of Roma people is 35.3% less than that of the rest of the population.⁴⁵ The current labour

⁴⁰ The Protection from Discrimination Act (PfDA) was adopted in 2003. This Act sets the norms regulating the establishment and the activity of the Commission for Protection against Discrimination (CPD) as a national specialised authority for prevention, control and protection from discrimination pursuant to the European Directives and legislation and recognising national characteristics in combating all forms of discrimination (Report of the Commission, 2007).

⁴¹ In order to make a complaint, one's personal rights and interests shall be affected by the wrongdoing. otherwise the complaint is inadmissible. For a signal one does not need to have his/her rights personally affected, but the signal is for reporting/flagging a wrongdoing affecting the broader public interest.

⁴² National Employment Agency, Annual report 2010, p.9, <http://www.az.government.bg/internal.asp?CatID=25/05&WA=AnaProSurv.asp> accessed 14 September 2011.

⁴³ National Statistics Institute, Census 2011 (final data), p.32, www.nsi.bg/EPDOCS/Census2011final.pdf, accessed 16 August 2011.

⁴⁴ Census 2011, National Statistical Institute, on-request data

⁴⁵ Ibid.

market integration of **Roma in Bulgaria** is very poor. First, Roma are much less likely to be working than non-Roma - the employment gap between non-Roma with jobs (70%) and Roma with jobs (41%) is 29 percentage points. Second, Roma with jobs earn much less than non-Roma - the wage gap is almost 39% and is related to the typically lower education level of Roma.⁴⁶

As indicated in previous Shadow Report for Bulgaria⁴⁷ the Roma continue to be the most discriminated minority group in Bulgaria and the discrimination in employment is manifested in several ways: unwillingness/non-acceptance of the employers to hire Roma; non-acceptance of the colleagues in the workplace; the employers showing discrimination and bias towards the Roma - sometimes it is hidden but reflects on Roma motivation; the attitude of Roma towards employment. There is a need for overcoming attitudes and stereotypes and conscious or unconscious discrimination against the Roma.⁴⁸

Case: A man of Roma descent who occupies a high office in the Fishery and Aquacultures Agency has filed a complaint in CPD where he cites instances in his work place when his results have been underestimated by his employers, he has been insulted publicly on the grounds of his ethnicity, his requests for instructions and/or help have been ignored, and his professional accomplishments have been undervalued and under acknowledged. CPD ruled that the attitude of the employer in this case led to discrimination on the basis of ethnicity.⁴⁹

The members of the **Turkish ethnic minority group** have more access to the labour market – in most cases they have low qualifications and are employed in the areas of construction, agriculture and some services. The unemployment rate is 25.27% which is 10% more than the average in Bulgaria.⁵⁰ The Bulgarian Turks are concentrated in the territories of several municipalities. 63.7% of the Turkish ethnic group lives in North-eastern Bulgaria and South-western Bulgaria: Kardjali, Targovishte, Shumen, Silistra, Dobrich, Ruse, and Burgas. In Kardjali and Razgrad more than half of the population is Turkish (69.8% and 57% accordingly). In these regions the Bulgarian population is a minority.⁵¹

The access of **the migrants** to the labour market is made harder by the fact that they often do not know Bulgarian. Foreigners who have humanitarian or refugee status tend to prefer to be employed by their fellow-countrymen as this drastically

⁴⁶ De Laat, Juust and Christian, Bodewig, *Roma inclusion is smart economics – illustration from Bulgaria, Czech Republic, Romania and Serbia*, 39 (n.d.: ECA-Knowledge Brief, 2011)

⁴⁷ European Network Against Racism, Shadow Report 2008: Racism in Bulgaria (Brussels: ENAR, 2008), http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN accessed 16 August 2011 and European Network Against Racism, Shadow Report 2009-2010: Racism and Discrimination in Bulgaria (Brussels: ENAR, 2009), http://www.enar-eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN accessed 16 August 2011.

⁴⁸ 'Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons Learned' – Report from the Workshop, 16 May 2011, Holiday Inn, Policy Area: Employment

⁴⁹ CAD, Annual report 2010, <http://www.kzd-nondiscrimination.com/>, accessed 21 August 2011.

⁵⁰ Census 2011, National Statistical Institute, on-request data

⁵¹ National Statistics Institute, Census 2011, p.22.

reduces the possibility of discrimination within employment. According to the Employment Agency the number of migrants who worked in Bulgaria with an unlimited contract was 15 398 in 2009 and 16 264 in 2010 and the number of migrants with a set-term contract was 3 756 in 2009 and 3 367 in 2010.⁵²

A socially excluded group among immigrants, members of which have practically no access to the labour market at all, are **undocumented immigrants**. This also holds true for long-term undocumented immigrants who have lived in Bulgaria for decades. Another group with barred access to the labour market is that of **asylum seekers**, as they are only allowed to work after one year of residing in Bulgaria.

Example of NGO Best Practice

Program for giving land to landless and needy Roma in Bulgaria's rural areas – 'The earth-a source of income' Foundation

Since its commencement in 1993 until now, the program works to improve a sustainable mechanism for obtaining an income from agriculture, combining access to credit for working capital and for improving qualifications.

Participants must put their own funds into the company, amounting to 20% of the value of the land, and the company provides the remaining 80% in the form of a 3-5 year loan with 6% annual interest and purchases the land. The participants become lawful owners of the plots only when the loan is repaid in full. The fact that the participants are 'almost owners' from the very beginning is very important because it makes the prospect of full ownership real. This scheme differs from most support programs namely through the particular combination of social objectives and market rules. For more information, please refer to www.agrocenter.info

In 2010 CPD announced 15 decisions regarding 'ethnic identity'. Six of those decisions were on complaints of discrimination with regard to the right to labour.⁵³ CPD concluded that the 'ethnic identity of the affected people is often an obstacle for their professional advancement and evaluation, hinders their career advancement, and often leads to the principle of equal payment for equal labour being broken.'⁵⁴

V.ii The political and legal context

Bulgaria is obliged to implement Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment. The deadline for its transposition was the 19 June

⁵² National Employment Agency, Annual report 2010, <http://www.az.government.bg/internal.asp?CatID=25/05&WA=AnaProSurv.asp> accessed 14 September 2011

⁵³ CPD, Annual Report 2010, p.15

⁵⁴ Ibid., p.16

2011. In January 2011 the transposition of the Directive took place by introducing a new chapter in the Law on Foreign Nationals in the Republic of Bulgaria: 'Residence of citizens of third countries for the purpose of highly-qualified labour.' Directive 2009/50/EO was also transposed and changes the Law on Employment Promotion.

Another Directive that was transposed in Bulgaria is the 'Employers Sanctions Directive 2009/52/EC'⁵⁵ of 18 June 2009; the deadline for transposition of this directive was 20 July 2011. To that end, amendments to the Law on Employment Promotion were made where article 73 (3) introduced the term 'illegally residing third country national.'⁵⁶ In the Criminal Code a new article 227 was created: 'Especially exploitive are such working conditions that are connected to discrimination of **the victim** or in which a substantial discrepancy in the conditions for hiring workers is witnessed including discrepancies that threaten the **health and security** of the workers and harm the dignity of the worker' (Article 227 (2)).⁵⁷

In the area of employment at the end of 2010 a new **National Plan for Action in Employment for 2011**⁵⁸ was accepted. This is the first plan in Bulgaria that aims at reaching the EU strategic goals of 'Europe 2020'. The main priorities of the national policy also include people from ethnic and religious minorities, and refugees and migrants, through the priority of 'securing higher employment rates through activating the inactive and disappointed people; increasing the qualifications and skills of the unemployed, etc.'⁵⁹

The National Week for Fighting Poverty and Social Exclusion (part of the initiative of the European Year for Fighting Poverty and Social Exclusion 2010) examined the topic 'Overcoming discrimination and increasing social inclusion of the vulnerable ethnic groups.'⁶⁰ Representatives of the institutions and NGOs looked at the accomplishments, challenges, and future priorities through evaluating: the policies for social inclusion of the vulnerable ethnic groups; the cases of discrimination; and examples of good practice for reducing discrimination among the vulnerable groups.

⁵⁵ UNHCR, Refworld, Directive 2009/52/EC of the European Parliament, <http://www.unhcr.org/refworld/type,REGLEGISLATION,,,4a55ea4e2,0.html> accessed 14 September 2011

⁵⁶ The Law on Employment Promotion, www.az.government.bg/Legislation/ZNZ.htm, accessed 14 September 2011

⁵⁷ The Criminal Code, www.econ.bg/law86425/enactments/article155104, accessed 14 September 2011

⁵⁸ The National Plan for Action in Employment for 2011, www.mlsp.government.bg/bg/docs/NPDZ-2011.pdf, accessed 14 September 2011

⁵⁹ Ibid.

⁶⁰ Europe bg: <http://www.europe.bg/htmls/page.php?category=7&id=31815>, Ministry of labour and social policy: <http://www.mlsp.government.bg/bg/news/news.asp?newsid=1561&catid=1>, accessed 20 August 2011

VI. Racism and related discrimination in housing

VI.i Manifestations of racism and related discrimination in housing

The majority of **Roma** live in ghettos, in dire conditions or in substandard housing, some of it ramshackle, with very limited access to basic infrastructure, security of tenure or essential services, such as public transport, emergency medical aid, garbage collection, policing, and, for some, even without electricity and water supply. The housing situation of the Roma in Bulgaria is a clear case of discrimination.⁶¹ In many places the local authorities have for decades utterly ignored their housing and infrastructure needs, investing nothing in development of residential areas populated by Roma. In many places the authorities have consistently refused to include Roma residential areas in urban planning or to regulate them. Forced evictions and the lack of social protection for the people rendered homeless by them have further compounded this situation. Roma, on the other hand, tend to live together in concentrated communities isolated from the rest of the population because this gives them a sense of security in a hostile environment.

One of the main reasons for an unsuccessful living policy so far is the intolerance and rejection by society and the institutions.⁶² We can still observe the practice, previously noted in the Bulgaria Shadow Report 2009, which is that the local authorities in Bulgaria demonstrate harsh tactics when trying to adopt proper regularisation of ghetto areas – there were multiple cases in numerous municipalities of forced eviction of Roma from their homes:

CASE 1: In September 2010 block N 20 in Yambol, inhabited by Roma and their families, was demolished. This case is emblematic for Bulgaria. Since the block was built, there was never any sewage system, plumbing system, or electricity.⁶³ The tenants stopped paying rent, the building was deserted by the regional authorities, and its plundering and destruction began. The building was declared dangerous for the lives and health of its inhabitants and the mayor of Yambol issued an order for its destruction. After the block was demolished and its inhabitants were evicted, hundreds of Roma proceeded to build huts on the nearby lawn. There is still no water or electricity and heating is produced by burning old tyres. Only the children who do not have admissible conditions for living have been

⁶¹ European network of legal experts in the non-discrimination field – Report of measures to combat discrimination Directive 2000/43/EC and 2000/78/EC, Country report 2009, Bulgaria, p.49

⁶² Report from Workshop 'Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons Learned', Policy area: Housing, Sofia, 16 May 2011, <http://www.worldbank.bg/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BULGARIAEXTN/0,,contentMDK:22925975~menuPK:50003484~pagePK:2865066~piPK:2865079~theSitePK:305439,00.html> last accessed on 20 August 2011

⁶³ Bulgarian Helsinki Committee 'In the Ruins of Block 20' (Original title in Bulgarian: 'В руините на блок 20') <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3865> last accessed on 21 August 2011

accepted in homes.⁶⁴ The leader of the political party DROM, Iliya Iliev, announced that his 'party will approach the European Commission and send a complaint to the Court in Strasburg on the violation of the rights of Roma and derogation of human dignity. More than 100 Roma families live in the tent camp around the block, among whom there are new born babies 5 and 40 days old and a man who is an incapacitated invalid. They live in catastrophic conditions.'⁶⁵

CASE 2: In November 2010 in accordance with a bill of the mayor of Petrich began a procedure of demolishing 7-8 illegal buildings in the Roma neighborhood 'Sheker mahala' where 50 people live. The national ombudsman has recommended discontinuation of the demolishing procedure after examination. He points out that 'Demolishing the buildings should be discontinued in order to avoid a new case of struggling people in the beginning of winter. The municipality ought to first provide alternative housing for the affected people.'⁶⁶ The recommendations of the ombudsman were supported by human rights NGOs.⁶⁷

CASE 3: In the beginning of 2011 the political party 'ATAKA' insisted on sending excavating machinery in order to remove the ghettos on the territory of Burgas municipality. According to 'ATAKA' out of 260 only 30 buildings have been proposed for legalisation according to the Law for Territory Structuring⁶⁷.

Sources of information show that only a very low number of complaints alleging discrimination in the field of housing were filed with CPD or the Ombudsman's office. According to the FRA's *European Union Minorities and Discrimination Survey* (EU-MIDIS) only one in nine (11.5%) out of all Roma who had responded that they had been discriminated against chose to report such incidents to the

⁶⁴ Dnes.bg, 'The Romas from Block 20 Left Without Communal Homes' (Original title in Bulgarian: 'Ромите от блок 20 остават без общински жилища'), <http://www.dnes.bg/stranata/2010/09/20/romite-ot-blok-20-ostavat-bez-obshtinski-jilishta.99266> accessed on 16 August 2011

⁶⁵ Dnes.bg, 'Block 20 Returns in a German Supermarket' (Original title in Bulgarian: 'Пък бл.20 се превръща в немски хипермаркет?'), <http://www.dnes.bg/obshtestvo/2010/09/21/pyk-bl-20-v-iambol-se-prevryshata-v-nemski-hipermarket.99340> accessed on 16 August 2011

⁶⁶ Dnes.bg, 'The Ombudsman Recommends Not to Demolish the Ghetto in Petrich' (Original title in Bulgarian: 'Омбудсманът препоръча да не се бутат гетото в Петрич'), <http://www.dnes.bg/obshtestvo/2010/11/05/ombudsmanyt-preporycha-da-ne-se-buta-getoto-v-petrich.103078> accessed on 16 August 2011

⁶⁷ Bulgarian Helsinki Committee, 'Bulgarian Helsinki Committee congratulates the ombudsman for his initiative to stop the compulsive eviction of Romas from their sole homes' (Original title in Bulgarian: 'Български хелзински комитет приветства омбудсмана за инициативата му да спре принудителното извеждане на роми от единствените им жилища'), <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3717> accessed on 21 August 2011

⁶⁷ Bulgarian Helsinki Committee, 'Bulgarian Helsinki Committee congratulates the ombudsman for his initiative to stop the compulsive eviction of Romas from their sole homes' (Original title in Bulgarian: 'Български хелзински комитет приветства омбудсмана за инициативата му да спре принудителното извеждане на роми от единствените им жилища'), <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3717> accessed on 21 August 2011

relevant organisations.⁶⁸ Most believed nothing would be achieved from doing so, while 41 per cent indicated that they were unsure how to report such incidents. Respondents were also asked about their awareness of legislation that prohibits discrimination in relation to ethnicity when renting or buying a flat. Half of the respondents surveyed (47%) did not know of any such laws. This lack of awareness of their rights suggests that the message about the right not to be discriminated against is not reaching some of the most vulnerable minorities.⁶⁹

Refugees in Bulgaria are effectively excluded from access to public housing. To qualify for such accommodation, at least one household member must be a Bulgarian national who has resided continuously in Sofia for a minimum of ten years and who is officially registered there. Despite the discriminatory nature of this regulation, no proposal for its amendment has been included in the NPIR⁷⁰ for 2011-2013. Given the widespread prejudices in Bulgaria, many refugees have difficulties in finding landlords who are prepared to rent to foreigners. If refugees included in the NPIR⁷¹ manage to find an apartment, they are entitled to receive rental subsidies. However, the money is paid with up to six weeks' delay. Also, the amounts granted (up to 170 BGN or 85 euros for a single person and up to 450 BGN or 225 euros for families of five or more persons) are insufficient compared to market prices. NGOs reported many examples where landlords became impatient because of outstanding rent delays and evicted the refugees.⁷² Sensing the weak position of their tenants, many landlords refused to pay back the rent deposit they owed them so refugees ended up without a roof over their heads and without money in their pockets. Little is known about the housing situation of **asylum seekers** who are not eligible for SAR-State Agency for Refugees reception services, although homelessness appears to be an emerging problem. During the first ten months of 2010, the Bulgarian Red Cross reported that it had to deal with up to 35 refugees and asylum seekers who found themselves in this situation.⁷³ A number of these cases involved asylum seekers who had waived their entitlement

⁶⁸ 24 Hours Daily, 'Attack sends excavating machinery against Romas in Burgas' (Original title in Bulgarian: 'Атака праща багери срещу роми в Бургас'), <http://www.24chasa.bg/Article.asp?ArticleId=763175> accessed on 21 August 2011

⁶⁹ European Union Agency for Fundamental Rights (FRA), Housing conditions of Roma and Travelers in the European Union, Comparative report, Luxembourg: Office for Official Publications of the European Communities, 2009, p.7, <http://www.romadecade.org/19590>

⁷⁰ National Programme for Integration for Refugees (NPIR) 2011-2013, <http://www.strategy.bg/StrategicDocuments/View.aspx?lang=bg-BG&Id=667>, accessed 14 September 2011

⁷¹ National Programme for Integration for Refugees (NPIR) has been in place since 2005, funded by the government. Last update of NPIR was from the January 2011 for 2011-2013.

⁷² Being a Refugee - How Refugees and Asylum Seekers Experience Life in Central Europe, AGDM Report 2009, United Nations High Commissioner for Refugees - Regional Representation for Central Europe, http://www.unhcr-centraleurope.org/en/what-we-do/age-gender-and-diversity-mainstreaming.html?searched=AGDM+REPORT+2009&advsearch=allwords&highlight=ajaxSearch_highlight+ajaxSearch_highlight1+ajaxSearch_highlight2+ajaxSearch_highlight3 accessed 14 September 2011

⁷³ Bottinick Larry and Areti Sianni, No place to stay - A review of the implementation of UNHCR's urban refugee policy in Bulgaria, 2011, <http://www.unhcr-centraleurope.org/en/resources/evaluation-and-research.html>, accessed 14 September 2011

to reception assistance in order to be released from detention.

Examples of NGO Good Practices

Construction of houses for the Roma families by ADRA Foundation

In 'Iztok', a Roma residential district of the town of 'Kyustendil' for a period of 8 years the ADRA Foundation with financial support of the Municipalities in Vienna and Kyustendil has accommodated Roma in a total number of 27 single family houses. This initiative began in 2002 and last 6 houses were opened in 2010. The neighbourhood council of local activists discusses which people need houses. When selecting the newcomers, the focus is on those who are more likely to be able follow the rules i.e. to pay the rent regularly and to protect the property. The selected newcomers are obliged to contribute with their own labour in the construction of the houses.

For more information, please refer to www.adra-bg.org

VI.ii The political and legal context

With the adoption of the Racial Equality Directive 2000/43/EC,⁷⁴ Bulgaria has provided an important legal tool to use in combating discrimination on the basis of racial or ethnic origin in access to housing, and this tool can be applied to discrimination against Roma and migrants. Yet available figures, gathered from a variety of sources, show that only a very low number of complaints alleging discrimination in the field of housing have been filed with Equality Bodies or Ombudsman's offices.⁷⁵ According to experts from NGOs the reason for the rising tension and for non-Roma not wanting to live with Roma (this is often the case vice-versa too) is the lack of action taken by the regional authorities to stop illegal building sights and to ensure the regular payment of bills for social services such as electricity, water, and heating, by the Roma minority.⁷⁶

Mr. Thomas Hammarberg, The Commissioner for Human Rights of the Council of Europe, sent a letter of recommendations to the Prime Minister of Bulgaria on October 7, 2010. He recommends that the authorities in Bulgaria implement policies that address the legal and social discrimination of Roma in accordance with the Council of Europe of Ministers Recommendation CM/Rec (2008)5 on

⁷⁴ European Council Directive 2000/43/EC (29.06.2000) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

⁷⁵ European Union Agency for Fundamental Rights (FRA), Housing conditions of Roma and Travelers in the European Union, Comparative report, Luxembourg: Office for Official Publications of the European Communities, 2009

⁷⁶ European Council Directive 2000/43/EC (29.06.2000) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

policies for Roma and/or Travellers in Europe.⁷⁷ The recommendations do not only apply to Roma but to all minority groups in Bulgaria stating: ‘freedom of ethnic self-identification is a major principle in which democratic pluralistic societies should be grounded and should be effectively applied to all minority groups, be they national, religious or linguistic’⁷⁸

In order to respond to the recommendations by the European Parliament in May 2010 on the improvement of the living conditions of the Roma minority in the European Union, Bulgaria should develop a national strategy by December 2011. An expert group of representatives of different ministries, institutions, and NGOs was created. Its goal is to develop a plan for the actualisation of the Roma program for integration in Bulgarian society in the period 2010–2012 and an Operative Document in Correspondence with the document in which the ‘European Commission calls on Member States to set national strategies for Roma integration’ (IP/11/400).⁷⁹ ‘The new measures will include exchanging already built houses with new homes, using the European Fund for Regional Development (EFRD).’⁸⁰

⁷⁷ The Commissioner for Human Rights - CommDH(2010)47 04 November 2010, Letter from the Council of Europe Commissioner for Human Rights to Mr. Boyko Borisov, Prime Minister of Bulgaria (7 October 2010), <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1698657> accessed on 21 August 2011

⁷⁸ Ibid.

⁷⁹ European Commission calls on Member States to set national strategies for Roma integration IP/11/400,

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/400&format=HTML&aged=0&language=EN&guiLanguage=en> , accessed 20 August 2011

⁸⁰ Ibid.

VII. Racism and related discrimination in education

VII.i Manifestations of racism and related discrimination in education

The official statistics and different research results show that the educational level of the **Roma** society is lower than the educational level of any other ethnic group in Bulgaria – the percentage of illiterate Roma is 11.8% or 23.5 times higher than the average in Bulgaria.⁸¹ The level of illiteracy among the Turkish ethnic group is 4.7% or 9.5 times higher than that of citizens of Bulgarian origin. Among the children aged seven to 15 years old who should be in school but do not study, we observe big differences as well: among the Roma ethnic group 23.2% of the children in this age group do not go to school, among the Turkish ethnic group this percentage is 11.9% and among the Bulgarian group – 5.6%. According to data published by the World Bank, only 13% of the Roma's in Bulgaria have graduated from high school as compared to almost 90% of the rest of the population in the country.⁸²

‘The low levels of literacy and qualification in the Roma ethnic group could be a key factor contributing to the relatively high proportion of Roma’s not applying for, not attending, rarely attending, or not graduating from, school. In practice it could be contributing to the high rates of Roma dropping out of school which is a factor that makes them not only disadvantaged in the job market but also leads to their complete social exclusion and social disintegration.’⁸³ From 1990 to 2007, between 10 000 and 33 000 children dropped out of school each year, most of which were Roma children. The measures undertaken so far by the state, NGOs, local government etc., have been too fragmented and disorganised and have not led to substantial positive results.⁸⁴

In 2010 there was an increasing tendency towards manifestations of direct or indirect discrimination towards students from ethnic minorities in Bulgaria. These are most commonly expressed in: segregation within the education system; Roma children and migrants being grossly overrepresented in special schools; a lack of teachers who are trained to work with multi-ethnic classes; discrimination and even racism from teachers and students; non-Roma parents treating Roma children badly; discrimination against the Roma children in secondary school and a general double standard being applied towards Roma children.⁸⁵

⁸¹ National Statistics Institute, 2011 Census (final data), p. 31 available online at www.nsi.bg/EPDOCS/Census2011final.pdf accessed 21 August 2011

⁸² ⁸² Dnes.bg, ‘.....’ (Original title in Bulgarian: ‘Ограмотяват 10 хиляди роми на интензивни летни курсове’) <http://www.dnes.bg/obshtestvo/2010/04/08/ogramotiavat-10-hiliadi-romi-na-intenzivni-letni-kursove.89007> last accessed on 18 August 2011

⁸³ Tilkidjiev, Nikolai, ed., V. Milenkova, K. Petkova and N. Mileva. 2009. *Roma Dropouts*. Sofia: Open Society Institute, p.13

⁸⁴ Ibid, p.315

⁸⁵ ‘Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons

During 2010 to the beginning of 2011 the Commission for Protection against Discrimination (CPD) received six cases of complaints by affected persons regarding discrimination in the educational system.⁸⁶ The claims have been filed by: educators complaining against differences in payment for the same amount of labour or for harassment in the work place due to ethnicity; petitions by parents protesting discrimination against their children by other students or teachers; and cases of students discriminating towards teachers.

CASE: Two days after the beginning of the 2010/2011 school year 24 parents withdrew their first-grade children from the 'Hristo Smirnenski' Elementary School in Pazardjik. The reason for this was that 12 children of Roma ethnicity were enrolled in the same class. The principal of the school tells the following story: 'the children were crying on the stairs. They didn't want to leave. Their parents forcibly dragged them out of the school. An old lady told me: "Sir, you want to turn this school into a Gypsy school!" According to the Minister for Education this is not an ethnic conflict.'⁸⁷

Examples of NGO Good Practice

The Centre for Interethnic Dialogue and Tolerance 'Amalipe' implements Advocacy training for Roma health professionals

The Roma health scholarship program, 'Leadership in Health: A Generation of Professionals in the Health Care System' is implemented by Centre Amalipe. It is innovative advocacy training through a summer school aimed at fostering personal development, enhancing leadership skills, and providing information on public health advocacy, the right to health, and Roma culture and traditions. In 2009 the program awarded 23 young Roma scholarships out of a total of 31 applicants. In 2010 a total of 93 students applied out of which 57 were approved. In the third year close to a hundred students will participate in the Advocacy training in Veliko Tarnovo.

For more information, please refer to:

<http://amalipe.com/index.php?nav=home&lang=2>

Desegregation of Roma education – pilot projects of 'Organisation Drom', Vidin

The desegregation process, led by NGO 'Organisation Drom' in Vidin, started in 2000 with 100 Roma children participating in the pilot project in Central and Eastern Europe. The aim of the project is for students from Roma districts to study together with their peers from the majority. The Roma children are transported to schools located in other parts of the settlement inhabited by mainly non-Roma ethnic groups in order to learn together with children of

Learned' – Report from the Workshop, Policy Area: Education 16 May 2011, Holiday Inn

⁸⁶ CPD, Annual report 2010

⁸⁷ Webcafe.bg, 'Parents Withdrew Their Children Because of Romas in the Same Class' (Original title in Bulgarian: 'Родители отписаха първолаците си заради роми в класа') http://www.webcafe.bg/id_384750070, accessed on 20 August 2011

Bulgarian and sometimes Turkish and other ethnicities. This practice has expanded to another 6 cities in the country and gained popularity in neighbouring countries.

For more information, please refer to: <http://drom-vidin.org/en/desegregation.html>

Project 'Schools without discrimination' in Veliko Tarnovo

Since December 2010 teachers from the Veliko Turnovo region have been trained through the project 'Schools without discrimination' developed and realised by CPD and the Netherlands Institute for Human Rights. The goal of the training is to clarify the 'Law for Protection against Discrimination' and its practical application in schools.⁸⁸

Intercultural Program stops the students from dropping-out of school

The intercultural (SIP) program was developed by the Centre for Interethnic Dialogue and Tolerance 'Amalipe' over the past several years and evaluates how it can help to decrease drop-out rates among Roma children across the country.⁸⁹

The main problem for **immigrants who have been awarded refugee and humanitarian status** is the lack of access to kindergartens for their children. The reasons for this are the shortage of spots in the kindergartens and the requirement that the parents are previously registered in the municipality. Thus, the refugees cannot apply for a job and the work program of the Refugees State Agency for the registration of new refugees only includes children above the age of seven. The access to kindergartens for the children of immigrants and migrants is also made harder by the fact that they do not know Bulgarian.

VII.ii The political and legal context

In the last year, the European Commission in cooperation with the Council of Ministers, accepted a Report on the advancement of the Lisbon goals in education in 2010 with an evaluation of the overall progress and setting the priorities for future development.⁹⁰ In 2010 the National Equality Body and the ombudsman, in accordance with the Lisbon strategy, have supported the authorities' endeavours to

⁸⁸ Bulgarian Helsinki Committee 'Ten Signals from the Region Have Been Given to CPD' (Original title in Bulgarian: 'Десет сигнала от региона са подадени в Комисията за защита от дискриминация') <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3774>, accessed on 18 August 2011.

⁸⁹ Center for Interethnic Dialogue and Tolerance «Amalipe», <http://amalipe.com/index.php?nav=projects&id=42&lang=2>, accessed 20 August 2011.

⁹⁰ Report of the Ombudsman 2010, <http://www.ombudsman.bg/reports/1135#middleWrapper>, accessed 20 August 2011.

reduce the number of school leavers, and to assist in the socialisation of children from the youngest possible age and secure an equal start in their education.

The Strategy for Educational Integration of the Children and Students from Ethnic Minorities (2004) is the main document of the Ministry of Education, Youth and Science and mirrors state policy regarding the educational needs of children and students from ethnic minorities. Its core priorities are oriented towards: 'complete integration of the Roma children through desegregation; optimisation of the school network in municipalities with small and scattered towns and villages and establishing an intercultural perspective in the educational integration of the children and students from ethnic minorities.'⁹¹ The strategy was updated on March 4, 2010 and one very specific strategic goal for children and students from ethnic minorities and migrant backgrounds is connected to 'counteraction against discrimination in kindergartens and schools.'⁹²

In 2010 we observed a positive change in the attitude of the institutions towards discrimination:

1. The Ministry of Labour and Social Policy organised a National Seminar for Increasing the Awareness of Discrimination in June 2010. Educational advisors and school psychologists were trained in identifying cases of discrimination, aggression, intolerance and verbal manifestations of hatred in schools.⁹³
2. The Week of Diversity 'Tolerance, Respect, Understanding and Equality' took place in July 2010 in seven regions of Bulgaria. The discussions and round tables during that week contributed to encouraging equality and reaching a better awareness of questions connected to identification and overcoming discrimination against minorities.⁹⁴

Other good practices which are supported by the government and contribute to limiting discrimination in education include: desegregation of the Roma schools; preventing and addressing domestic violence among the Roma community through the Project 'No to Domestic Violence'; creating a supportive environment for Roma students in secondary schools - more than 500 students in 20 schools; distribution of Roma students in non-segregated schools; introducing school lessons in the native language of the students; parental education on motivation; motivating Roma parents to send their children to schools; training Roma teachers; project 'I don't want to be different' – children with equal rights.⁹⁵

⁹¹ Ministry of Education, Youth and Science, Strategy for Educational Integration of the Children and Students from Ethnic Minorities (2004) http://www.minedu.government.bg/left_menu/strategies/ accessed on 21 August 2011.

⁹² Centre for Educational Integration of the Children and Students from Ethnic Minorities – updated (2010) <http://coiduem.mon.bg/page.php?c=39&d=48&page=2> accessed on 21 August 2011.

⁹³ Ministry of Labour and Social Policy, <http://www.mlsp.government.bg/bg/news/news.asp?newsid=1445&catid=1>, accessed 20 August 2011

⁹⁴ Ministry of Labour and Social Policy <http://www.mlsp.government.bg/bg/news/news.asp?newsid=1477&catid=1>, accessed 20 August 2011

⁹⁵ 'Successfully Scaling Up Work on Roma Inclusion: Challenges, Good Practices and Lessons

VIII. Racism and related discrimination in health

VIII.i Manifestations of racism and related discrimination in health

The key problem areas of manifestations of racism and discrimination in health care for Roma people and migrants in Bulgaria are different.

The factors and reasons that led to a substantial decrease in the general level of health among the **Roma** in the past few years (including higher morbidity and lower life expectancy) can be generalised as follows:

- health legislation: an out-dated and dysfunctional Health System;
- access to health services: the lack of appropriate infrastructure in Roma settlements; there are no GPs in the district or GPs do not want to take on people from the Roma population as patients; the Health specialists do not have training on how to approach working in a multi-ethnic environment; a particular lack of services for children up to seven years of age.
- Prevention: prevention is not treated as a priority; healthcare is expensive and difficult to access; a lack of specialised health care for the Roma minority; there is a lack of action to ensure the prevention of infectious diseases;
- lack of health education for/about Infectious diseases including TB; a lack of hygiene facilities and education; problems of access to gynaecologists; social problems, a high proportion of early births and high child mortality rate; marriages at a young age;
- financing of Health care: a lot of the Roma do not have social insurance and lack health insurance cover; a high percentage of Roma are outside of the Health system; most have limited access to special health services.
- integrated approach: informal payments; the work within the community; failure to consolidate the efforts of various institutions; lack of comprehensive review of access barriers to the health system;
- discrimination: discrimination in legislation; lack of healthcare for the poor in the community; inequality between women and men; institutional discrimination towards the Roma population.⁹⁶

Certain contagious illnesses are more prevalent among the Roma and continue to have an epidemic character.⁹⁷

Learned'- Report from the Workshop, Policy Area: Education, 16 May 2011, Holiday Inn

⁹⁶ Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons Learned – Report from the Workshop, Sofia, 16 May 2011, Policy area: Health, <http://www.worldbank.bg/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BULGARIAEXTN/0,,contentMDK:22925975~menuPK:50003484~pagePK:2865066~piPK:2865079~theSitePK:305439,00.html>, accessed 20 August 2011

⁹⁷ Tomova, Ilona, 'Health and Roma Society – An Analysis of the Situation in Europe, Preliminary Report – Bulgaria', (Sliven: Roma Health Foundation, 2009), www.gitanos.org/upload/87/58/BULGARIA-final-baja.pdf, accessed on 21 August 2011

1. An epidemic of measles – 70000 Roma children were infected solely in the first trimester of 2010. The epidemics spread throughout the regions of Duloovo, Sliven, Plovdiv, Sofia, Dobrich, Silistra, Burgas, Targovishte. Two children have died. According to the Ministry of Health 98% of the victims were not vaccinated and on many occasions doctors reported fictitious immunisations of the Roma children.⁹⁸
2. In the summer and autumn of 2010 an epidemic of hepatitis spread in Burgas due to low hygiene, and a lack of a sewerage system or running water in a large proportion of the Roma houses.
3. Tuberculosis has been spreading in the Roma neighbourhoods of Burgas and many of those infected refuse treatment. The newly discovered patients are provided with free medication by the National Program for Fighting Tuberculosis.⁹⁹ In Sliven 60% of those who are infected by tuberculosis are Roma which is resulting in a high hidden morbidity rate. The lack of basic hygiene conditions and overcrowded Roma houses and neighbourhoods are among the reasons for difficulties when gaining control over infectious diseases and their progression into epidemics.¹⁰⁰

Migrants, including foreigners with refugee or humanitarian status have the right to health insurance and to visit a GP, and the chronically ill have the right to discounted medicine. The problem for migrants, and specifically for refugees, is the difficulty of finding a GP due to the language barrier, especially if their mother language is Arabic or Farsi. Other **refugees**, including those who have specific needs and who are therefore unable to attend the NPIR¹⁰¹, have to pay for their own health insurance. If they do not do so, then they are only eligible to access a limited number of free medical services, such as emergency, obstetric and mental care. As the majority of refugees work in the informal economy, moreover, they do not have access to health insurance organised and/or subsidised by their employer. The situation of **undocumented migrants** with regard to the Bulgarian health care system, is critical. The main problem is the cost of medical treatment, which is not covered by any health insurance, because their lack of a residence status doesn't allow them to have health insurance and therefore they have to pay everything privately. Most undocumented migrants are poor, which makes self-supply impossible. They can use the legal right to medical treatment only in an emergency situation.¹⁰²

Some GPs are reluctant to include **asylum seekers** in their registers because of a

⁹⁸ Dnes.bg, 'Romans learn how to protect themselves from measles' (Original title in Bulgarian: 'Роми учат как да се пазят от морбили'), <http://www.dnes.bg/health/2010/04/07/romi-uchat-romi-kak-da-se-paziat-ot-morbili.88947>, accessed on 16 August 2011

⁹⁹ Bgfacti.com, 'Romans spread tuberculosis in Burgas' (Original title in Bulgarian: 'Роми сеят туберкулоза в Бургас'), <http://bgfacti.com/news/88472>, accessed on 16 August 2011

¹⁰⁰ Tomova, Ilona, 'Health and Roma Society – An Analysis of the Situation in Europe, Preliminary Report – Bulgaria', (Sliven: Roma Health Foundation, 2009), www.gitanos.org/upload/87/58/BULGARIA-final-baja.pdf, accessed on 21 August 2011

¹⁰¹ National Programme for the Integration of Refugees

¹⁰² Law on Asylum and Refugees, Art.29, <http://www.aref.government.bg/?cat=25> accessed 14 September 2011

lack unfamiliarity with their health insurance status, while others refuse due to a lack of interpretation services. Medical consultations are often delayed, moreover, due to (a) the late payment of SAR's monthly health insurance contributions, (b) a lack of awareness amongst health providers in relation to the entitlements of asylum seekers and (c) the limited understanding that many asylum seekers have of the Bulgarian healthcare system.¹⁰³

In some situations **foreigners** are put in an unequal position compared to Bulgarians – this is more than obvious in the case of the right to health insurance for the different groups of people. This problem was brought forward to the ombudsman by a citizen with the status of a 'continuous residence' living in Bulgaria, because her status does not allow her to have health insurance.¹⁰⁴ According to article 33, paragraph 1, point 3 of the Law for Health Insurance, compulsory health insurance is only for foreign citizens who have the status of constantly living in Bulgaria. These restrictions create discontent among citizens who have paid state fees to have regular documents for residing in the country.¹⁰⁵

Examples of NGO Good Practice

'Prevention and control of HIV/AIDS' program

This program has been operating in Bulgaria since 2004. Since 2007 it was funded by the Global Fund for Fighting AIDS, Tuberculosis and Malaria and this program will continue until 2015. The program includes work on raising awareness and thus reducing risk behaviour in the Roma society in the age group of 12 to 25 years. Seven health and social centres have been constructed in the Roma neighbourhoods throughout the country. Workers (currently 80 people) from the Roma society are being trained to help to increase health education. It is planned to attract 12,000 people into the program for training in important life skills. Mobile medical cabinets are being equipped to reach the inaccessible areas of the Roma neighbourhoods. The program is being carried out in ten regions: Blagoevgrad, Burgas, Varna, Vidin, Montana, Plovdiv, Pazardjik, Sliven, Sofia and Stara Zagora. It is supported by three NGOs which provide psychological and social help to Romas who live with HIV/AIDS, and their families and relatives. In the first months of 2011 14,257 people received free and anonymous consulting and testing for HIV.

For more information, please refer to <http://www.aidsprogram.bg/index.php>

Model 'Health mediator in the Roma community' introduced by the 'Minority Health Problems' Foundation works 10 years in Bulgaria

¹⁰³ Bottinick Larry and Areti Sianni, No place to stay - A review of the implementation of UNHCR's urban refugee policy in Bulgaria, 2011, <http://www.unhcr-centraleurope.org/en/resources/evaluation-and-research.html>, accessed 14 September 2011

¹⁰⁴ Report of the ombudsman of Bulgaria for 2010, <http://www.ombudsman.bg/reports/1135#middleWrapper>, accessed 14 September 2011

¹⁰⁵ Ibid.

In Bulgaria the model 'Health mediator in the communities' was introduced in 2001 by the Minorities Health Problems Foundation and the project was implemented as an effective model for improving Roma access to health and social services in 'Iztok', a residential district of the town of Kyustendil. The first five mediators were trained as part of this project.

This practice is a typical example of mediation, which the state has acknowledged to be good practice despite the difficulties accompanying the introduction of the position of 'health mediator' into the health care system and challenges for providing financing. Presently, the mediators in the country play a crucial role in ensuring the prevention and treatment of socially significant diseases among Roma communities.

On 23 April 2007 the National Network of Health Mediators was established when 50 health mediators from more than 25 municipalities all over the country were began their work. During 2010, within the framework of several projects, more than 105 health mediators from 57 municipalities all over the country have been trained.

For more information, please refer to: www.zdravenmediator.net/en/

VIII.ii The political and legal context

Institutional discrimination is readily apparent in the healthcare system, for example: in Obstetric departments Roma women are housed in separate rooms and medical workers and other experts fail to inform the social services when appropriate.¹⁰⁶

As an excuse against integrating Roma students into regular classes, school directors in often claim that Roma children lack cleanliness and may carry possible diseases. They justify not allowing Roma children into schools with the excuse that they are attempting to avoid putting other children at risk. Such claims are often supported by the Ministry of Health. In order for Roma children, especially those coming from very poor communities, to be integrated into classes, they must have a check-up and be proven healthy by local health authorities. A very common problem for many Roma, however, is that in order to be registered in a local health clinic run by the state, one needs a permanent address or at least, a legal one. For many Roma this is not possible. When local health clinics are approached to receive children, they can refuse the service if the children or parents do not have proper documentation. Furthermore, there has been documented evidence that Roma have also been refused at doctors clinics simply because of discrimination. If

¹⁰⁶ 'Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons Learned' – Report from the Workshop, Policy area: Human Rights, Law and Order, Sofia, 16 May 2011, <http://www.worldbank.bg/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BULGARIAEXTN/0,,contentMDK:22925975~menuPK:50003484~pagePK:2865066~piPK:2865079~theSitePK:305439,00.html>, accessed 20 August 2011

Roma children lack the proper papers stating that they are in sound health, many school directors will use this as legitimate grounds to impede these students from entering that school. Thus, discrimination in the area of health care has a direct affect on discrimination in education.

In hospitals the ignorance and negative attitude towards Roma patients on behalf of the doctors and specialists is considered 'normal' and very often the doctors refuse treatment because the patients have no health insurance. The majority of Roma interpret these refusals as discrimination on ethnic grounds.¹⁰⁷

CASE: Ruling № 54/2010 CPD ruled in favour of a complaint for discrimination on the grounds of citizenship in this case, in which an Italian citizen was charged a different rate at a medical center in comparison with the rates charged to Bulgarians.¹⁰⁸

¹⁰⁷ Tomova, Ilona, 'Health and Roma Society – An Analysis of the Situation in Europe, Preliminary Report – Bulgaria', (Sliven: Roma Health Foundation, 2009), p. 60, www.gitanos.org/upload/87/58/BULGARIA-final-baja.pdf, accessed on 21 August 2011

¹⁰⁸ CPD, Annual report 2010, p.29

IX. Racism and related discrimination in criminal justice

IX.i Manifestations of racism and related discrimination in criminal justice

IX.i.i Policing and ethnic profiling¹⁰⁹

Stop and search practices and the general attitude and behaviour of police and law enforcement authorities (including arbitrary use of police force) reveal that there is ethnic profiling being carried out in policing in Bulgaria. The main victims are the Roma and immigrants who are racially identified by their appearance.

As pointed out in the previous annual ENAR reports, **the Roma** community is the one that 'traditionally' suffers ethnic profiling by the police and the investigation authorities in Bulgaria. The presumption of innocence is applied in reverse to Bulgarian citizens of Romani origin by naming them as the 'usual suspects'. Furthermore, there is institutional reluctance to investigate crimes committed against Roma persons. In a recent judgment delivered by the European Court of Human Rights,¹¹⁰ the Court found a violation of the right to life prescribed in Article 2 of the European Convention of Human Rights. This case was on the exclusion of a victim's relatives (of Romani origin) from the investigation into the death of their husband and father.¹¹¹

A report on police violence in Bulgaria, with reference to the case-law of the European Court of Human Rights, was published by the Bulgarian Helsinki Committee in February 2011. The report concluded that the percentage of people with Romani origin among the victims of such abuse by the police is 'disproportionately big'. To date, no policeman has been sentenced for human rights violations in these cases.¹¹²

¹⁰⁹ The Open Society Institute defines 'ethnic profiling' as the 'use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity.'

¹¹⁰ European Court of Human Rights, Case *Seidova and Others v. Bulgaria*, Application No.310/04, Judgment of 18 November 2010

¹¹¹ Ibid.

¹¹² Ilieva, Margarita, 'Police violence in Bulgaria through the eyes of the European Court of Human Rights – lawlessness and impunity' (in Bulgarian: *Полицейското насилие в България през погледа на Европейския съд по правата на човека – безправие и безнаказаност*), http://policebrutality.bghelsinki.org/?page_id=2#_ftn15, accessed 20 August 2011. The report relates that in one of the cases the Court found that the police violence (that led to killing of two young persons) and the inaction of the investigation were racially motivated. In two other cases on deprivation of life the Court ruled that the complaint of racial discrimination is 'serious'. In two other judgments the Court pointed out the 'particular vulnerability' of the Roma at the police.

Procedural violations in detentions continue to take place in Bulgaria, leading to arbitrary detention and degrading treatment. **Immigrants** are especially vulnerable to these practices. The Legal Clinic for Refugees and Immigrants¹¹³ currently provides legal aid to the Afghan national M.N. who was arbitrarily detained by the police, denied access to basic procedural rights, and treated in a degrading manner. On the morning of 11 January 2011 men dressed in civil clothes came to the home address of the asylum seeker M.N. and took him outside. There they handcuffed him and put him in a car that had no distinguishing signs of belonging to the police. While he was being brought to the police station, other men searched his room and took some of his belongings, making the landlady sign a protocol for the 'voluntary' surrender of these items. At the police station the asylum seeker was not provided with an interpreter and was asked to sign his detention order without knowing its content, which he refused. He was not allowed to call his lawyer. Although he did not resist detention, the policemen treated him degradingly, threatening to beat him and calling him a 'Taliban'. After spending nearly 26 hours on a chair in a detention room, he was released and the prosecutor ruled that no evidence was found that he had committed the theft for which the police had suspected him. On appeal, the first instance court found the detention order lawful in view of the fact that the police had suspected the asylum seeker of committing the theft. M.N. is, at the time of writing, appealing that decision before the Supreme Court.

A relatively new tendency for Bulgaria, which has intensified over the last year, is the ethnic profiling of **immigrants** in the streets. The Legal Clinic for Refugees and Immigrants has observed that the security guards at the Sofia Metro (the underground railway network) stop and check the identity documents of immigrants who are racially identified by their appearance. As a result, asylum seekers who have only a note, but not an identity document from the State Agency for Refugees have been arrested and brought to the immigration detention centre where they spent nearly half a year before a Court repeals the detention order as unlawful.¹¹⁴

Examples of NGO Good Practice

'Civil Monitoring at the Police' project of the Open Society Institute

The project involves visits by trained volunteers at the places for police detention without prior notice. Its realisation and methodology are approved by the respective Police Directorate at the Ministry of the Interior. In July 2010 the territorial scope of the project was expanded to encompass the police stations in the capital Sofia and the cities of Pernik, Bourgas, Varna, Plovidid, Pazardjik, Stara Zagora, Sliven and Haskovo, as well as the immigration detention centre

¹¹³ The Legal Clinic for Refugees and Immigrants is a non-governmental organisation in Bulgaria that combines education in immigration and refugee law of university students with free legal aid to immigrants and refugees. Its blog could be seen at <http://lcrien.wordpress.com/>, accessed on 20 August 2011

¹¹⁴ Source: the Legal Clinic for Refugees and Immigrants. The organisation provides free legal aid in such cases.

in Bousmantsi, Sofia. The volunteers provide reports not only to the relevant police directorate, but also to the mass media. They assess with regard to five indicators: the right to information of detainees, the food provided within the 24-hours period of detention, attitude of the policemen towards the detainees, the documentation of the cases and the hygiene at the places for detention.

Over the last year, the civic monitoring has also been expanded to encompass the immigration detention centre in Bousmantsi, Sofia.¹¹⁵

For more information, please refer to www.osi.bg

The campaign 'Police Violence: Stop Now' led by the Bulgarian Helsinki Committee

The campaign aims to raise awareness regarding the use of force and firearms by the police and the tragic consequences. Information on the issue is provided at a special web site dedicated to the campaign: <http://policebrutality.bghelsinki.org/> From 17 February to 3 March 2011 special post cards were available in Sofia, Plovdiv and Varna. Besides raising awareness about the problem, these post cards could be sent to the prime minister insisting that the legislation be changed so that police could use force and firearms only in cases of *absolute* necessity. The card can be seen here: http://policebrutality.bghelsinki.org/?page_id=8

'Guide on Reporting Diversity', by Yana Buhner Tavanier, a British Council project

This a useful and practical media guide written in Bulgarian by the journalist and human rights activist Yana Buhner Tavanier which was part of a project by the British Council. The guide includes chapters on reporting on ethnic groups, people with disabilities, immigrants and refugees, people living with HIV/AIDS, and LGBT issues. It was published in 2008, but it is worth mentioning here.

The Ethical Code of the Bulgarian Media, which in itself might be considered a good practice, is one of the attachments to the guide.¹¹⁶

IX.i.ii Racist violence and crime

A very worrisome tendency observed in Bulgaria is the rise of far-right extremism and its actions.¹¹⁷ A violent physical attack took place during the daytime on 6 June 2010 when a group of young persons were going to the Bousmantsi immigration detention centre in order to take part in the lawful protest in defence of **immigrants'** rights. At one of the tram stops neo-Nazi's with hoods entered the tram, blocked the doors with metal sticks, violently beat the young people who

¹¹⁵ For more information, please see the web site of the Open Society Institute at http://www.osf.bg/?cy=10&lang=1&a0i=222667&a0m=read&action=4&proj_id=69, accessed 20 August 2011

¹¹⁶ <http://www.britishcouncil.org/files/documents/bulgaria-society-media-diversity-guide.pdf>, accessed 20 August 2011

¹¹⁷ For a positive civil society reaction to this trend, please see the box below.

appeared to be going to the protest and then escaped. The attackers used knives, metal sticks and bottles.¹¹⁸ The minister of the interior called the incident 'a clash between anarchical groups', a statement, which only reveals how much the authorities disregarded the attack.¹¹⁹

Shortly after that, another physical attack, this time against **Roma** people, took place on the night of 9 June 2010. After a big folk concert in the centre of the city, 20 'skin-heads' attacked the people of Romani origin using glass bottles and bats.¹²⁰ These incidents were covered by the media as both events took place within the view of the public anyway. However, many daily attacks remain hidden from the public eye.

There are many instances of hate crimes in the form of physical attacks and of damage to property due to **religious intolerance**. It is of serious concern that many of the incidents are related to the activity of 'extreme nationalist' political parties such as the far-right 'ATAKA' (represented in the Bulgarian Parliament) and VMRO ('Internal Macedonian Revolutionary Organisation').

During a rally organised by VMRO, on 17 April 2011 the House of Prayer of **Jehovah Witnesses** in Bourgas was violently attacked by throwing stones and physically beating members of the church who had gathered for the Sunday service.¹²¹ In a statement following the incident VMRO blamed football hooligans for the beatings and stated: "*If the state does not take measures against untraditional and dangerous religions, clashes like this in Burgas will continue to happen. The citizens will react on their own when they see that the state is idle.*"¹²² Jehovah Witnesses are a legally registered religion in Bulgaria since 2003, but still this is not the first time that their activities have been disrupted by state or non-state actors.¹²³

¹¹⁸ BTV News, http://www.btv.bg/videos/novini/video/154019981-Masov_boy_v_tramvay.html (accessed on 21 August 2011)

¹¹⁹ TV Europa News, <http://www.tvevropa.com/bg/news/bulgaria/view/28318>, accessed 21 August 2011; Encheva, Svetla, Action 'the Nazi', in: *WebCafé*, http://www.webcafe.bg/id_236799901, accessed 21 August 2011; Mitov, Boris, *The Ministry of the Interior Uncovered the Beating at Tram 20 Dangerously Quickly*, 19 August 2010, <http://www.glasove.com/mvr-opasno-burzo-razkri-poboja-v-tramvay-20-9533>, accessed 21 August 2011

¹²⁰ Webcafé, *Skinheads beat Roma alter a Payner Concert*, 10 June 2010, http://www.webcafe.bg/id_639608345 (accessed 21 August 2011)

¹²¹ A video of the attack is uploaded here: http://www.youtube.com/watch?v=mupvRIG-i8g&feature=player_embedded&has_verified=1, accessed on 21 August 2011

¹²² Novinite.com, *Bulgarian Nationalists Demand Ban of Jehovah's Witnesses*, 19 April 2011, http://www.novinite.com/view_news.php?id=127462, accessed on 21 August 2011

¹²³ US Department of State, *International Religious Freedom Report 2010. Bulgaria*, 17 November 2010, <http://www.state.gov/g/drl/rls/irf/2010/148922.htm>, accessed 21 August 2011. The report relates: "some 'non-traditional' groups continued to face discrimination and prejudice from local authorities in certain localities, despite obtaining a national registration with the Sofia City Court. Article 19 of the 2002 Denominations Act states that nationally registered religious groups may have local branches. The law requires notification, although some municipalities claimed that it requires formal local registration. On November 3, 2009, police officers disrupted a gathering of Jehovah's Witnesses in Sandanski and requested proof of local registration by the municipality."

The **Jewish** community has reported an increased number of ant-Semitic incidents. On 22 March 2010 the walls of the Jewish school in Sofia were painted with swastikas and slogans against the politics of Israel.¹²⁴ In August 2010 the Jewish cemetery in the city of Shoumen was desecrated with the gravestones being broken and painted with swastikas. In 2010 also the synagogues in Bourgas and Asenovgrad were set on fire; the Jewish monuments in the cities of Pleven and Blagoevgrad were desecrated. On 3 May 2011 the organisation of Jews in Bulgaria, 'Shalom', published the first bulletin on the 'Anti-Semitic actions in Bulgaria in 2009-2010'.¹²⁵

Following the attack on the Banya Bashi mosque in the capital Sofia in 2011,¹²⁶ the secretary of the Chief Mufti's Office, Mr. Husein Hafazov, and provided a detailed account of numerous cases of harassment of **Muslims** in Bulgaria.¹²⁷ Among the documented cases over the reported year are the following: threats against Muslim women with headscarves, setting dogs on them, spitting on them, spying on them, throwing liquids on them, etc; painting the walls of religious schools and mosques with the slogans '*Death to the Turks*', '*Bulgaria for the Bulgarians*', etc.; desecrating mosque objects, including damage of mosque property and setting fire to mosques; physical attacks on imams and mosque guards; arresting witnesses to bring them to the police station instead of summoning them at their constant address, and others.¹²⁸

Examples of NGO Good Practice

Declaration by ENAR Bulgaria and ENAR letter to Bulgarian authorities, July 2010

ENAR Bulgaria issued a Declaration after the aforementioned brutal attack by a group of neo-Nazis on youngsters on their way to a demonstration against the illegal detention of foreigners in the Busmaci Detention Centre for undocumented migrants in Sofia on 6 June 2010. ENAR also sent a letter to

¹²⁴ Bulgarian National Television (BNT), *The Jewish School Woke up with Swastikas*, 22 March 2010, http://bnt.bg/bg/news/view/25069/evrejskoto_uchilishte_osymna_sys_svastiki (accessed 21 August 2011)

¹²⁵ More information could be found at the web site of the 'Shalom' organization: <http://shalompr.org/news/slovo-na-maksim-benvenisti-pri-predstavyane-na-byuletina-za-antisemitskite-proyavi-v-blgariya>, accessed on 21 August 2011

¹²⁶ The violence followed a protest by the far-right political party 'Ataka' against the use of loudspeakers to broadcast the call to prayer. For more information, see The Sofia Echo, *Injuries, arrests, as Ataka, Muslims clash outside Sofia mosque*, 20 May 2011, http://sofiaecho.com/2011/05/20/1093040_injuries-arrests-as-ataka-muslims-clash-outside-sofia-mosque/bulletin (visited 21 August 2011). A follow-up to this violent incident is to be provided in the next year's annual ENAR report.

¹²⁷ The information was published in the internet blog of Lydia Staikova, after the blogger took an active civic position and insistently wrote to the secretary with a request for information. Please see <http://lydblog.wordpress.com/2011/07/15/moslem/>, accessed on 21 August 2011

¹²⁸ The whole list of hate acts towards Muslims is published by Lydia Staikova at <http://lydblog.wordpress.com/2011/07/15/cases/>, accessed on 21 August 2011

Bulgarian authorities expressing concern about the attack and making a series of recommendations to the authorities. The National Coordinator of ENAR Bulgaria participated in a Bulgarian National Radio broadcast about the Declaration. You can see the full text in the website: <http://www.enar-eu.org/Page.asp?docid=15814&langue=EN>

'People against Racism' (in Bulgarian: „Хора срещу Расизма”)

In 2010 a new organisation 'People against Racism' was founded as a civil society reaction to the rise of far-right extremism and its actions in Bulgaria. The organisation's web site <http://stopnazi-bg.org/> provides information on some of the incidents that have taken place, as well as on awareness raising campaigns.¹²⁹

The civil society reaction of the blogger Lydia Staikova

Ms. Lydia Staikova works as a school teacher. At the same time, she is one of the most read Bulgarian bloggers with strong stance on human rights. Following the violent attack on the Banya Bashi mosque in the capital Sofia on 20 May 2011, Lydia sent an open letter to the secretary of the Chief Mufti's Office, Mr. Husein Hafazov, with request for information with regard to a public statement of his that there were at least 120 similar cases of attacks on Muslims and mosques and none of them had been investigated and no perpetrator had been punished. Following vivid correspondence between Lydia and Mr. Husein Hafazov, the latter provided the information requested, which became public through the internet blog of Lydia: <http://lydblog.wordpress.com/2011/07/15/cases/> It is a good example of how one person can make a difference and the power of internet.¹³⁰

IX.i.iii Counter terrorism

Counter terrorism measures are 'traditionally' directed at **immigrants**, as the previous ENAR annual report states. This trend continues to be seen in the stops and checks reported in the section above. Furthermore, a continuing problem in Bulgaria is the arbitrary imposition of expulsion orders on 'national security' grounds. These orders are issued by the State Agency for National Security and the law exempts the agency from providing reasons for its orders. In this regard,, the European Court of Human Rights has found Bulgaria to be in violation of the right to effective remedy in several repetitive cases.¹³¹

¹²⁹ <http://stopnazi-bg.org/>, accessed on 18 August 2011

¹³⁰ <http://lydblog.wordpress.com/2011/07/15/cases/>, accessed on 21 August 2011.

¹³¹ See, e.g., Legal Clinic for Refugees and Immigrants, *The Strasbourg court found violations by Bulgarian authorities in another expulsion case*, 13 February 2010, <http://lcrien.wordpress.com/2010/02/13/the-strasbourg-court-found-violations-by-bulgarian-authorities-in-another-expulsion-case/>, accessed on 21 August 2011

This year's report, however, marks another worrisome tendency in disproportionate counter terrorism measures: the actions levelled at the **Muslims** who are Bulgarian citizens. On 6 and 7 October 2010 the State Agency for National Security, supported by the prosecutor's office and the Ministry of the Interior, carried out raids and searches at the homes and offices of Muslim people and religious leaders in several Bulgarian cities and villages in the regions of Pazardjik, Smolian, Gotse Delchev and the Western Rodopi - the city of Sarnitsa (Сърница), the village of Kandyovo (Кандьово), the city of Dospat (Доспат), the city of Rudozem (Рудозем), the city of Madan (Мадан), the village of Lajnitsa (Лъжница), the city of Pletena (Плетена), the city of Avramovo (Аврамово), the city of Gorno Kraishte (Горно Краище), etc. The security agents wore hoods and said that the persons searched were suspected of connections with the Islamic foundation Al Uakf Al Islami. The 'result' of the action was the confiscation of 30 sacks of books, brochures, cassettes and disks.¹³² The action created a lot of tension and indignation in the villages and cities searched. The inhabitants of the village of Lajnitsa didn't want to let the security officers leave and insisted that they returned the literature taken. Among the people searched there were two acting muftis, four acting imams and two imam assistants from the respective regional mufti's offices. The authorities did not provide any information regarding what they were specifically searching for.¹³³ So far no official information is available regarding the charges against the persons affected by these 'preventive' counter terrorism measures.

IX.ii The political and legal context

In April 2010 the national equality body, the Commission for Protection against Discrimination (CPD), organised a seminar on 'Preventing and Fighting against Discrimination via the Tools of Criminal Law'. The participants included 146 lawyers from Bulgarian governmental and non-governmental organisations, representatives from the European Commission against Racism and Intolerance (ECRI) and the Organisation for Security and Cooperation in Europe (OSCE), as well as counterparts from the Belgian equality body. The seminar highlighted the importance of recognising the discriminatory and racial motives of certain crimes by defining them correctly instead of simply naming these crimes 'hooliganism'. This was exemplified in the case of a person of African origin, Muywa Kolowole, who suffered multiple serious wounds from a knife at the hands of an attacker who

¹³² The Bulgarian Helsinki Committee, Annual Report 2010. Freedom of Conscience and Religion, <http://humanrightsbulgaria.wordpress.com/%D1%80%D0%B5%D0%BB%D0%B8%D0%B3%D0%B8%D1%8F/>, accessed on 21 August 2011

¹³³ See the article Gorcheva, Daniela, 'Blunt actions by the State Agency for National Security, supposedly chasing Islamists', *E-vestnik*, 12 October 2010, <http://e-vestnik.bg/10159>, accessed on 21 August 2011

was indeed subsequently sentenced to five years imprisonment, but the court did not recognise the racial motives of the attack.¹³⁴

Another item discussed at this seminar was the **EU Framework Decision on Combating Racism and Xenophobia** in view of the deadline for its implementation - 28 November 2010. The framework decision requires that Member States incriminate as criminal offences the following forms of conduct:

1) Public incitement to violence or hatred directed against a group of persons or a member of such a group defined on the basis of race, colour, descent, religion or belief, or national or ethnic origin.

2) Public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia;

These two types of conduct are **incriminated in Article 162** (with regard to the motives of race and ethnic origin) **and Article 164** (with regard to the motives of religion or belief) **of the Bulgarian Criminal Code**. Amendments were adopted in April 2011 in order to harmonise the minimum threshold of punishment with the requirements of the Framework Decision;

3) Publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes as defined in the Statute of the International Criminal Court (Articles 6, 7 and 8) and crimes defined in Article 6 of the Charter of the International Military Tribunal, when the conduct is carried out in a manner likely to incite violence or hatred against such a group or a member of such a group. This conduct has been criminalised with amendments to the Bulgarian Penal Code in April 2011. Currently the new **Article 419a** of the Code transposes this requirement of the Framework Decision.

In spite of the positive legal amendments, however, their application has been rare so far. There have been two court sentences to date but the defendants in these cases were a Roma and a Turk and they were convicted of instigating hate against the Bulgarian ethnos (information by the CPD).¹³⁵

¹³⁴ More information on the seminar and the case of Muywa Kolowole could be found in the press release of the Bulgarian NGO 'Justice 21' at the following web address: <http://www.prelom.bg/BlogRetrieve.aspx?PostID=47431>, accessed on 21 August 2011

¹³⁵ CPD, Annual Report 2010, http://kzd-nondiscrimination.com/start/images/stories/pdf/annual_report_2010.pdf, accessed 22 August 2011

X. Racism and related discrimination in access to goods and services

X.i Manifestations of racism and related discrimination with access to goods and services in the public and private sector

Vulnerable groups, especially the Roma and people of colour, continue to face difficulties accessing public and private goods and services. In most cases, they are denied access to these services or lack information on how to access them. Roma are often unable to access private services because usually they live in areas (ghettos) where there is no access to goods and services. Two of the main obstacles for the Roma when trying to access public goods and services are problems with communication and a lack of knowledge of their rights in the area of public goods and services. Low income is another factor with regard to access to goods and services in the public and private sector.

People of African descent also belong to a 'visible minority' and suffer discrimination because of rejection, and language issues with regard to Bulgarian and the lack of information in English. The necessary information is rarely provided in languages other than Bulgarian. The public service structure as a whole is not 'foreign customer' friendly and only a few of the clerks speak foreign languages. The European law binds all state servants to provide services in Bulgarian and one of the official EU languages. However, in practice this right is often violated and immigrant's access to public services is made difficult.

Generally, it is difficult to assess the extent of discrimination in access to goods and services in the private and public sector in Bulgaria. One reason might be that data collection related to this topic, does not yet exist at a national level. Existing information and reports concentrate on regional incidents. CAD published the following distribution of cases for 2010 in the area of goods and services:

CASE 1 – Access to a coffee shop denied. G.R. has an appointment with a Member of Parliament in a coffee shop in the town of Perushtitsa. When he entered the coffee shop, the waitress refuses to serve her with the argument that 'gypsies are not allowed in the shop in question'.¹³⁶ After her arrival, the Member of Parliament establishes her identity and requests to speak to the manager. However, his wife says that he is not present and states in front of everybody that there is an order issued by the manager to not allow or serve 'people from ethnic minorities in the coffee shop'. Also, she listed the places in the town where 'gypsies' are allowed. According to an explanation by the mayor of Perushtitsa, this was not an isolated case. He has been verbally informed of other restaurants

¹³⁶ Ruling 184/2010 of CPD, Annual report 2010, http://kzd-nondiscrimination.com/start/index.php?option=com_content&task=blogsection&id=5&Itemid=9, accessed 28 August 2011

which people from minorities are not allowed to enter. The CPD ruled that this was a case of direct discrimination on the basis of ethnic belonging. The manager of the coffee shop also discriminated against the employee by firing her when she refused to testify in his defence in front of CPD. He was fined with 2 000 BGN (1 000 Euro) and the mayor was fined 1 500 BGN (750 Euro) for neglecting to take action and allowing discrimination in the town.¹³⁷

CASE 2 – Unequal treatment in supplying electricity. A.T. from Belogradchik filed a complaint with the CPD because the policy of the electric company supplying his neighbourhood is discriminatory. He was not able to access to the switch-board which was placed seven meters high. A.T. believes that this is different treatment of him and his fellow neighbours because of their ethnic background – Bulgarian citizens from Roma descent. CPD stated that the rest of the switch-boards in Belogradchik are placed at an accessible height of 1.6 meters. With Decision 224/2010 CPD¹³⁸ ruled that the supplier of electricity has directly discriminated on the grounds of ethnic belonging according to the Law for Protection against Discrimination and Directive 2000/43/EC and should apply standard criteria when installing the switchboards regarding all users.

CASE 3 – Refusal of bank credit. After supplying all the requested documents and answering all the questions of employees of the bank on the phone, T. R. from Lukovit received a phone call that he has been approved for a bank loan of 5 000 BGN (2 500 Euro). When he went to the bank office to sign the contract the loan is refused. T.R. believes that 'to have my appearance (darker skin colour) can be a problem to get a bank loan and an argument for the refusal of one.'¹³⁹ He pointed out that he was approved over the phone without the employees of the bank seeing him. CPD ruled in favour of T.R., concluding that this was a case of indirect discrimination on the basis of ethnic belonging.

X.ii The political and legal context

Article 37 of the Law for Protection from Discrimination states that – 'There should be no refusal of providing goods or services as well as supplying such of lower quality or in less favourable circumstances on the basis of the indications outlined in article 4, paragraph 1' of the law and the Directive 2000/43/EC of June 29, 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

NGO monitoring and reporting of cases of racism and related discrimination in

¹³⁷ Dnes.bg, 'Big Fine for a Cafe Owner Who Discriminated Romas' (Original title in Bulgarian: "Солена глоба за собственик на кафене, дискриминира роми")

<http://www.dnes.bg/stranata/2010/10/08/solena-globa-za-sobstvenik-na-kafene-diskriminiral-romi.100792>, accessed 20 August 2011

¹³⁸ Annual Report of CPD for 2010, <http://www.kzd-nondiscrimination.com/start/index.php>, accessed 20 August 2011

¹³⁹ Ruling 69/2011 of CPD, personal research

access to goods and services is very limited. The main sources of information remain the complaints filed with the CPD and the ombudsman¹⁴⁰ and those reported by the media.

In some cities the municipality authorities and NGOs work together with representatives from the minorities. The governor of Pazardjik organised a meeting in July 2010 after three cases had been filed as a result of Roma not being allowed entry into the park on the island of 'Svoboda'.¹⁴¹ The discussions in which representatives of the municipality, CPD, Roma leaders and NGOs participated led to dialogue between them and preparing of a Frame program for the equal integration of the Roma in the city.

¹⁴⁰ The total amount of complaints by citizens for protection of their rights as consumers of public goods sent to the ombudsman in 2010 is 802 – Annual report of the ombudsman of Bulgaria for 2010, www.ombudsman.bg, accessed 20 August 2011

¹⁴¹ Dnes.bg, 'Romas from Pazardjik complain of discrimination' (Original title in Bulgarian: "Пазарджишки роми се жалват от дискриминация") <http://www.dnes.bg/obshtestvo/2010/07/30/pazardjishki-romi-se-jalvat-ot-diskriminaciia.95516> last accessed on 20 August 2011

XI. Racism and related discrimination in the media

XI.i Manifestations of racism and related discrimination in the media, including the Internet

Throughout the past year hate speech about ethnic, religious and sexual minorities was prominent in some sections of the media: TV SKAT with its show 'Paralaks' and the ATAKA newspaper, from the extreme nationalistic political party with the same name. Hate speech was published by media outlets which have signed the Ethic Code of Bulgarian Media, despite this being a violation of the code. More and more examples of hate speech by public figures, politicians, and state employees have been observed over the past year, as well as media shows and publications on the Internet.^{142, 143} All of the above mentioned show a general racist and discriminatory attitude towards people who appear to be different or religiously diverse, immigrants, and refugees. When the media present a negative stereotype of an ethnic minority, they are encouraging discrimination against that ethnic minority.

CPD found that, in 2010, 'Once again, the ethic commissions of the print media and the Council of Electronic Media (CEM) failed to protest against hate speech'¹⁴⁴ It is apparent that the ethic codes and self censoring of journalists are not strong enough as regulatory instruments and thus only one more possibility is left – the right to legally prosecute hate speech.

In 2010 we saw a deterioration of the situation around the freedom of speech in Bulgaria as the country dropped in ranking in the traditional classification of the organisation 'Reporters without borders' for the freedom of speech – from 68th place to 70th, and, together with Greece, holds the status of the countries in the European Union with the least free media. In another key report – issued by Freedom House about the freedom of media around the world in 2010 Bulgaria ranks in the 76th place along with Namibia, in the zone of 'countries with partial freedom of speech.'¹⁴⁵

According to experts '100% of the texts that contain hate speech are written as sweeping generalisations even if they concern one particular person. The lack of

¹⁴² Capital.bg, 'American Beauty', (Original title in Bulgarian: 'Американски прелести', http://www.capital.bg/politika_i_ikonomika/sedmicata/mediina_serqiiia/2011/05/20/1092839_amerikanski_prelesti/), accessed 14 September 2011

¹⁴³ BHC, 'Tsetska Tsacheva refused to take any action regarding the publication of Siderov's antisemitic books', (Original title in Bulgarian: 'Цецка Цачева отказа да предприеме действия спрямо антисемитските книги на Сидеров', <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3838>), accessed 20 September 2011

¹⁴⁴ Annual Report of CPD, 2010, p.60, <http://www.kzd-nondiscrimination.com/start/index.php>, accessed 21 August 2011

¹⁴⁵ Annual Report of the Bulgarian Helsinki Committee 2010, <http://humanrightsbulgaria.wordpress.com/>, accessed 21 August 2011

tolerance and the lack of space for a different point of view from the minorities and finally, the lack of responsibility for the consequences of racist journalism all contribute to individual unfortunate events being seen as representative of entire groups of people. This stereotyping in the media incites aggression and rejection. Nobody has the right to put people under a common denominator but unfortunately this is currently happening frequently.¹⁴⁶

In July 2010 CPD gave obligatory direction to the Council of Electronic Media to sanction a national TV station for airing a sexist commercial that was offensive to the dignity of women and constituted a case of harassment on the basis of gender. The case was brought to CPD by the Council of Electronic Media which was approached with a complaint by the association 'Bulgarian Women's Fund'.¹⁴⁷

CASE 1: In 2010 B.S., a former leader of the nationalistic organisation 'Bulgarian National Association' (BNA) was fined 2 000 BGN. (1 000 Euro) for harassment and racial discrimination.^{148, 149} The complaint was made by civil activists after a statement by B.S. on Nova Television and Darik Radio that he is against Bulgaria accepting refugees from Malta.¹⁵⁰ B.S. stated that 'Africans are "monkeys" (confidently confirming the host's previous statement to that effect), he also said that they are drug dealers, they increase the crime rate, and cannot integrate because that is their genetic code.'¹⁵¹

Examples of NGO Good Practice

Civil society activism against public propaganda of racism and anti-Semitism by a Member of Parliament

The Bulgarian Helsinki Committee (BHC) sent a letter of protest to the Chair of Parliament regarding the leader of the political party 'ATAKA' and Member of Parliament, Volen Siderov, who published two books 'Boomerang of Evil' and 'The Power of Mammon'¹⁵² which are 'examples of anti-Semitic propaganda'.¹⁵³

¹⁴⁶ Staikova, Rositsa, *Speech of Hatred – theories and practices*, (Sofia: University Publishing House 'Kliment Ohridski', 2009)

¹⁴⁷ Annual Report of CPD for 2010, <http://www.kzd-nondiscrimination.com/start/index.php>, accessed 18 August 2011 and Regulation 288/2010

¹⁴⁸ BHC, 'The Commission for Protection from Discrimination Fined Rasate with 2000 BGN.' (Original title in Bulgarian: 'Комисията за защита от дискриминация глоби Расате с 2000 лева') <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3788> accessed 14 September 2011

¹⁴⁹ CPD, Decision No 288/2010

¹⁵⁰ 'Malta wants Bulgaria to accept refugees from Africa. Will we accept them?' (Original title in Bulgarian: «Малта иска България да приеме бежани от Африка. Да приемем ли?», broadcast 'Jaws' on Nova TV and Darik Radio on 26 October 2009, http://darikradio.bg/broadcast.php?broadcast_id=3, accessed 14 September 2011

¹⁵¹ Ibid.

¹⁵² The implications of two publications are that the Jews are murdered of the Orthodox Christians ('genocide of Russians, Bulgarians and other Orthodox nations was done under the orders of the Jews in the Western circles, headed by the Rodshield family', p. 135 of 'The Power of Mammon'); allies of the devil ('from the rejection of God to the contract with the devil' – p. 122 of 'Boomerang of Evil').

In its letter the BHC calls for Parliament to make a declaration regarding those anti-Semitic publications. The organisation B'nai Brith sent a motion to the Attorney General. As a result, evidence was collected that a crime had been committed on the basis of article 162 and 164 from the Crime Code for planting ethnic hatred and preaching religious hatred.¹⁵⁴ If enough data is collected, the prosecutor's office could call for prohibition of the political party 'ATAKA'. Citizens initiated a petition to the Attorney General on the Internet for the removal of Volen Siderov's diplomatic immunity in order to hold him criminally responsible.

XI.ii The political and legal context

The Bulgarian law prosecutes the inducement of racial hatred in three acts of law – the Criminal Code, The Law on protection against discrimination and the Law on the radio and the television. Different laws envisage different types of responsibility with regard to spreading of information.

In the first half of 2011 the Criminal Code was further amended to criminalise hate speech. Before the changes, the provision of Article 162 (1) of the Criminal Code envisaged sanctions for instigators of racial discrimination on the grounds of gender, religion, education, political views, disability, marital status, sexual orientation or property status. With the amendments, the term of 'racial discrimination' in the text of article 162, paragraph 1 from the Criminal Code was repealed. Currently it is a crime when someone through hate speech, print, or other channels for mass communications, or any other manner, propagates or instigates hatred or discrimination or violence on the basis of race or ethnic background. In the new text a new ground was introduced – 'on the basis of ethnic belonging.'¹⁵⁵ The punishment envisaged is up to four years of imprisonment and a fine of 5 000 to 10 000 BGN.

The 2010/2011 update on political developments with legal repercussions includes:

- Reducing the number of members of the Council for Electronic Media (CEM) from nine to five and the urgent amendments of the Law on the Radio and the Television which were introduced by the ruling party GERB. The amendments were declared by the opposition to be unconstitutional (as

¹⁵³ BHC, 'Letter to the Chair of Parliament Tsetska Tsatcheva requesting Parliament to come up with position condemning the publications' (Original title in Bulgarian: 'Писмо до Цеца Цачева с искане Народното събрание да излезе със специална, осъждаща публикациите, декларация') <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3800> last accessed on 18 August 2011

¹⁵⁴ Bulgaria News, 'The prosecutor's office moved against 'Attack. Volen Siderov might be left without immunity' (Original title in Bulgarian: 'Прокуратурата се размърда срещу «Атака». Волен Сидеров може да остане без имунитет') <http://www.bulgaria-news.bg/category/scandal/current-scandals/article/post72165.html>, accessed 18 August 2011

¹⁵⁵ Criminal Code of the Republic of Bulgaria

limiting freedom of the media)¹⁵⁶ and to secure direct political control of the government on all electronic media and independent regulators.¹⁵⁷

- Legislative amendments on Communications Regulation Commission (CRC) introduced by the ruling party GERB for reducing its membership, also to five, and changing part of the members of the regulating telecom.¹⁵⁸
- Amendments in the Law on Electronic Communications made in 2010 led to limiting the personal freedoms of the citizens on the Internet.
- The intention of the parliamentary group of GERB to reform the law relating to defamation.¹⁵⁹ BHC called on the civil society and the media to consolidate efforts against this attempt claiming that it would lead to limitations of freedom of speech.¹⁶⁰ Several European countries decriminalised these acts and left the possibility for seeking compensation for defamation only in civil law procedure.¹⁶¹ 'The decriminalization of press offences should be absolutely encouraged, especially in member states of the European Union, which should necessarily set an example'.¹⁶² In a declaration 'Reporters Without Borders called on members of Parliament of the majority not to modify the existing legislation relating to defamation'.¹⁶³ In 2010 Reporters Without Borders also expressed alarm about the upsurge in requests from the interior ministry for details of mobile phone bills and access to information exchanged by Internet users.¹⁶⁴

¹⁵⁶ Mediapool.bg, 'CEM will be reduced and changed' (Original title in Bulgarian: 'CEM ще бъде съкратен и сменен') <http://www.mediapool.bg/show/?storyid=164914>, accessed 18 August 2011

¹⁵⁷ Ibid.

¹⁵⁸ Capital weekly, 'Changes in CEM and CPD' (Original title in Bulgarian: 'Промени в CEM и KPC') http://www.capital.bg/blogove/za_medii/2010/04/28/894017_promeni_v_sem_i_krs/, accessed on 18 August 2011

¹⁵⁹ In Bulgaria slander is punished both under criminal and civil law.

¹⁶⁰ BHC, 'BHC condemns the idea of a special law for slander' (Original title in Bulgarian: 'БХК осъжда идеята за специален закон за клеветата') <http://old.bghelsinki.org/index.php?module=news&lg=bq&id=3811>, accessed 18 August 2011

¹⁶¹ In the spring of 2010 these countries include Bosnia and Herzegovina, Estonia, Georgia, Ireland, Ukraine and Great Britain

¹⁶² Reporters Without Borders, 'Draft laws mooted on defamation and phone-tapping. Journalist confidentiality menaced', http://en.rsf.org/bulgaria-draft-laws-mooted-on-defamation-27-01-2011_39398.html, accessed 20 September 2011

¹⁶³ Ibid.

¹⁶⁴ Ibid.

XII. Political and legal developments in anti-racism and anti-discrimination

A legal issue that has been the object of heated political discussions is the role of the Bulgarian equality body, the Commission for Protection against Discrimination (CPD), and the size of its membership. In April 2010 the Council of Ministers proposed that the current number of nine members of the CPD be reduced to five members. The formal reasoning for this proposal was the necessity to decrease the staff of 'all regulatory bodies'. Following a strong reaction by the Bulgarian civil society and relevant European organs, in May 2010 the proposal was amended to decrease the number of the CPD members to seven – four to be elected by the Parliament and three to be appointed by the President. On 28 July 2010 the proposal was passed by the Parliament at first reading. In May 2010 the national Parliament did not approve the annual report of the Commission for Protection against Discrimination. The voting was accompanied by heated political discussion in which members of the far-right party 'ATAKA' accused the CPD of serving the interests of the ethnic Turks in Bulgaria because the head of the equality body is an ethnic Turk himself and member of the political party 'DPS' (voters for this party predominantly come from the Turkish minority). According to CPD statistics the number of appeals on the basis of 'ethnicity' ranks only fourth. The party ATAKA claimed that the CPD was useless and should be dissolved. As is apparent by the vote, the governing party GERB did not support the CPD.

The hostile attitude of the government and its majority in the Parliament towards the CPD is a worrisome sign as the adoption of the Law on Protection against Discrimination and the creation of the CPD is considered to be the most significant achievement in the human rights field in Bulgaria throughout the years of the democracy transition.

The Roma and the Muslim minorities have been in the focus of political discourse in 2010 and 2011. Unlike in Romania, the collective expulsion of Bulgarian citizens of Romani origin from France in 2010 did not lead to a strong position by the official authorities on the issue in Bulgaria. The only voice (though not a very powerful one) that pointed at the human rights violations ensuing from the deportations has been that of the Bulgarian civil society. On 18 September 2010 a protest before the French embassy in Sofia took place. There were nearly 250 participants, mainly Roma from different Bulgarian cities, as well as a number of activists of Bulgarian ethnicity. The protesters sent an Open letter to the French president, in which the authors highlighted that the expulsions of Roma violated Article 4 of Protocol No.4 to the European Convention on Human Rights, Article 1 (2) and Article 26 of the International Covenant on Civil and Political Rights, Article 19 of the Treaty on the Functioning of the European Union, as well as Directive 2004/38 and Directive 2000/43 of the European Union

Shortly after that, in October 2010 during question time in the Bulgarian Parliament the prime minister was presented with evidence of misuse of the funds aimed to

assist the integration of Roma. In December 2010 the Minister of the Interior announced the provisional results of an ongoing investigation – according to the Ministry of the Interior, the money had been spent for fuel, remunerations and rents and ‘there is nothing left for integration’.¹⁶⁵ In May 2011 the Prime Minister presented the results of the investigation to the Parliament – according to these findings, many of the NGOs that were supposed to work for the enhancement of the human rights of the Roma misused the funds and millions of dollars were spent for private benefit.¹⁶⁶

Counter terrorism measures and religious intolerance towards the **Muslim minority** in Bulgaria has also brought Muslims into the political debate. As described in Chapter IX above, in October 2010 the State Agency for National Security carried out raids and searches at the homes and offices of Muslims and religious leaders in several Bulgarian cities and villages. Besides societal indignation, the action of the security forces provoked a political reaction from the party ‘DPS’, whose voters predominantly belong to the targeted minority. ‘DPS’ issued a declaration requiring apologies from the authorities and requested meetings with the leaders of the security structures.

In 2011 the so-called ‘Bulgarian ethnic model’, which politicians highlight as an example of tolerance and mutual understanding, was shaken once again by the conduct of the far-right parliamentary party ‘ATAKA”, which provoked clashes with Muslims who had gathered for Friday prayer at the Banya Bashi mosque in Sofia. The images of beatings and the desecration of religious symbols brought the indignation not only of civil society, but also of the Bulgarian politicians. In a precedent-setting vote at the Parliament, the ruling political party GERB distanced itself from the far-right ‘ATAKA’, by adopting a declaration by the Parliament which condemned the attacks on the mosque.¹⁶⁷

One of the most dangerous trends that should be highlighted is the visible intensifying of the activities of far-right neo-Nazi movements in Bulgaria. This is exemplified in the aforementioned physical attack on youths taking public transport on 6 June 2010, as well as in numerous other incidents of people being beaten because of the colour of their skin or their religion.¹⁶⁸ The striking number of neo-Nazi supporters is demonstrated not only by the slogans and swastikas on the

¹⁶⁵ Dnevnik Newspaper, *Tsvetanov: Money for the integration of the Roma have been spent for fuel, rents and remunerations*, 3 December 2010, http://www.dnevnik.bg/bulgaria/2010/12/03/1004555_cvetanov_pari_za_integraciia_na_romite_sa_harcheni_za/p accessed 22 August 2011

¹⁶⁶ News.bg, *We have wasted the money for the integration of the Roma*, 13 May 2011, http://news.ibox.bg/news/id_2098908112 , accessed 22 August 2011

¹⁶⁷ Mediapool, *The National Assembly declared ATAKA as dangerous for Bulgaria*, 27 May 2011, <http://www.mediapool.bg/show/?storyid=179982>, accessed 22 August 2011

¹⁶⁸ See Chapter IX above, as well as Bulgarian National Television, *Do the Bulgarians hate the refugees?*, 14 June 2010, http://bnt.bg/bg/news/view/30907/mrazjat_li_bylgarite_bejancite, accessed 22 August 2011

walls of urban buildings, but also by their level of activity on the internet.¹⁶⁹ A joint conference of NGOs, university professors and victims was held in June 2010 to warn about this problem.¹⁷⁰

One of the public manifestations of far-right views in Bulgaria is the so-called 'Lukov march'. Every year, the Bulgarian National Union organises this march with the support of so-called 'patriotic' organisations and fascist groups in the name of the leader of the 'Alliance of the Bulgarian national legions' – General Hristo Lukov, known for his anti-Semitic opinion. The march exploits patriotic feelings through neo-Nazi propaganda. At the eve of this year's march, planned for 12 February 2011, ENAR supported the efforts of the Bulgarian National Coordination to call off the Lukov march.¹⁷¹ In spite of that, the Sofia municipality did not forbid the march; over 400 took part in it to walk along major Sofia streets while handing out brochures to onlookers.¹⁷²

Amidst concerns of rising racism and xenophobia in Bulgaria, it is worth looking at the legal developments regarding the criminalisation of these types of conduct through the EU Framework Decision on Combating Racism and Xenophobia. As described in Chapter IX, legislative amendments in 2009 and 2011 criminalised propaganda and the physical attacks with racial and xenophobic motives as autonomous crimes. Yet, the impact of these provisions is not significant, as no charges have resulted and thus no precedent setting case law has been created. Another weakness of the legal regulation is the fact that the punishment envisaged in law for the crime under these terms is smaller than the punishment envisaged for the same damage in general terms.

Regarding implementation of the EU Equality Directives, as reported in previous ENAR annual reports, Bulgaria has not only transposed these standards, but has also provided for more beneficial provisions regarding their material scope, list of protected grounds, forms of discrimination banned, powers of the equality body, and special judicial redress. The Bulgarian Law on Protection against Discrimination was adopted in 2003 and is in force since 1 January 2004. It is a single equality law universally banning discrimination on a range of grounds explicitly stating race/ethnicity, sex, religion/belief, sexual orientation, disability and age, and providing uniform standards of protection and remedies.¹⁷³

¹⁶⁹ Videos like this one in youtube, titled 'Bulgarian Skinheads' are watched by hundreds of thousands of persons: <http://www.youtube.com/watch?v=m0-EuPx9mTU&feature=related>, accessed 22 August 2011

¹⁷⁰ Bulgarian National Television, *There is rise in the violence because of xenophobia*, 13 June 2010, http://bnt.bg/news/view/30859/raste_brojat_na_projavite_na_nasilie_ot_ksenofobija, accessed 22 August 2011

¹⁷¹ Please see a copy of the Open Letter by ENAR at <http://cms.horus.be/files/99935/MediaArchive/national/activities/Letter%20-%20Mayor%20of%20Sofia%20Feb%202011.pdf>, accessed 22 August 2011

¹⁷² News.bg, *Over 400 persons gathered for Lukov march*, 12 February 2011, http://news.ibox.bg/news/id_150299542, accessed 22 August 2011

¹⁷³ Ilieva, Margarita, European Network of Legal Experts in the Non-Discrimination Field, <http://www.non-discrimination.net/countries/bulgaria>, accessed 22 August 2011

In 2010 the number of complaints that have been submitted before the Commission for Protection against Discrimination (CPD) is 838. The initiated cases before the CPD are 268. The decisions made are 293. The CPD marks an increase in the complaints that concern multiple discrimination. In 2010 there were 22 cases on the grounds of 'ethnicity', one case on the grounds of 'race', three cases on the grounds of 'citizenship' and two cases on the grounds of 'religion'.¹⁷⁴ Further details on CPD decisions in concrete fields such as employment, education and access to goods and services are provided in the chapters above.

Examples of NGO Good Practice

Protest letter by ENAR Bulgaria regarding neo-Nazi march in Sofia, February 2011

On 12 February 2011 the so-called 'Lukov March', a public demonstration of racial and neo-Nazi ideas took place in Sofia. About 500 young people took part in it. ENAR Bulgaria and ENAR sent a protest letter to the Mayor of Sofia Municipality. EVRANET (the broadcast of Bulgarian National Radio) invited the National Coordinator of ENAR Bulgaria to take part in the public discussion with the representatives of NGOs protesting against 'Lukov March'.

You can see the Protest Letter by ENAR Bulgaria, protest letter by ENAR, and ENAR Bulgaria Press release here:

<http://www.enar-eu.org/Page.asp?docid=15814&langue=EN>

Internship programme for Roma youth at the national Parliament

The programme is ongoing since February 2010. It is carried out cooperatively by the Open Society Institute in Sofia, together with the National Assembly of the Republic of Bulgaria and the National Democratic Institute – USA¹⁷⁵. Ten participants are chosen in a competition among 40 young persons of Romani origin. They come from different Bulgarian cities and are aged between 20 and 32. The participants have graduated university or are university students at present in the field of politics, social policies of the EU, health, Bulgarian and English philology, Philosophy, etc. Most of them speak at least one foreign language and have been engaged in civil society initiatives in the Romani community.

The programme aims to assist in broadening the knowledge of the participants on the legislative process and the decision making process in the country. The participants attend sessions of a variety of parliamentary commissions, plenary sessions of the Parliament, as well as the question time for the government.

This is the fourth year of the programme and so far 30 young participants of Romani origin have completed it successfully.

¹⁷⁴ CPD, Annual Report 2010, http://kzd-nondiscrimination.com/start/images/stories/pdf/annual_report_2010.pdf, accessed 22 August 2011

¹⁷⁵ Open Society Institute: http://www.osf.bg/?cy=10&lang=1&program=1&action=2&news_id=317 accessed 3 August 2011

XIII. Migration and integration

The reported period, March 2010-2011, has been an active and fruitful one in the immigration field in Bulgaria. This refers to asylum seekers, and undocumented immigrants, as well as legally residing immigrants.

2010 has seen unprecedented public support for undocumented immigrants, in parallel with an outcry from the media which lasted for several months. The reason for this was the case of a pregnant Armenian lady, Arevik Shmavonyan, who in March 2010 was detained for deportation and spent over four months in a very fragile physical condition in an immigration detention centre. Her stay in Bulgaria had become irregular due to the situation of her fiancé and the father of her expected child, David Harutyunyan. David had been living in Bulgaria since five years of age (for 18 years); he had graduated from a Bulgarian school, spoke native Bulgarian and had been fully integrated into society. His parents and sister had permanent residence status in Bulgaria. In spite of that, however, David had remained in a legal vacuum of 'illegality' as the Armenian embassy refused to issue him a passport¹⁷⁶ and the Bulgarian law did not provide for any regularisation mechanism. David and Arevik 'met' on the internet and had maintained a 'virtual' relationship for nearly five years. Since David was undocumented and he could not travel, Arevik decided to suspend her university studies and join David in Bulgaria. She overstayed her visa in Bulgaria and an entry ban for five years was imposed on her. When she was detained for deportation, she discovered that she was pregnant with David's child. The love story of these two young people and their fight to stay together in spite of the impossible legal circumstances grasped the public attention and the media called them the 'Armenian Romeo and Juliette'. Arevik had difficult pregnancy and several times lost conscience at the detention centre due to dehydration because of constant vomiting. In spite of the unprecedented media support and public outcry,¹⁷⁷ the immigration authorities hardened their stance and did not release Arevik from detention until as late as 22 July 2010, over four months after her detention on 7 March 2010. It happened only after the Regional Court ordered Arevik's release following the precedent-setting judgement of the Supreme Court in another immigration detention case which was assisted by the Legal Clinic for Refugees and Immigrants.

¹⁷⁶ Armenian law provides that a national passport is issued to a male citizen only after he had done his military service. At 14 years of age when David applied for his national passport at the Armenian embassy in Sofia, he had not even fulfilled the age for military service, nor was he able to go for over two years to the military of a country which he never visited since five years of age.

¹⁷⁷ Please see a list of some of the numerous media coverage on the case at Legal Clinic for Refugees and Immigrants, *The case of Arevik and David received unprecedented media reaction*, <http://lcribg.wordpress.com/2010/05/30/случаят-на-аревик-и-давид-получи-безпр/>, accessed 23 August 2011

2010 also saw progress with regard to the right to liberty for **immigrants** in Bulgaria. The national law fell critically short of European standards by stating that the detention order could be appealed only within the term of three days from the beginning of the detention and no review of its duration could take place before six months of detention had passed. On 27 May 2010 however the Supreme Administrative Court of Bulgaria made a precedent-setting ruling that declared the inadequacies in the national law and stated that primacy should be given to the minimum standards of the EU Return Directive 2008/115 and Article 5 of the European Convention on Human Rights.¹⁷⁸ The case concerned another long-term undocumented immigrant from Tanzania who had been living in Bulgaria for 30 years.

Although there was a breakthrough with regard to the detention of these immigrants, even after their release they could hardly be regarded as 'free' since they continue to live in a legal vacuum. No papers at all are given to these people and therefore they have no access to basic human rights such as the right to work, the right to education (David could not receive a diploma from his school), the right to form a family, etc. In spite of a mass NGO campaign for regularisation of their status (please refer to the box below), in January 2011 the Parliament adopted only minor amendments to the law. These amendments were mainly only relevant for citizens from the former Soviet Union who have lived continuously in Bulgaria since before 1998 and who can present a letter from the embassy of their country of birth stating that they have not been recognised as citizens of that country. Thus people like David Harutyunyan once again fell outside the narrow scope of the regularisation mechanism because of the impossibility to meet the condition of providing the document from the embassy. The situation of non-returnable undocumented immigrants remains desperate and at present no action has been taken by the Bulgarian authorities to remedy it.

Another vulnerable group of immigrants are **asylum seekers** in Bulgaria. The fundamental problem that they encounter is access to the asylum procedure. After irregular entry into the territory of Bulgaria, asylum seekers are issued deportation orders and detained until the order is carried out. If they submit an asylum application, they are not officially regarded as asylum seekers until their application is registered by the State Agency for Refugees (SAR). Since the law does not provide a time frame for that registration, it might take SAR months before it registers the person as an asylum seeker. In the meantime, the person might be forcibly returned (*refouled*) as an illegal immigrant, in grave violation of Bulgaria's obligations under international refugee law.¹⁷⁹ In 2011, for the first time the Sofia

¹⁷⁸ Ilareva, Valeria, Historic Judgment of the Supreme Administrative Court of the Republic of Bulgaria regarding Immigration Detention in the Country, *Legal Clinic for Refugees and Immigrants*, <http://lcribg.wordpress.com/2010/06/04/историческо-решение-на-върховния-адм/>, accessed 23 August 2011

¹⁷⁹ Information on a recent attempt of refoulement of Iraqi asylum seekers, which was stopped by an interim measure of the European Court of Human Rights could be found in: Ilareva, Valeria, Bulgaria and UNHCR's urban refugee policy, *Fahamu Refugee Legal Aid Newsletter* 16:5, June 2011, <http://frian.tumblr.com/page/2>, accessed 23 August 2011

City Administrative Court issued a number of rulings that obliged the head of SAR to register asylum seekers who had deportation orders being executed against them.

Transposition of European Union directives in the field of immigration took place in January and June 2011 via amendments in the Law on Foreign Nationals in the Republic of Bulgaria and the Law on Employment promotion. These include the EU Employers Sanctions Directive 2009/52, the EU Blue Card Directive 2009/50 and the EU Long Term Residents Directive 2003/109. Their implementation will be an object of further reporting in the next annual report as administrative and judicial practice in this regard is currently lacking.

There is discrimination in Bulgaria against Bulgarian citizens and their third country national family members in comparison with the conditions for entry and residence of other EU nationals in Bulgaria and their third country national family members. Only family members of Bulgarian citizens are required to go back to their country of origin and apply for a special type of visa in a long complicated procedure. Often the result of this procedure is the refusal of a visa without providing reasons for this decision. 2010 marked the first judgments on cases against refusals of visas to family members of Bulgarian citizens. In all cases the court repealed the refusal of a visa. However, after that the Ministry of Foreign Affairs simply issued new refusals, this time stating reasons, which are subject to a new long process of judicial appeal over two courts of appeal. In the meantime, family members are separated.¹⁸⁰

The MIPEX study, which for the first time included Bulgaria in its scope, presented its results at the beginning of 2011. Its conclusion, that Bulgaria ranked 26 out of 31 states, is a realistic one. One of the most important conclusions regarding the obstruction of access to education for children of third country nationals has been an occasion to discuss more on the issue. Still, however, a recommendation that could be made is to pay further attention to country-specific issues.

Examples of NGO Good

The campaign on undocumented immigrants' rights in 2010

In 2010 17 Bulgarian NGOs pooled efforts to campaign for the rights of undocumented immigrants in Bulgaria. This uniting of forces was precedent-setting in Bulgarian civil society. The biggest Bulgarian NGO, the Bulgarian Helsinki Committee, joined the initiative of the Legal Clinic for Refugees and Immigrants, the organisation 'Justice 21' and the foundation Centre for Legal Aid – Voice in Bulgaria. Inspired and encouraged by the broad public support in the case of Arevik and David (please see above in this chapter), the organisations proposed

¹⁸⁰ See, e.g., a summary of one of the cases at BTV television, 'How and why the institutions separated a family', 30 May 2011, http://www.btv.bg/shows/tazi-sutrin/razgovori-gosti/video/2090219319-Kak_i_zashto_institutsiite_razdeliha_edno_semeystvo.html, accessed 23 August 2011

three groups of changes for the Bulgarian legislation. The first group concerned the introduction of a regularisation mechanism for long-term undocumented immigrants in Bulgaria. No such mechanism whatsoever existed in Bulgarian law until then. The second group of proposed changes concerned the full transposition of the EU Return Directive with regard to detention of immigrants. The third group of proposed amendments concerned expulsion orders in relation to the range of cases before the European Court of Human Rights in which Bulgaria was found in violation of the right to effective remedies.

On 7 September 2010 these 17 NGOs submitted their proposal to the Parliament. Before that, the Council of Ministers had submitted the government's proposal for amendments to the Law on Foreign Nationals in the Republic of Bulgaria which aimed to transpose the Schengen acquis. Representatives of civil society were invited to the discussion of the draft law at the parliamentary commission, along with representatives of the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Labour and Social Policy. The Ministry of the Interior and the Ministry of Foreign Affairs strongly opposed the proposals of the civil society, which discouraged the members of the parliament from supporting the 'unpopular' measures. At the end, the adopted amendments were only a minor part of what the civil society had aimed for. Still, a narrow regularisation mechanism was introduced for stateless persons from the ex-Soviet Union residing in Bulgaria since before 1998 and some minor improvements were introduced with regard to access to judicial review of immigration detention orders.¹⁸¹

¹⁸¹ Legal Clinic for Refugees and Immigrants, Proposal of the Bulgarian civil society in relation to the draft law of the Interior Ministry for amendments in the Law on Foreign Nationals, 17 October 2010 <http://wp.me/pHEJV-6G>, accessed 29 August 2011

XIV. National recommendations

XIV.i Employment

- The government should introduce stimulus for employers who hire Roma people;
- Labour mediators should be introduced in employment offices and their main role should be to act as 'mediators', assisting the access of the Roma to public services like employment and education;
- When migrants are seeking help from public administration offices they should be supplied with the information they need in a familiar language.

XIV.ii Housing

- The state authorities should work with NGOs to prepare a National integration strategy for immigrants and the Roma minority including: employment, housing policy, education, health care, public communications;
- The conditions in which migrants (asylum seekers and refugees) live should be improved and access to public utilities must be provided;
- Social mediators should be introduced to assist immigrants in the process of searching accommodation, especially for people with African origin, as Bulgarian owners are often reluctant to rent housing to people of colour;
- Legislation changes must be made to the current discriminatory regulation on refugees which effectively results in their exclusion from access to public housing;
- A government program should be prepared, in accordance with the regional authorities, to ensure access to public utilities and basic services such as water, waste disposal and electricity in the Roma neighbourhoods;
- There must be clear involvement of the regional governments and inclusion of the Roma in the structure plans of the regions.

XIV.iii Education

- Segregation in education should be discontinued;
- Mediators should be introduced in the field of school education ('assistant-educators/teachers') and their main role is to be 'mediators' to help migrants access to education and integration;
- Effective public awareness campaigns must be carried out to overcome the stereotypes and negative attitudes towards migrants and Roma children, and thus enable integration;
- School administrators, parents and students should work together with NGO's and receive training on how to address discriminatory attitudes and practices;
- Bulgarian language learning must be made available to migrants and take consideration of their religious background – usually women from Afghanistan, Iraq and Iran do not go to classes with their husbands. Child care should be provided at the time of the classes;

- A system for monitoring the integration of children from ethnic minorities into the school system should be devised and put into operation.

XIV.iv Health

- Discrimination in the Health Care System should be reduced through clear regulation;
- There should be reproduction of the 'good practice' of certain Health and social Centres in Roma districts where the people are offered comprehensive professional and educational advice as well as health and social services;
- GPs should receive specific training on how to work with ethnic minorities.

XIV.v Criminal justice

- Law enforcement officials must be provided with relevant education in order to overcome ethnic profiling and policing;
- The current lack of implementation of the criminalisation of hate crimes must be overcome by training workers in the investigation and prosecution services, as well as the judges, regarding the classification of crimes that are committed with racial and discriminatory motives;
- The rise of neo-Nazi extremism should be confronted by knowledge-based awareness raising in society, as well as among politicians, and law-enforcement officials. The problem should not be underestimated and adequate measures must be taken to address it;
- Authorities must be made accountable regarding the counter-terrorism measures against Muslims and immigrants and the actual results of these measures in order to assess their proportionality with the aims pursued.

XIV.vi Access to goods and services

- Mediators should be introduced into the system of employment offices in the country and their main role is to be 'mediators' with regard to migrants and Roma people's access to public services like employment and education.

XIV.vii Media

- Must play a part in reducing the negative public attitudes towards the Roma, Muslims and migrants through differentiating the debate on asylum seekers and refugees from that on economic migrants;
- The media should be encouraged to report on good practices for the integration of Roma and migrants as well as cases of successful judicial precedents against racial violence instead of negative reporting of racism, discrimination and hatred;
- Successful Roma and migrants appearing in the media could provide hope and motivation to others and break the stereotypes;
- More journalists with Roma and other ethnic minority backgrounds should be hired in order to provide broader and more balanced perspectives.

XIV.viii General

XIV.viii.i Anti racism and anti discrimination

- European legal standards must be implemented and not appear only on paper, but also in practice. In order to achieve this, law-enforcement officials should acquire knowledge about the applicable law;
- Equality bodies such as the Commission for Protection against Discrimination and the Ombudsman should have their voice properly heard among state institutions;
- The Bulgarian government should pay attention to the fact that in 2010 Bulgaria ranked sixth out of the 47 member states of the Council of Europe regarding the amount of judgments in which the State was found to be in violation of fundamental human rights.¹⁸² Appropriate measures should be taken to address repetitive problems such as the lack of effective remedies.

XIV.viii.ii Migration and integration

- Migration authorities should acquire knowledge about the applying European and international legal standards in the migration field;
- A regularisation mechanism should be introduced in the law to allow undocumented immigrants' access to fundamental human rights;
- Access to the asylum procedure should be guaranteed to asylum seekers by appropriate amendments in the law and administrative practice;
- Discrimination against Bulgarian citizens and their third country national family members should be discontinued through the recognition of their equal rights with other EU nationals in the country;
- An overhaul of the Law on Foreign Nationals in the Republic of Bulgaria should provide legal certainty regarding residence rights and the genuine integration of lawfully residing immigrants in the country.

¹⁸² Bulgarian Helsinki Committee, *Bulgaria is among the top 6 most sued countries in Europe*, 31 January 2011, <http://old.bghelsinki.org/index.php?module=news&lg=bg&id=3879> accessed 21 September 2011

XV. Conclusion

The negative trends unfortunately outnumber the positive developments in the realm of anti-racism and anti-discrimination in Bulgaria in the reported period.

The Roma remain the largest most disadvantaged minority group in Bulgaria. In the field of integration of the Romani population the funds are not invested in an adequate manner and the majority of the projects carried out do not follow a long-term strategy, and instead are of an ad hoc nature..

While the Roma are Bulgarian citizens and therefore are formally recognised as holders of equal rights, the most powerless minority group in Bulgaria are undocumented immigrants. They do not have access to fundamental human rights as human beings.

Two major setbacks are furthering the negative trends towards racism and discrimination in Bulgaria.

The first overarching setback is an institutional one. It concerns the lack of knowledge among law enforcement officials on the human rights standards that are binding for Bulgaria under European and international law. The legacy of the totalitarian regime in Bulgaria is still tangible in too many spheres of life. Rigorous training and sharing of good practices is absolutely indispensable in this regard.

The second general setback is the lack of societal awareness about the human rights violations in Bulgaria. This is especially evidenced in the rise of neo-Nazi extremism and the societal apathy regarding the swastikas that have swamped the urban infrastructure. The sensitisation of society, with regard to the human suffering that ensues as a result of racism and discrimination and the implications of human rights violations, is essential for an active reaction by the politicians and the state institutions. The media have a decisive role and societal responsibility in this regard.

Grounds for hope are found in Bulgaria's membership of the European Union and the Council of Europe, which result in a raise in the legal standards which Bulgaria must implement. An example in this regard is the adoption of the EU Return Directive 2008/115/EC which has given a legal framework to the previously arbitrary practices of limitless periods of detention. The national court in Bulgaria is a pioneer in applying these legal standards and together with knowledgeable lawyers has been the driving force of many positive precedents in this regard.

Though not yet as powerful as civil society in other European countries, Bulgarian civil society has shown its ability to react against injustice and propaganda on racism and discrimination. This is demonstrated by the many examples of positive NGO action reported in the respective chapters above.

Bibliography

Ombudsman of the Republic of Bulgaria, *Annual Report of the Ombudsman of Republic of Bulgaria for 2010*, www.ombudsman.bg, accessed 29 August 2011

Bulgarian Helsinki Committee, *Annual Report on Human Rights in Bulgaria for 2010*, <http://issuu.com/bghelsinki/docs/godishen-doklad-2010-bg-last-1-?viewMode=magazine>, accessed 17 August 2011

Commission for Protection from Discrimination, *Annual report for 2010*, http://kzd-nondiscrimination.com/start/images/stories/pdf/annual_report_2010.pdf

De Laat, Juust and Christian, Bodewig, *Roma inclusion is smart economics – illustration from Bulgaria, Czech Republic, Romania and Serbia*, 39 (n.d.: ECA-Knowledge Brief, 2011)

Encheva, Svetla, *Action 'the Nazi'*, in: *WebCafé*, http://www.webcafe.bg/id_236799901, accessed 21 August 2011

European Network Against Racism, *Shadow Report 2008: Racism in Bulgaria* (Brussels: ENAR, 2008), http://www.enar.eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN accessed 16 August 2011

European Network Against Racism, *Shadow Report 2009-2010: Racism and Discrimination in Bulgaria* (Brussels: ENAR, 2009), http://www.enar.eu.org/Page_Generale.asp?DocID=15294&la=1&langue=EN, accessed 16 August 2011

Georgieva, Tsvetana, *'Pomaks – Bulgarians and Muslims'*, in: Krasteva, Anna, (ed.), *Communities and Identities*, (n.d.: Petekston, 1998)

Gorcheva, Daniela, *With stupid actions the State Agency for National Security pretends to chase Islamists*, *E-vestnik*, <http://e-vestnik.bg/10159>, accessed on 21 August 2011

Ilareva, Valeria, *Historic Judgment of the Supreme Administrative Court of the Republic of Bulgaria regarding Immigration Detention in the Country*, *Legal Clinic for Refugees and Immigrants*, <http://lcribg.wordpress.com/2010/06/04/историческо-решение-на-върховния-адм/> (accessed on 23 August 2011)

Ilareva, Valeria, *Bulgaria and UNHCR's urban refugee policy*, *Fahamu Refugee Legal Aid Newsletter* 16:5, June 2011, <http://frlan.tumblr.com/page/2>, accessed 23 August 2011

Ilieva, Margarita, *European network of legal experts in the non-discrimination field – Report of measures to combat discrimination Directive 2000/43/EC and 2000/78/EC - Country report for Bulgaria for 2009*, p.49

Ilieva, Margarita, *Police violence in Bulgaria through the eyes of the European Court of Human Rights – lawlessness and impunity* (in Bulgarian: *Полицейското насилие в България през погледа на Европейския съд по правата на човека – безправие и безнаказаност*), http://policebrutality.bghelsinki.org/?page_id=2#_ftn15 accessed 20 August 2011

McDougall, Gay, *Bulgaria's Duties to Its Roma People*, July 18 2011, <http://intlwgrrls.blogspot.com/2011/07/bulgarias-duties-to-its-roma-people.html>, accessed 17 August 2011

Migrant Integration Policy Index, Bulgaria, 2011, <http://www.mipex.eu/bulgaria>, accessed 18 August 2011

National Statistics Institute, Census 2011 (final data), www.nsi.bg/EPDOCS/Census2011final.pdf, accessed 16 August 2011

Political Party ATAKA, Political Program and Platform available at: www.ataka.bg, accessed 16 August 2011

Political Party 'Citizen for European Development of Bulgaria', Political Program and Platform available at: www.gerb.bg, accessed 16 August 2011

Staikova, Rositsa, *Speech of Hatred – theories and practices*, (Sofia: University Publishing House 'Kliment Ohridski', 2009)

'Successfully Scaling Up Work on Roma Inclusion: Challenges. Good Practices and Lessons Learned' – Report of the Workshop 16 May 2011, Holiday Inn, Policy Area: Employment

Tavanier, Yana Buhner, *Guide on Reporting Diversity*, (Sofia: British Council, 2008), <http://www.britishcouncil.org/files/documents/bulgaria-society-media-diversity-guide.pdf>, accessed 20 August 2011

Tilkidjiev, Nikolai, Valentina Milenkova, Kamelia Petkova, Natasha Mileva, *Dropping out Romas*, (Sofia: Open Society Institute, 2009)

Tomova, Ilona, 'Health and Roma Society – An Analysis of the Situation in Europe, Preliminary Report – Bulgaria', (Sliven: Roma Health Foundation, 2009), www.gitanos.org/upload/87/58/BULGARIA-final-baja.pdf accessed on 21 August 2011

Vassilev, Rossen, The Roma in Bulgaria: A pariah minority, *The Global Review of Ethnopolitics*, Vol. 3, no. 2, January 2004, pp. 40-5

Zhelyazkova, Antonina, 'Turks', in: Krasteva, Anna, (ed.), *Communities and Identities*, Petekston, 1998

Annex 1: List of abbreviations and terminology

AIDS - Acquired immune deficiency syndrome

BHC – Bulgarian Helsinki Committee

CEDB - Citizens for European Development of Bulgaria, Party

CEM – Council of the Electronic Media

CPD - Commission for Protection against Discrimination

CRC - Communications Regulation Commission

DPC – Movement for Rights and Freedom

EC – European Commission

ECRI - European Commission against Racism and Intolerance

EFRD - European Fund for Regional Development

ENAR – European Network against Racism

ERRC – European Roma Rights Centre

EU – European Union

EU-MIDIS - European Union Minorities and Discrimination Survey

FRA – European Union Agency for Fundamental Rights

GPs – General Practitioners

HIV - Human Immunodeficiency Virus

LCRI – Legal Clinic for Refugees and Immigrants

NGO – Non-governmental Organisation

NSI – National Statistical Institute

OSCE - Organisation for Security and Cooperation in Europe

SAR – State Agency for Refugees

SIP – Interculture in the Roma School

STDs - Sexually transmitted diseases

VMRO - Internal Macedonian Revolutionary Organisation

