



BULGARIAN
HELSINKI
COMMITTEE

CONTRIBUTION

TO THE LIST OF THEMES FOR THE REVIEW OF THE COMBINED 23RD TO 25TH PERIODIC REPORTS OF THE REPUBLIC OF BULGARIA BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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The Bulgarian Helsinki Committee (BHC) is an independent non-governmental organisation for the protection of human rights - political, civil, economic, social, and cultural. It was established on 14 July 1992. The goal of the BHC is to promote respect and protection for the human rights of every individual, to advocate for legislative change to bring Bulgarian legislation in line with international standards, to encourage public debate on human rights issues, and to popularise and make widely known human rights instruments. The BHC is engaged in monitoring, litigation on behalf of vulnerable groups, advocacy, and human rights education. In its work, the BHC places special emphasis on discrimination, rights of ethnic and religious minorities, rights of the child, conditions in places of detention, refugee and migrants' rights, freedom of expression, freedom of association, women's rights, and rights of the LGBTIQ+ persons. More information about the organisation and its publications is available online at <http://www.bghelsinki.org>.

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The present submission aims at contributing to the list of themes for the review of the combined 23rd to 25th periodic reports of the Republic of Bulgaria by the Committee on the Elimination of Racial Discrimination. It summarizes the observations and the concerns of the Bulgarian Helsinki Committee (BHC) and of other human rights organisations on discrimination affecting some ethnic minorities and migrants in Bulgaria and the failure of the Bulgarian authorities to ensure their protection. The list of issues outlined in the present submission is by no means exhaustive. It includes those of them, which the BHC regards as serious, widespread, and systematic, as well as those that attracted the attention of international human rights bodies.

1. Discrimination of Roma in education

Discrimination of Roma in education is an old problem of the Bulgarian educational system. Historically it took a variety of forms – territorial segregation of the Roma education, lack of access of Roma children to additional educational support, placement of Roma in schools for children with developmental disabilities and confinement of Roma children in schools for children with anti-social behaviour. All these forms of discriminatory schooling are in existence at present, albeit the latter two forms to a lesser degree than in the past. Territorial segregation of Roma education however continues to be a serious problem and there is some evidence that it increased.

Many Roma children attend schools, in which all or most of the students are Roma. They offer lower quality education and are not supervised as regularly by state educational authorities as are the other schools. A recent survey of the Association “Amalipe” revealed that as of 2020 in Bulgaria operated 930 schools of general education, 150 vocational high schools and 483 kindergartens with a concentration of vulnerable groups (mostly Roma). This is almost ½ of all the schools of general education in Bulgaria and 40% of the vocational high schools. This survey defines 120 of the schools of general education (6%) and 77 (nearly 20%) of the vocational high schools with predominantly vulnerable children as segregated because they are located in regional and municipal centres with more than one school, and the percentage of parents of the attending children, which are with low educational background, is between 60 and 100%. Another 65 schools of general education and 83 vocational high schools are in the process of secondary segregation or under threat of segregation. According to Association “Amalipe”, desegregation in primary education is necessary in 85 cities (25 regional centres and 60 other); desegregation of high schools is necessary in 84 cities (23 regional centres and 61 other).¹ The Bulgarian authorities do not collect data on educational segregation and do not take measures to combat it.

¹ Results of the survey are available at: <https://amalipe.bg/no-segregation-conference/>.

2. Discrimination of Roma in housing

Many Roma in Bulgaria, especially those who live in segregated neighbourhoods, inhabit houses, which are considered “unlawful” because they were built without the necessary building permits. The 2001 Territorial Planning Act made it impossible to legalize such buildings even where they had been built decades ago. Their inhabitants are thus vulnerable to eviction or demolition orders issued on the sole basis that the properties are “unlawful”. The legal framework does not require any proportionality assessment in cases of eviction; nor does it require provision of alternative accommodation or adequate compensation in cases where the property is the only home of the inhabitants.

The European Court of Human Rights has considered several cases of attempted forced evictions of Roma and other citizens and found violations of Article 8 of the ECHR. At present, these judgments (the *Yordanova and Others* group) are under the enhanced procedure for execution before the Committee of Ministers.² In its 2017 concluding observations the CERD recommended that the Bulgarian government “stop the persistent practice of forcibly evicting and destroying Roma settlements without offering alternative housing or adequate compensation, and take measures to legalize existing settlements to the extent possible while facilitating access to basic services in these settlements”.³ No such measures have been undertaken since then. The legal framework remains the same.

In the period under consideration, there have been a number of forced evictions of Roma from their only homes. These have taken place for the most part on the basis that the properties, which were targeted for eviction or demolition, were “unlawful”.⁴ At present, there is a pending eviction of the entire Roma community in one of the Sofia neighborhoods, Orlandovtsi.⁵

Moreover, in some cases entire Roma neighborhoods were destroyed and their inhabitants were expelled from their only homes after conflicts with local Bulgarian residents. The authorities in such cases tried to legalize their action by initiating *post factum* proceedings for declaring their homes “unlawful”. In October 2022, the European Court of Human Rights issued its judgment in the case of *Paketova and Others v. Bulgaria* finding a violation of articles 14 and 8 of the ECHR concerning one such situation in the village of Voyvodinovo, near Plovdiv, where the entire Roma community was expelled in January 2019.⁶

² See the summary of the execution process, which has been pending since 2012 at: <https://hudoc.exec.coe.int/eng?i=004-1924>.

³ CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria*, 31 May 2017, § 20.

⁴ See the annual reports of the Bulgarian Helsinki Committee available at <https://www.bghelsinki.org/en/what-we-do/reports>.

⁵ See the BHC press release and a video (in Bulgarian) at: <https://www.bghelsinki.org/en/news/2023-06-27-press-orlandovtsi>.

⁶ ECtHR, *Paketova and Others v. Bulgaria*, Nos. 17808/19 and 36972/19, Judgment of 4 October 2022.

3. Problems with the provision of ID cards

Closely related to the Roma housing is the problem with the inability of many Roma who live in “unlawful” houses to obtain ID cards. According to information from the Bulgarian Ministry of Interior, as of 15 July 2022 some 187,883 Bulgarian citizens do not have ID cards. Of them 109,233 live permanently in the country.⁷ The existence of a large number of Bulgarian citizens, mostly Roma, without an identity card results in the practice of municipal mayors to delete from the National Register of Current and Permanent Addresses (NRCPA) those addresses, where the illegal constructions subject to demolition were located. This deletion, as well as the demolition itself, are carried out by the municipal authorities, without assessing whether the only dwelling of the affected families has already been taken or is being taken away. The exercise of the powers to delete an address from the NRCPA is placed by law entirely in the discretion of the mayors and their implementation is not bound by deadlines. On top of this questionable practice is added the unlawful practice of the regional offices of the Ministry of Interior to send away applicants whose address is marked as “invalid” in the MoI’s information system. This practice has been challenged on a number of occasions in courts and has been declared unlawful. Yet, it continues.

The problem with the lack of ID cards affects disproportionately families, mostly Roma, living around the poverty line, who are subjected to or being threatened with homelessness. Non-possession of an identity card additionally, extremely, and often irrevocably marginalizes Bulgarian nationals who live permanently under restriction of their fundamental rights to education, work, access to healthcare, voting and free movement. Without an ID card, one cannot get married, recognize a child, enter a court building, request social services, receive social benefits, receive life-saving therapy from the pharmacy, conclude a contract with a bank, an employer, an operator of communication services, notary services, etc. Without an ID card, individuals lose their civic identity, they cease to exist in the legal world; they become invisible, and their children become invisible too.

4. Discrimination of Roma and of foreigners in the criminal justice system

The Bulgarian criminal justice system discriminates against Roma and foreigners in a variety of ways. A 2021 survey conducted by the BHC on a representative sample of 1010 convicted prisoners whose pre-trial proceedings had begun after 1 July 2019 revealed differences of treatment at every stage of the proceedings and in a variety of contexts.⁸ The share of the Roma respondents who claim that they have been ill-treated by the police either

⁷ BHC, *Human Rights in Bulgaria in 2022*, Annual Report of the BHC, Sofia, 2023, p. 41, available at: <https://www.bghelsinki.org/en/reports/BHC-human-rights-in-bulgaria-in-2022-en>.

⁸ See: Kanev, K. *Problems with the Equal Treatment of Accused Persons in Pre-trial Proceedings in Bulgaria*, Sofia: BHC, 2022, available at: <https://www.bghelsinki.org/en/reports/problems-with-the-equal-treatment-of-accused-persons-in-pre-trial-proceedings-in-bulgaria>.

during arrest or after they were brought in the police station is on average twice bigger than that of the Bulgarians (18% against 29% during arrest and 14% against 30% inside police custody). Roma respondents complained that sometimes police violence was accompanied by insults and derogatory remarks regarding their ethnicity. Higher shares of Roma and foreigners responded that they have not been examined by a medical professional upon detention compared to the Bulgarian detainees.

While 54% of the Bulgarian detainees responded that they had a lawyer who was hired by themselves or by their families, the respective shares for the Roma and foreigners were 29% and 28%. According to the responses of the latter two groups, they were represented predominantly by lawyers appointed by the state through the legal aid schemes. 22% of the Roma and 25% of the foreigners responded that they have never met with their lawyers during the pre-trial phase. While 30% of the Bulgarian respondents expressed dissatisfaction with their lawyers, the respective share for Roma was 39% and for the foreigners – 53%. Roma and foreigners reported worse conditions of detention (e.g. overcrowding) compared to the Bulgarian detainees. Many foreigners complained of the lack of, or poor quality of translation and interpretation services in pre-trial proceedings.

In the prisons Roma are sometimes placed in cells, which expose them to worse conditions compared to the Bulgarians. This is the case also with the foreigners in the Sofia Central Prison. In general, Roma and foreigners have less access to work in the prisons compared to the Bulgarians and are thus not able to reduce their sentences as according to the Bulgarian law, two days of work count as three days of the sentence served.

5. Discrimination of Macedonians

The Bulgarian authorities do not recognize the identity of ethnic Macedonians despite the fact that all recent censuses of the population report about the existence of thousands of Macedonians in Bulgaria. This has a number of negative consequences on the exercise of their human rights and in particular on their right to freedom of assembly and freedom of association. Denial of Macedonian identity continues and finds expression at high governmental level. Thus, in advance of his visit to North Macedonia, which took place on 18 January 2022, the then Prime Minister Kiril Petkov gave an interview on the most popular Bulgarian TV network, bTV. In it he said:

“There is no such [Macedonian] minority and there can be no discussion even about such a minority...On this topic there is 100% firmness and understanding, that this theme cannot be discussed.”⁹

⁹ A short account, as well as the full video of the Prime Minister’s interview is available at: <http://epicenter.bg/article/Kiril-Petkov-/271109/2/0>.

In the period under review, many other politicians from different political parties, as well as the President of the Republic, spoke against the existence of a Macedonian minority in Bulgaria.¹⁰

So far, the European Court of Human Rights had ruled on 12 cases involving ethnic Macedonians, in all of which it found violations of Article 11 of the ECHR (freedom of assembly and freedom of association). Of them, six judgments are under the enhanced procedure of supervision for their execution by the Committee of Ministers of the Council of Europe for more than 17 years by now. On 1 October 2020, the Committee of Ministers adopted an interim resolution on this group of cases. In it the Committee expressed deep concern and regret that despite the numerous efforts of “UMO Ilinden” and of the other associations of ethnic Macedonians in Bulgaria to register, they continue to encounter problems related to inconsistent and formalistic application of legal requirements and the Registration Agency’s predominant practice not to give instructions to rectify the registration files, except in limited situations, as well as its failure on certain occasions to identify all the defects of registration files in its refusals; to refusals on grounds, such as the potential for an association promoting the existence of a “Macedonian minority” to endanger national unity and the constitutional prohibition on associations pursuing political goals, which have been systematically rejected by the European Court in the cases from this group; and to their inability to benefit from Convention-compliant registration procedures.¹¹

Over the past several years the Registration Agency and the courts adopted a manifestly discriminatory approach to the registration of Macedonian associations. They explicitly deny registration because of their Macedonian character arguing that the very promotion of a Macedonian minority through an association is directed against the unity of the nation in violation of Article 44, para. 2 of the Constitution.¹² At present, there are more than a dozen new applications of Macedonian organisations, which were denied registration at the national level, pending before the European Court of Human Rights.

6. Discrimination in the exercise of political rights of minorities

The Bulgarian law bans linguistic minorities from speaking their mother tongue during election campaigns. Article 181, para. 2 of the *Election Code* of 2014 provides that “the election

¹⁰ See e.g. the statement of the President from January 2022: “President Radev: I hope the state leadership of the Republic of North Macedonia will show wisdom and political courage to resolve the main issues”, 20 January 2022, available at: <https://www.president.bg/news6386/prezidentat-radev-nadyavam-se-darzhavnoto-rakovodstvo-na-rsm-da-proyavi-madrost-i-politicheska-smelost-za-reshavane-na-osnovnite-vaprosoi.html&lang=en>.

¹¹ Committee of Ministers, Interim Resolution CM/ResDH(2020)197, 1 October 2020.

¹² For concrete examples of court decisions see the BHC submissions to the Committee of Ministers of the Council of Europe on the “UMO Ilinden” group of cases at: [https://search.coe.int/cm?k=#title=Information%20from%20NGOs%2C%20national%20human%20rights%20institutions%20and%20IGOs%3D#f=\[{"p"%3A"CoEReference"%2C"i"%3A1%2C"o"%3A1%2C"m"%3A2}%2C{"p"%3A"Title"%2C"i"%3A1%2C"o"%3A1%2C"m"%3A2}\]#k=ilinden%20"Communication%20from%20an%20NGO%20\(Bulgarian%20Helsinki%20Committee\)"}\]](https://search.coe.int/cm?k=#title=Information%20from%20NGOs%2C%20national%20human%20rights%20institutions%20and%20IGOs%3D#f=[{).

campaign should be carried out in the Bulgarian language”. The law envisages administrative fines for breaking the law of up to 2,000 BGN (1000 Euro) imposed by the regional governors. Protocols for administrative offenses can be issued by the district electoral commissions. The ban on speaking a language other than Bulgarian is absolute; it is effective even where the voters have difficulties in understanding it and in situations where both the candidate for office and the audience are fluent in the minority language.

On 2 May 2023 the European Court of Human Rights found a violation of Article 10 of the ECHR in the case of *Mestan v. Bulgaria*.¹³ The applicant, a member of the Turkish minority in Bulgaria, was president of a political party, the Movement for Rights and Freedoms. He spoke Turkish at an election rally in a village where 98% of the inhabitants belonged to the Turkish minority. He was subsequently fined 500 BGN (around 250 EUR) by an order of the regional governor. The Bulgarian courts upheld the order. The ECtHR observed that the prohibition to speak Turkish did not meet a pressing social need and was not proportionate to the legitimate aims pursued in Article 10 § 2 of the ECHR. It concluded that the interference with the applicant's exercise of his right to freedom of expression cannot be regarded as “necessary in a democratic society”.¹⁴

The ban to speak a language other than Bulgarian during election campaigns affects the participation of the Turkish and of the Roma minority in the political process, as well as that of some foreign citizens who settled in Bulgaria after it joined the EU and became eligible to vote in the Bulgarian municipal elections.

7. Hate speech

Hate speech in general and anti-minority hate speech in particular has a long tradition in Bulgaria. In its 2017 concluding observations the CERD expressed deep concern at the increase in the incidence of hate speech targeting ethnic minorities and migrants.¹⁵ Hate speech and hate crimes targeting Roma and other vulnerable groups, such as Muslims, Jews, migrants, Macedonians and LGBTIQ, were extensively discussed in the 2020 report on Bulgaria of the Council of Europe Commissioner for Human Rights. She noted with alarm in particular the rampant intolerance manifested towards minority groups, affecting especially Roma and several other communities.¹⁶ The Commissioner recommended to the authorities to demonstrate “zero tolerance” to hate speech, to withdraw all financial and other support from political parties and other organisations that use hate speech and to consistently enforce penalties against the use by politicians of hate speech inciting to violence, hatred or discrimination.¹⁷ In October 2020, the

¹³ CEDH, *Mestan c. Bulgarie*, no. 24108/15, arrêt du 2 mai 2023: <https://hudoc.echr.coe.int/?i=001-224437>

¹⁴ *Ibid.*, § 63.

¹⁵ CERD, *Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria*, § 11.

¹⁶ Commissioner for Human Rights, *Report Following Her Visit to Bulgaria from 25 to 29 November 2019*, CommDH(2020)8, Strasbourg, 31 March 2020, § 7.

¹⁷ *Ibid.*, § 39.

European Parliament adopted a resolution on the rule of law and fundamental rights in Bulgaria where, among other issues, it raised the problem with the widespread hate speech targeting vulnerable groups, including Roma.¹⁸

None of the above recommendations were followed up by the Bulgarian authorities. In the period 2017-2021 the winner of the 2017 elections, the centre-right political party GERB, formed a coalition government with three of the most outspoken hate groups in Bulgaria, the political parties “Ataka”, NFSB and VMRO-BND (united in the coalition “United Patriots”). This was a period of the most serious deterioration of human rights after the fall of the communist regime in 1989. Roma and other minorities, as well as migrants, were systematically targeted with hate speech by these parties, as well as by the mainstream media and social networks.

In 2021 the European Court of Human Rights issued its judgments in the cases of *Budinova and Chaprazov v. Bulgaria*¹⁹ and *Behar and Gutman v. Bulgaria*²⁰. They concern hate speech against the Roma and against the Jews by one of the leaders of the United Patriots. The ECtHR found violations of articles 14 and 8 of the ECHR in both cases and expressed concerns that the courts at the national level failed to establish the right balance between the right to private life and the right to freedom of association. This problem persists and the Bulgarian courts continue to be lenient in finding against politicians and other public figures in cases where they incite hatred and discrimination against minorities and migrants.

8. Discrimination against migrants, refugees and asylum seekers

In its 2017 concluding observations the CERD expressed a number of concerns about the treatment of migrants, refugees and asylum seekers in Bulgaria and more specifically at:

- Pushbacks and the excessive use of force by the border police;
- The criminalization of irregular border crossing;
- The poor conditions of placement of asylum seekers in reception centres;
- The lack of early identification, assessment and referral mechanisms for vulnerable asylum seekers, including unaccompanied children;
- The practical hurdles faced by the beneficiaries of international protection, including lack of access to social housing and language training.

¹⁸ European Parliament, *Resolution of 8 October 2020 on the rule of law and fundamental rights in Bulgaria*, 2020/2793(RSP), § 15.

¹⁹ ECtHR, *Budinova and Chaprazov v. Bulgaria*, No. 12567/13, Judgment of 16 February 2021: <https://hudoc.echr.coe.int/?i=001-207928>

²⁰ ECtHR, *Behar and Gutman v. Bulgaria*, No. 29335/13, Judgment of 16 February 2021: <https://hudoc.echr.coe.int/?i=001-207929>

All these problems continue to exist at present. For 2022 alone, the BHC registered 5,268 cases of pushbacks of migrants, affecting 87,647 persons.²¹ The irregular border crossing continues to be criminalized with thousands of persons a year prosecuted and convicted. Conditions of placement in reception centres improved somewhat but continue to be substandard. The treatment of unaccompanied minors also improved but there are outstanding issues, which remain to be addressed. The integration of beneficiaries of international protection in Bulgaria continues to be a serious problem.

9. Conclusion

Because of the serious, widespread, and systematic nature of the problems outlined above, the Bulgarian Helsinki Committee asks the Committee on the Elimination of Racial Discrimination to include all of them in the list of themes for the review of the combined 23rd to 25th periodic reports of the Republic of Bulgaria. The BHC continues to monitor racial discrimination in Bulgaria and is ready to provide more information on legal and political developments.



²¹ BHC, *Human Rights in Bulgaria in 2022*, Annual Report of the BHC, Sofia, 2023, p. 90. Available at <https://www.bghelsinki.org/en/reports/BHC-human-rights-in-bulgaria-in-2022-en>