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COMMITTEE

WRITTEN COMMENTS

**Of the Bulgarian Helsinki Committee
Concerning Bulgaria for Consideration
by the United Nations Committee
on the Elimination of Racial Discrimination
at its 92nd Session**

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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 human rights monitoring, strategic litigation, 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, mental disability rights, conditions in places of detention, refugee and migrants rights, freedom of expression, access to information, problems of the criminal justice system. More information about the organisation and its publications are available online at <http://www.bghelsinki.org>.

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I. INTRODUCTION

The Bulgarian Helsinki Committee (BHC) submits its observations on legislative, judicial, administrative and practical developments in Bulgaria related to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination for the period 2008-2016. The observations focus on the last several years of this period. They are a result of the BHC's systematic monitoring of the situation in this sphere in Bulgaria for the period under review. The observations deal in the first place with the developments on the ground related to the Committee on the Elimination of Racial Discrimination (CERD) recommendations of 23 March 2009 (CERD/C/BGR/CO19) and the List of Themes of 9 March 2017 (CERD/C/BGR/Q/20-22). In addition, they comment on the report of the Government of Bulgaria, submitted on 11 January 2016.

As a whole, in the period under review and particularly over the past three years there has been a marked deterioration in the implementation of the Convention standards in Bulgaria. This is due to a combination of factors, the most prominent of which is the growing influence wielded by several ultranationalist political parties of a neo-totalitarian type. Other factors include the worsening of the media climate and the lack of reform of the judiciary and of the law enforcement institutions in general. The positive developments, which took place in the period under review concerned for the most part transposition of the EU law related to the prosecution of public incitement to hatred, discrimination and violence on national, racial, ethnic and religious grounds. The enforcement of these provisions however remain a serious concern, as do the execution of the judgments against Bulgaria of the European Court of Human Rights in general and especially on issues relating to ethnic and religious minorities.

II. VIOLATIONS OF THE CONVENTION PROVISIONS, OMISSIONS AND MISREPRESENTATIONS IN THE GOVERNMENT REPORT

Article 2

1. Involvement of racist and xenophobic political parties in the government and exclusion of minorities

For more than three years after the October 2014 parliamentary elections, Bulgaria was governed by a coalition government led by the Citizens for European Development of Bulgaria (GERB), the political party, which achieved the highest result in the elections. The other coalition partners included the Reformist Bloc, a centre-right coalition of parties, the centre-left ABV and the Patriotic Front, a coalition of two ultranationalist parties of a neo-totalitarian type: the National Front for Salvation of Bulgaria (NFSB) and the Internal Macedonian

Revolutionary Organisation (VMRO).¹ In early 2016 ABV abandoned the coalition but the other two partners remained part of it until the resignation of the government in November 2016. Both NFSB and VMRO are known for their anti-minority rhetoric and for their denial of basic principles of political democracy and of human rights. In public appearances, as well as in broadcasts on the SKAT cable channel (owned by the NFSB leader), their representatives often instigate hatred, discrimination and violence on ethnic and religious grounds, more specifically against Roma, Muslims and refugees.

Prior to the 2014 parliamentary elections, the two parties of the Patriotic Front campaigned on virulently anti-minority platforms. Their election programmes contained measures discriminating against the Roma. VMRO envisioned compulsory labour for Roma and the formation of “militias for the protection of the Bulgarian population” against the Roma. NFSB proposed in its programme the demolition of the illegal dwellings in ghettos of predominantly Roma inhabitants (approximately 70% of the housing in these areas), detention of the Roma in closed camps where they could serve as a “tourist attraction”, and the restriction of their birth rate. Several Roma activists complained to the Prosecutor’s Office. Their complaints were however dismissed. According to the prosecution, these elements of the election programmes “do not lead to the conclusion of preaching or instigating discrimination, violence or hatred towards the Roma population, but rather call for integration and respect for law”. The settlement of Roma in isolated areas was “for individuals who do not wish and make no effort to integrate”, wrote Sofia Appellate Prosecutor’s Office (SAP) further in its decree. Another major argument in favour of the prosecution’s refusal to prosecute the authors of these writings was that they were formulated and adopted by the collective management bodies of political parties, while under Bulgarian law criminal liability may only be personal. The prosecution did not discuss the possibility of identifying the individuals serving on party boards. The SAP decree was appealed to the higher prosecutor’s office. The Supreme Cassation Prosecutor’s Office upheld the refusal.

Most of the negative legislative amendments in the sphere of interethnic and interreligious relations, which took place after 2014, such as the ban on the Muslim veils and the restriction on the number of electoral sections in the non-EU member states, were initiated by the Patriotic Front. Its politicians and media were responsible for much of the public incitement to hatred, discrimination and violence, practiced with impunity. Another ultranationalist political party, Ataka (Attack), was in opposition to the government but also regularly incited ethnic and religious hatred, discrimination and violence targeting minorities and migrants. In July 2016, in advance of the presidential elections, NFSB, VMRO and Ataka formed a joint coalition, United Patriots, which took part in the November 2016 presidential elections, as well as in the

¹ The two parties were qualified as „ultra-nationalist/fascist” in the latest report on Bulgaria of the European Commission against Racism and Intolerance (ECRI), see *ECRI Report on Bulgaria: Fifth Monitoring Cycle*, CRI(2014)36, Strasbourg, 16 September 2014, § 32.

parliamentary elections of March 2017. The three parties, which are represented in Parliament, receive substantial state subsidies.²

In an equally unfortunate parallel political development, the share of minorities in the government decreased after 2009. The Patriotic Front publicly campaigned for the exclusion of the minority political parties from the government both before and after the 2014 parliamentary elections. In the government's report (§§ 142-148) the CERD recommendation in that regard is misconstrued. This part of the report deals with social assistance and the provision of social services, not with access to public service and participation of minorities in governance at the central and at the local level, which was poor at the time of the review in 2009 even with a minority party (the Movement for Rights and Freedoms) having taken part in two successive previous governments. It further deteriorated after 2009.

2. Acts and patterns of institutional racism in the framework of the criminal justice system and in migration

In its 2009 concluding observations CERD expressed concerns about the “ill-treatment and excessive use of force by the Bulgarian police against persons from minority groups, in particular Roma” (§ 16). Ill-treatment and excessive use of force by law enforcement officials is a particularly serious problem in Bulgaria, affecting predominantly persons suspected of having committed crimes. In March 2015, the European Committee for the Prevention of Torture (CPT) issued a public statement concerning Bulgaria, the seventh such statement in the history of that body. In it, the CPT concluded that persons in the custody of the police “continued to run a significant risk of being ill-treated, both at the time of apprehension and during subsequent questioning”.³ The CPT also observed, “Very little progress, if any, has been made as regards the legal safeguards against police ill-treatment”.⁴

Recent research of the Bulgarian Helsinki Committee indicates that Roma are heavily overrepresented among the victims of police ill-treatment. In the period May-June 2015, the BHC carried out a large-scale survey among 1,691 convicted prisoners from all Bulgarian prisons whose pre-trial proceedings had been initiated after January 2014 (hereafter 2015 survey). Establishing the scale of the use of physical force by police during pre-trial proceedings at the time of apprehension and subsequent detention was one of the survey's main objectives. According to the survey's findings, 32.8% or one-third of all interviewed inmates who had been arrested declared that force had been used against them either at the time of arrest or inside the police station. Those claiming that physical force was used inside the police stations (21.8% of

² The annual state subsidy for the Patriotic Front after the 2014 parliamentary elections is 2.63 million BGN; for Ataka it is 1.63 million BGN (source: “How much will be the government money for the parties”, *Capital*, 24.10.2014).

³ CPT, *Public statement concerning Bulgaria*, Strasbourg, 26 March 2015, CPT/Inf (2015) 17, § 5.

⁴ *Ibid.*, § 6.

all respondents) are more than those declaring it was used at the time of arrest (15.5% of all respondents). The share of Roma who reported being victims of physical abuse is by some 10% higher than that of the Bulgarians and by some 11% higher than that of the Turks.⁵ In November 2016 – February 2017 BHC conducted another survey among 1,357 convicted prisoners whose pre-trial proceedings had been initiated after January 2015 (hereafter 2017 survey) in order to track the progress in the implementation of the safeguards against ill-treatment following the CPT public statement. The 2017 survey found no progress whatsoever. According to its findings, 34% of all respondents who had been arrested declared that force had been used against them either at the time of arrest or inside the police station. Again, those claiming that force was used inside the police stations (24% of all respondents) are more than those who declare that it was used at the time of arrest (19.4% of all respondents). The share of Roma who reported being victims of physical abuse inside police stations in this survey is twice higher than the respective share of the Bulgarians (28.3% against 14.5%).⁶ The problem is particularly serious with regard to the accused Roma who are minors. In both the 2015 and the 2017 surveys more than 70% of them report that they had been beaten up inside police stations.

In its General Recommendation XXXI CERD directs states parties to pay greatest attention to "the number and percentage of persons belonging to those [minority] groups who are held in prison or preventive detention".⁷ The government does not provide information on the number or percentage of prisoners from ethnic minorities in Bulgarian prisons and pre-trial detention centres. BHC research suggests a heavy overrepresentation of Roma among the prisoners. In both the 2015 and the 2017 surveys the share of Roma among the newly arrived prisoners was higher than 50% (50.1% in the 2015 survey and 50.8% in the 2017 survey).⁸ This is in stark contrast with the official police statistics on the share of minorities among the identified perpetrators of criminal acts. According to these statistics, the share of minorities among the identified perpetrators for 2014 was 18.4% and their share for 2015 was 17.5%.⁹ The methodology for the determination of ethnicity in these police statistics is self-determination. According to the 2011 census, based on the same methodology for determination of ethnicity, Bulgarians constituted 85% of the population. Thus, the share of minorities among the perpetrators of criminal acts is slightly higher than their share among the general population. By contrast, among those serving effective prison sentences the share of the Roma alone is more

⁵ See more on the methodology and other findings from this survey in: BHC, *Human Rights in Bulgaria in 2015*, Sofia, March 2016, available at: www.bghelsinki.org.

⁶ See more on the methodology and other findings from this survey in: BHC, *Human Rights in Bulgaria in 2016*, Sofia, March 2017, available at: www.bghelsinki.org.

⁷ CERD, *General Recommendation XXXI*, para. 1e.

⁸ Ethnic Turks were underrepresented in both surveys.

⁹ Ministry of Interior, Annual police statistical bulletins for 2014 and for 2015, available at: http://www.mvr.bg/Planirane_otchetnost/Policeiska_statistika/Police_statistika.htm. These shares include all ethnic groups except Bulgarians.

than 50%. The reasons for this heavy overrepresentation of Roma are complex. At least to some degree it is attributable to discrimination in sentencing.¹⁰

Since 2014 the number of migrants entering Bulgaria has increased. For most of them Bulgaria is a transit country on their way to Western Europe. Those who have to stay in Bulgaria face serious difficulties in dealing with the discriminatory attitudes of authorities and of private individuals and groups. Since 1994 the BHC has maintained a programme for legal assistance of asylum seekers and refugees. BHC has access to the reception centres, immigration detention facilities and detention centres at the borders. Since 2014 the organisation has received numerous complaints from migrants of bias motivated physical abuse, robberies and insults by border police and other law enforcement officials. Most recently, in the period May-September 2016 BHC received 33 such allegations affecting more than 600 persons who had asked for international protection.¹¹ The majority of received complaints (80%) concerned the seizing of cash, valuables or even the food the migrants carried, without issuance of a protocol, upon their detention by the Bulgarian police authorities. There were reports about inappropriate treatment by the police: using rude language, setting personal belongings on fire and strip searches. A significant share of the complaints by asylum seekers (around 45%) concern physical violence, including knocking to the ground, kicking, beating people with batons and in one case - a handgun grip. In six cases, police dogs were used during the arrest for intimidation, which resulted in one case of a dog bite. In several other cases the policemen used warning shots (shooting in the air). On one such occasion, on October 15, 2016, the Afghan man Ziaullah Wafa, 19 years old, was killed after a border policeman allegedly used a warning shot and the bullet ricocheted, killing Wafa. In June 2016 the Bourgas Regional Prosecutor's Office discontinued the investigation because the result of the police officer's conduct was found to be coincidental and could not have been foreseen. In the last several years BHC, Amnesty International, Human Rights Watch and other international organisations have criticised the Bulgarian government for pushing back asylum seekers through unlawful use of force and firearms.¹²

In addition to law enforcement officers, private vigilante groups "hunting" for migrants near the Bulgarian-Turkish border have physically abused, detained and robbed migrants on

¹⁰ In 2010 the European Court of Human Rights found a violation and direct discrimination in the sentencing of a Roma person: CEDH, *Paraskeva Todorova c. Bulgarie*, no. 37193/07, Arrêt du 25 mars 2010.

¹¹ See: *BHC calls on authorities to investigate reports of systemic human rights violations regarding refugee access to territory and international protection*, 18 November 2016, available at: <http://www.bghelsinki.org/en/news/press/single/bhc-calls-authorities-investigate-reports-systemic-human-rights-violations-regarding-refugee-access-territory-and-international-protection/>.

¹² HRW, *Containment Plan: Bulgaria's Pushbacks and Detention of Syrian and Other Asylum Seekers and Migrants*, April 28, 2014; HRW, *Bulgaria: Asylum Seekers Summarily Expelled*, April 29, 2014; HRW, *Bulgaria: Halt Summary Returns, Beatings, Robbery of Asylum Seekers*, January 20, 2016; Amnesty International, *Bulgaria must ensure independent and impartial investigation into death of Afghan asylum-seeker shot at Bulgarian-Turkish border*, October 16, 2015; Amnesty International, *Bulgaria: It's time to address the allegations of abuse of refugees and migrants by the police*, December 11, 2015.

numerous occasions. In April 2016 the Prime Minister Boyko Borisov talked with one such group, thanked them and praised their activities.¹³ Although criminal investigations were instigated and charges were brought against members of some of these vigilante groups, none have been convicted. In March 2017 the leader of one such group, who was charged with tying several Afghan migrants with plastic cords and keeping them detained on the ground for a prolonged period of time, was acquitted by the Bourgas District Court.

Article 4

Public incitement to hatred, discrimination and violence in Bulgaria have become a particularly serious problem over the past five years. Most victims of such crimes include the Roma, the Muslims and the migrants. This goes by and large unpunished.¹⁴ The statistics presented by the government show very low conviction rates. Importantly, there is no indication in how many cases the convicted persons belong to ethnic minorities, as Articles 162 and 164 of the *Criminal Code* have been vigorously enforced against persons belonging to such groups but rarely against members of the majority and never against politicians who have been particularly virulent instigators.

For the purposes of the present submission the BHC sought information from the Council of Electronic Media (CEM), the body overseeing the work of the radio and the TV broadcasting operators in Bulgaria, on the number of sanctions it imposed on them over the past five years for public incitement of hatred. Article 10, para. 1, pt. 6 of the Radio and Television Act prohibits broadcasts “inciting hatred on the grounds of race, sex, religion and nationality”. On 21 March 2017 the CEM supplied the requested information. It appears that since January 2012 it sanctioned with fines only two TV operators: on 10 November 2015 it sanctioned Evrokom TV with 3,000 BGN for inciting hatred against Roma in the program PSYCHO-dispanser;¹⁵ on 15 December 2015 it sanctioned SKAT TV with 3,000 BGN for inciting hatred against Roma in a report entitled “Bourgas – the city of Gypsy lawlessness and burqas?!”.¹⁶ In both cases the fines are the minimal envisaged by law, could hardly have and, given the subsequent behavior of both TV operators, did not have any dissuasive effect. No sanction was ever imposed on the Alfa TV of the Ataka party and not one sanction was imposed in 2016 when racist hate speech reached unprecedented scale. Compared to the scale of the racist hate speech spread in the above, as well as in several other media, the CEM attitude can fairly be described as a

¹³ See for more details the letter to the Prosecutor General by a group of citizens available at the BHC web site: <http://www.bghelsinki.org/en/novini/press/single/20160414-crime-report-vigilante-patrols/>.

¹⁴ The ECtHR judgment in the case of *Karahmed v. Bulgaria* (no. 30587/13, Judgment of 24 February 2015) involving an Ataka mob attack on Sofia’s Banya Bashi mosque on 20 May 2011 deals with a typical example of the impunity, which perpetrators of hate speech and hate crimes enjoy.

¹⁵ PSYCHO-dispanser was a virulently racist program of the Evrokom TV in the period 2013-2016 targeting Roma, migrants and Muslims.

¹⁶ CEM, Decision No. RD-05-37 of 21 March 2017.

complicity to the impunity, which public incitement to hatred, discrimination and violence enjoys in the Bulgarian media.

The text below traces major incidents of public hate speech and other public expressions of hatred on an annual basis since 2013. This account is by no means exhaustive. It does not cover hate speech on the Internet, which is very widespread.

1. Developments in 2013

Since the fall of 2013, when the first upsurge in the number of asylum seekers was observed, several political parties and media contributed actively to the creation of a hostile and threatening environment for refugees and asylum seekers. In addition, as was the case during previous years, Roma and Muslims continued to be portrayed as anti-social and anti-national elements in the public speeches of party leaders. This was widespread on several cable TV channels, including SKAT TV, Alfa TV and Evrokom TV, as well as in some tabloid newspapers with wide circulation, such as “Weekend”, “Retro”, “Telegraph”, “Monitor” and “Pensioneri”.

In 2013 the leaders of the Ataka party were particularly active in instigating hatred, discrimination and violence towards refugees. Through media owned by the party – the “Ataka” newspaper and the Alfa TV – party leaders presented the Syrian refugees as a threat to national security, calling them “cannibals”, “mass killers”, “Islamic fundamentalists running from justice” and “lying to the authorities”, “disgusting lowlife primates running from Syrian justice” who “have begun to steal, to assault” in Bulgaria and will begin “to rape and cut off heads”. In connection with this, BHC represented a group of individuals of Syrian origin residing in Bulgaria in a complaint before the Commission for Protection against Discrimination (CPD) against the MP Magdalena Tasheva and the Ataka political party as the owner of the media. The Commission offered partial relief to only one of the applicants, but its decision was overturned by the Sofia Administrative Court, so this virulent public incitement remained unpunished. The party leader of Ataka Volen Siderov insisted in many public appearances and rallies that all illegal immigrants should be immediately expelled, that the Bulgarian-Turkish border should be closed and that no “alien” should be allowed on Bulgarian soil which “needs to be preserved for the Bulgarians”. These manifestations also remained unpunished.

In early November 2013 Angel Djambazki, one of the leaders of VMRO, at a rally in Sofia called on citizens to get organised and armed in order to “cleanse” the city of illegal immigrants. This appeal of Djambazki was followed by a series of assaults by hate groups on foreigners in

Sofia.¹⁷ Upon a BHC alert to the prosecutor general, the prosecutor's office initiated pre-trial proceedings but they were subsequently discontinued.

Anti-migrant racism during sports events became widespread. In the beginning of November 2013, BHC alerted the prosecution to a banner with a xenophobic threatening message set up by soccer fans during the Levski (Sofia) – Pirin (Gotze Delchev) game, which was held in Sofia on 3 November 2013. According to media reports, Levski fans displayed large banners that were visible from a distance, with the following message: “Refugees or runners away [Bulgarian pun with the word ‘refugee’] - whatever”, “Blood will be shed on our lands” and “Death to all refugees”. The prosecution opened an investigation but subsequently discontinued it, allegedly because no perpetrators could be identified. This racist instigation was one of the many that took place during sports events throughout Bulgaria and remained unpunished.

In 2013 many mosques in Bulgaria were attacked and desecrated with insulting, including racist, graffiti. With few exceptions, the police and the prosecution did not show much interest and activity in identifying the perpetrators and punishing them. BHC in cooperation with the Office of the Chief Mufti documented a number of such incidents:¹⁸

- On 7 January 2013, during noon prayer, unknown persons threw stones at the windows of the Hadji Osman mosque in Dobrich. Three windows were broken and one worshiper sustained a leg injury.
- On 11 January 2013, stones were once again thrown at the windows of the Hadji Osman mosque in Dobrich.
- On 22 January 2013, around 6.30 a.m., Muslims from Gotse Delchev found a pig's head posted on the mosque's entrance at 3 Zvancharska Street.
- On 5 January 2013, around 4.00 a.m., two youngsters aged 23 and 22 threw stones at the Dzhumaya Mosque in Plovdiv and broke three windows.
- On 8 February 2013, the Azizie Mosque in Varna woke up with the inscriptions “Fear, Turks”, “Levski is alive”, “Bulgaria above all” and a cross painted on its walls.
- On 7 March 2013, the façade of the Yali Mosque in Karlovo was sprayed with the inscription “Death to you, Turkish trash!” and a swastika.
- In the night of 25 April 2013, the central mosque in Ispereh was painted with anti-Muslim inscriptions.
- In the night of 6 September 2013, unknown persons painted the fence of the Azizie Mosque in Varna with inscriptions “OUT!!!”, “14/88” and a swastika.
- On 6 October 2013, there was an attack against the central Eski Mosque at 21 Otets Paisii Street in Kazanlak. The attackers broke several windows. Two weeks later, on 20

¹⁷ For a short account of these assaults see: BHC, *Human Rights in Bulgaria in 2013*, March 2014, available at: www.bghelsinki.org.

¹⁸ The following short account of the incidents is from: BHC, *Human Rights in Bulgaria in 2013*. The report provides more information on them.

October 2013, there was an arson attempt. The incident was recorded by security cameras. The images show a youngster walking around the mosque during the night, carrying a fuel can. He then starts to pour its contents on the western walls and windows and sets them on fire.¹⁹

- On 19 November 2013, around 11:40 p.m., the mosque in Blagoevgrad was subjected to yet another criminal act. A man broke the window and tried to break the door. The imam happened to be inside and called 112. The police caught the perpetrator at the crime scene. At 8:00 a.m. on the following day the police called the imam and told him that the perpetrator would stop by and pay for the damages. He had only been offered to sign a “warning protocol”.
- On 19 December 2013, the Azizie Mosque in Varna was set on fire. The damages were substantial. The possible perpetrator was recorded by the security cameras. The recording shows him exiting the mosque a few minutes before the fire started. However, the perpetrator had not been identified.²⁰
- On 20 December 2013, around 11:30 p.m., there was yet another attack against the mosque in Blagoevgrad. The perpetrator threw stones at its windows, which triggered the security system. Security staff caught the perpetrator and handed him over to the police. The police drafted a protocol and, after being detained for several hours, the perpetrator was released for unknown reasons.
- On 25 December 2013, the windows of the mosque in Kazanlak were once again broken. The perpetrators have not been identified.²¹
- On 29 December 2013, the Sherif Halil Pasha mosque (a.k.a. Tombul mosque) in Shumen once again woke up with “DEATH TO YOU!” painted on its external front wall. The police drafted a protocol and conducted an investigation but the perpetrators were not identified.²²

For each one of these incidents the local representatives of the Muslim religious denomination informed the police. In some of them the perpetrators were identified. However, if we look at the statistics provided by the government as an annex to their report, we can see that for 2013 and for 2014 there were **no persons** convicted for vandalising religious buildings or for other crimes against religions.

¹⁹ The video is available at: http://news.ibox.bg/news/id_1108725442.

²⁰ “The Azizie mosque in Varna falls victim to arson”, 20 December 2013, available at: <http://www.grandmufti.bg/bg/news-from-bulgaria/4138-varnenskata-dzhamiya-qaziziiq-zhertva-na-umishlen-palezh-.html>.

²¹ “Vandals attack a mosque”, *Trud* daily, 27.12.2013.

²² “Vandals spray-paint a mosque and a monument”, *Trud* daily, 3.01.2014.

2. Developments in 2014

Hate speech targeting Roma, Muslims and migrants continued also in 2014, as did the vandalism of mosques. 2014 saw the biggest anti-Muslim demonstrations over the past five years, with virulent anti-Muslim and racist hate speech and bias-motivated violence. BHC documented the following anti-Muslim demonstrations and instances of vandalism of mosques, most of which included racist instigation:

- On 13 January 2014, the downtown mosque in Pazardzhik woke up painted with multiple swastikas and anti-Muslim phrases, including the word “swine” sprayed in black.
- On 14 February 2014, over 1,000 people protested in Plovdiv against a case reviewed by the Plovdiv Appellate Court as a court of second instance, involving the restitution of the Kurshum Mosque in Karlovo to the Chief Mufti’s Office. Passing by the historic Dzhumaya Mosque on 14 February, the protesters threw cobblestones, stones, crackers, smoke bombs and a burning torch. The mosque’s door was broken, alongside many windows. Anti-Muslim appeals and appeals to violence were posted, including: “Gypsies into soap, Turks – under the knife”. The protest was organised by hate groups, football fans and representatives of ultra-nationalist political parties. The Municipality of Karlovo posted on its website an official press release to thank everyone who took part in the protests in Plovdiv.
- On 15 February 2014, the building of the Higher Islamic Institute in Sofia was attacked. It was spray painted with anti-Muslim slogans such as “Turks out!”, “Nazi Boys” and others. The security cameras recorded two perpetrators. They were masked and could not be identified by the police.
- On 16 March 2014, the Killak Mosque in Shumen woke up to “Death to you” inscriptions. The police was notified, but the perpetrators were not identified.
- On 15 May 2014, the old mosque in Asenovgrad was desecrated with offensive and anti-Muslim inscriptions such as “pikes” and “katwa”, and with swastikas.
- The Karadzha Pashi Mosque in Gotse Delchev was again vandalised in 2014 on several occasions. On 19 June 2014, a cross was placed on the mosque’s minaret; several days later it had been topped with the national flag accompanied by an inscription “Don’t do Erdogan a favour” and a swastika. The district mufti’s office notified the prosecution in both cases and the person who had posted the flag was identified. Nevertheless, the Gotse Delchev District Prosecutor’s Office refused to initiate pre-trial proceedings with the argument that the mosque was not in operation and was thus a cultural monument; therefore, these acts did not constitute a crime under the *Criminal Code*. As to the flag, the District Prosecutor’s Office agreed with the perpetrator’s statement that his act had “patriotic motivation”. The refusal was confirmed by the Blagoevgrad Regional Prosecutor’s Office.

- In another case, on 10 and 11 August 2014 the walls of the Karadzha Mosque were sprayed in black with the words “Amen”, “Christ has risen”, “1488”, a cross and a swastika. The Gotse Delchev District Prosecutor’s Office refused again to initiate pre-trial proceedings with the argument that the mosque is not a working temple but a cultural monument.
- Around 20 June 2014, the mosque in the village of Popovo, Targovishte region, was also desecrated by inscriptions “Death to the Turks and the Gypsies”, “Gypsies into soap, Turks under the knife” and swastikas.
- On 16 September 2014, the mosque in Blagoevgrad was desecrated once again with the inscriptions “Death” and “We won’t forget Bunovo”.

For all these incidents only one person was convicted in 2015 for the broken windows of the mosque during the 14 February 2014 demonstration in Plovdiv. He was sentenced to 14 months of probation under Article 164, para. 2 and Article 325, para. 1 of the *Criminal Code*.²³

In advance of the October 2014 parliamentary elections, ultra-nationalist political parties used virulent anti-minority rhetoric in both their public speeches and in their platforms.²⁴ This continued also after the elections. On 7 December the health minister Petar Moskov (of the Reformist Bloc coalition partner) made a statement about attacks against medical emergency teams in Roma neighbourhoods, which was widely publicised. The minister announced in Facebook his intention to have the medical emergency teams stop responding to emergency calls from Roma neighbourhoods: “If someone has chosen to live and act like an animal, he also gets the right to be treated as such. In fact, even the wild animals understand when you are trying to help them and wouldn’t attack you ... As of tomorrow, [medical emergency] teams will enter locations where such incidents have occurred only if an agreement is reached with the local community’s “opinion leaders” to personalise the responsibility of the said population, or accompanied by police teams. When possible and as possible. I will issue a special order relieving the regional centres and the teams of the responsibility for these decisions”. Minister Moskov’s racist threat spurred a storm of indignation among the Roma community and rights activists. Several organisations and individuals appealed to the prosecution, insisting that it hold the minister responsible for instigating racial hatred and discrimination. At the end of February 2015, the Sofia City Prosecutor’s Office refused to initiate criminal proceedings, accepting that Moskov’s actions did not constitute targeted and deliberate instigation of racial discrimination, violence or hatred based on race, nationality or ethnic origin.

In another case of instigation of hatred, on 17 December the leader of the ultra-nationalist NFSB, Valeri Simeonov stated in parliament’s plenary that the Roma have turned into

²³ The official statistics, which the BHC sought in 2016, mention only this sole indictment under Art. 164, para 2 and no other indictment for crimes against religions for the entire 2014, see: BHC, *Human Rights in Bulgaria in 2015*, March 2016, available at: www.bghelsinki.org.

²⁴ See above under **Article 2**.

“ferocious apes demanding right to salary without labour, sick assistance without being sick, child assistance for children playing with pigs in the streets, and maternal assistance for women with the instincts of street bitches”. This statement also spurred a storm of protests among the Roma community. Several Roma organisations and individual Roma activists addressed the prosecution, asking that it hold him criminally responsible for instigation of racial hatred and discrimination. The prosecution however refused to bring charges. The complainants initiated a civil lawsuit, which is pending before the Bourgas District Court at the moment.

Rights activists defending marginalised minority groups and migrants also became victims of hate speech in 2014. Such speech was especially widespread on the Internet and in social media. The main themes articulated by such speech are that the non-governmental organisations are working against the interests of Bulgaria (being labelled “anti-Bulgarians”); that they are “financed from abroad” and are therefore “foreign agents”. On 12 September 2014, as part of its election campaign, the Bulgarian National Union – New Democracy (BNS-ND), a small ultranationalist political party, and the Movement for the Protection of the Fatherland, a Facebook group, organised a protest rally in front of the BHC office under the motto “Let’s ban the BHC”. The rally was attended by some 50 individuals who shouted racist insults, threats to the life of the staff, called the neighbours in the residential building, which houses the BHC offices, to banish its staff from the offices and raised and disseminated posters with such calls. All this happened in front of police officers present at the rally. The prosecution was informed about the threats heard during the rally. It initiated an investigation against an “unknown perpetrator”, which was later stopped for allegedly failing to identify the perpetrators. This is despite the fact that the BHC submitted video evidence and witness statements, which clearly identified several of the perpetrators and organisers of the protest.

3. Developments in 2015

Hate speech against ethnic and religious minorities continued to be strongly present in many media reports during 2015, and the attitude to marginalised groups was generally stereotypical and negative. The television channel of the Ataka party, Alpha TV, and that of the NFSB, SKAT TV, continued to systematically instigate hate and intolerance on racist and Islamophobic grounds, as well as against migrants. Although such acts should be penalised both under the media legislation and under the *Criminal Code*, no such penalties were ever imposed.²⁵ Instigation to hatred and discrimination against Roma became particularly virulent during demolitions of Roma housing,²⁶ as well as around the municipal elections, which took place in October-November 2015. Ultra-nationalist parties were particularly active in instigating hate and discrimination against Roma and migrants. Even the candidates of mainstream parties

²⁵ See “Alpha TV against the powerless regulator”, 4 December 2015, *Capital*, available at: http://www.capital.bg/biznes/media_i_reklama/2015/12/04/2663382_alfa_tv_sreshtu_bezsilniia_regulator/.

²⁶ See below under **Article 5**.

ventured into such propaganda. Thus, the candidate for mayor of Sofia from the Bulgarian Socialist Party Mihail Mirchev made anti-minority statements in the course of the campaign. In an interview in October, he said that he was consciously trying to recruit nationalist votes and that he is “a carrier of Orban-style ideas, of the policy to protect our state from the pest of the invaders”, alluding to the refugees. He then added: “They are invaders, and primitive ones at that, because from a civilisational point of view they belong to the 7th century; we are after all living in 21st century Europe. The two civilisations are completely incompatible. [...] All these definitions are unpleasant, go against the ideologemes of European tolerance, but are completely realistic from a factual point of view”. In his opinion, “the modern left is patriotic and nationalist”.²⁷ Mirchev also published in the social media his poem describing the Roma and the refugees as a threat.

The vandalism of mosques continued in 2015. In most cases, the police and the prosecution did not show sufficient interest and were not sufficiently active in identifying and punishing the perpetrators.

- An attempted arson attack at the Dzhumaya Mosque in downtown Plovdiv took place around 10 p.m. on 5 January 2015. The perpetrator poured incendiary liquid on the building window frames and set them on fire. The perpetrator was arrested and subsequently sentenced.
- The Hadzhi Osman mosque in downtown Dobrich was desecrated on 12 January 2015. A huge white cross was painted on its external wall.
- On 22 February 2015, the Blagoevgrad Area Mufti's Office administrative building woke up to swastikas and insults, including “Death to the Turks”. The Area Mufti's Office filed a complaint with the police. On this occasion, and on the occasion of previous anti-Muslim acts in the area, the Area Mufti's Office organised on February 28 a peaceful protest under the motto “Together against Islamophobia, xenophobia and hatred”. Despite the protests, just a few days later, on 3 March 2015, the mosque in Blagoevgrad was painted with many insults, swastikas, 1488,²⁸ “death to Dogan” and peppered with pork legs and intestines.
- In another incident on 19 June 2015, the first day of the Ramadan, a hog's head was hung from the minaret of the mosque in Gotse Delchev.
- Insults were written on the wall of the mosque in Gorna Oryahovitsa on 13 July 2015: “Allah is a pig”, a swastika and 1488.
- The mosque in Yambol was desecrated on an unknown date, again by painting vulgar words and swastikas on its walls.

²⁷ “Mihail Mirchev: The problem with the refugees will make Sofia explode”, 23 October 2015, ClubZ.bg, available at: <http://clubz.bg/29365-mihail-mirchev-problemyt-s-bejancite-shte-vzrivi-sofiq>.

²⁸ 1488 or 14/88 denotes “the fourteen words”, a phrase used mainly by the so-called white nationalists, an informal racist movement advocating racially defined national identity for the white people, opposing multiculturalism. The usual quote is: “We must secure the existence of our people and a future for white children”.

4. Developments in 2016

2016 brought about a drastic deterioration in public instigation to hatred, discrimination and violence towards ethnic and religious minorities, as well as towards human rights defenders and other organised anti-racist activists. In July 2016 the Open Society Institute published a survey on the experience of ordinary people with hate speech. The survey showed a sharp increase in public hate speech compared to 2014. Thus, the share of the respondents who said that they have heard hate speech in general increased by 11% compared to 2014. In 92% of the cases the hate speech was towards Roma. At the same time hate speech towards Muslims increased more than three times (from 11% to 38%), whereas hate speech towards the Turks increased by 19%. Since 2013 hate speech towards foreigners increased more than four times (from 5% to 21%).²⁹ Several other organisations also reported sharp increases in public hate speech in 2016.³⁰ In October 2016 John Dalhuisen of Amnesty International stated: “The Bulgarian authorities have not only failed to counter the climate of intolerance, but have actively engaged in inflammatory speech and at times openly encouraged violence.”³¹

During 2016 numerous protests and demonstrations took place aimed mainly against refugees or Roma, in which hate speech was often overflowing into direct calls to violence. In September, residents of the Sofia district "Ovcha Kupel" organised a protest demanding the immediate closure of the refugee centre in the neighbourhood, and "immediate expulsion of illegal migrants". Organisers of the event were VMRO, Ataka and the NFSB. Protesters chanted "Aliens out!" and "I do not want you here!". Small groups of residents of the town of Harmanli repeatedly protested against the refugee reception centre in the city, organised mainly by VMRO and NFSB. In October the extremely racist group "National Resistance" organised a protest march in Sofia against immigrants and shouted racist slogans in front of the police.

In May a traffic accident between two drivers in the town of Radnevo ended with a bloody beating of passengers from one of the cars. It turned out that the attackers were of Roma origin. For several days protests by local citizens organised by hate groups took place in front of the Roma neighbourhood "Cantona". All inhabitants escaped and were absent from the city for several days. The protesters shouted "Bulgaria for the Bulgarians!" and "Gypsies into soap!" A Facebook group "Truth for Radnevo" posted videos with Hitler and the neo-Nazi network

²⁹ The results of the survey are accessible at the OSI web site: http://osi.bg/?cy=10&lang=1&program=1&action=2&news_id=716.

³⁰ Amnesty International, *Annual Report 2016*, London, 2016, available at: www.amnesty.org; Foundation “Media Democracy”, Foundation “Center for modernizing of policies”, Hate speech in Bulgaria: *Risk zones, vulnerable subjects*, Sofia, 2016, available at: <http://www.fmd.bg/?p=9356>. In the latter publication there is a detailed description of the types, the sources and the effects of the racist hate speech.

³¹ Amnesty International, *Response to assault on chair of Bulgarian Helsinki Committee*, 27 October 2016, available at: <https://www.amnesty.nl/actueel/response-to-assault-on-chair-of-bulgarian-helsinki-committee>.

"Blood and Honour" took active part in the protest. This public incitement to hatred and violence did not give the competent authorities sufficient ground for prosecutions.

A strong boost to Islamophobic hate speech was given by the adoption of several regulations by different municipalities of Bulgaria prohibiting the veiling of Muslim women in public places. In September a comprehensive law was adopted by the Parliament, which restricts the wearing of clothing disguising or concealing the face in public. The draft was proposed by the Patriotic Front and its adoption was preceded by intense Islamophobic hate speech by representatives of that political coalition. Other public figures also spoke in support of the draft law, including the Prosecutor General Sotir Tsatsarov and the Deputy Prime Minister and Education Minister Meglena Kuneva.

In 2016 assaults and desecration of mosques in different regions of Bulgaria continued:

- In June the façade of the mosque in Yambol was desecrated with threatening slogans.
- On 8 August unknown perpetrators painted the funeral car of the District Mufti's Office in Pleven with inscriptions: "Murderers!"; "You have committed a genocide on Bulgaria!" and "Islam has destroyed Europe".
- During the Muslim religious holidays between 12-15 September the outer wall of the Chief Mufti's Office in Sofia was depicted with nationalistic symbols and threatening slogans.
- In the beginning of October 2016 unknown persons wrote "Fuck all" on the entrance of the "Kurshum cami" mosque in Karlovo.
- On 4 November the mosque in the village of Medovets, near Varna, woke up with an inscription "Death to Turks" and a pig head hanged on a tree near the entrance.
- On 6 November unknown perpetrators wrote on the mosque in Pleven "Allah is a pig".
- On 9 December at night unknown perpetrators tried to burn the mosque in Silistra. Seven Molotov cocktails were thrown at the building.

Although all these cases were reported to the police, none of them resulted in charges and convictions.

Article 5

1. Discrimination in the exercise of political rights of minorities

Article 133, para. 2 of the *Election Code* of 2011 provides that "the election 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 district 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. This is the case with some ethnic Turks who live in remote villages of

Bulgaria populated only by members of the Turkish minority. The provision thus has a discriminatory effect on the members of that ethnic group in the exercise of their political rights. Article 133, para. 2 was enforced already during the first election after the *Election Code* entered into force. In May 2013 during the election campaign for the upcoming parliamentary elections Lyutfi Mestan, the then leader of the Movement for Rights and Freedoms, a political party representing mostly ethnic Turks and Muslims, was fined the maximum amount of 2,000 BGN for speaking Turkish at a pre-election meeting in the predominantly Turkish village of Yablanovo. The fine was subsequently reduced upon appeal to 500 BGN. Mr Mestan was subsequently fined in advance of the 2014 parliamentary elections four times – on each occasion for speaking Turkish in villages populated predominantly with ethnic Turks. The fines ranged between 200 BGN and 2,000 BGN. In one of the cases, the District Governor of Plovdiv imposed on him a fine of 681 BGN, a symbolic number because this is the year of the founding of the first Bulgarian state in 681 AD. In the course of the 2014 election campaign several other candidates of the MRF were fined for speaking Turkish – Cemal Çoban, Husein Hafuzov, Ercan Ebatin, Rushen Riza, Ahmed Ahmedov and Aydoğan Ali. One person, Yordan Tsonev, was fined for encouraging people to speak Turkish. The fines ranged between 200 BGN and 2,000 BGN. In the course of the 2017 parliamentary election campaign several district election commissions filed protocols against persons who spoke Turkish. At the time of the writing however no fines have been imposed by district governors.

In July 2016, the Parliament amended the *Election Code* on a proposal by the Patriotic Front. The amended Article 14, para. 3 and 5 established a new legal regime for the formation of electoral sections abroad. In the EU member states the number of sections is unlimited whereas in the non-EU member states their number cannot exceed 35. This amendment of the law was done on purpose – to restrict the possibility of the Bulgarian citizens in Turkey to vote. The latter are mostly ethnic Turks who were expelled or emigrated to Turkey after the name-changing campaign of the communist regime in 1984-1989. They vote for the most part for parties representing the interests of the Turkish minority. The sponsors of the bill did not hide their discriminatory purpose. Valeri Simeonov, leader of the NFSB, stated in April 2016: “Be patriots! The vote abroad favors the MRF.”³² The new legislative changes produced effects already at the first round of the November 2016 presidential elections with only 23,023 persons voting in Turkey.³³ For comparison, with no restrictions on the number of voting sections in Turkey, at the 2009 parliamentary elections the number of voters in that country was 89,071; at the 2013 parliamentary elections the number of voters was 63,152 and at the 2014 parliamentary

³² “Valeri Simeonov: Be patriots! The vote abroad favors the MRF.”, OffNews от 25 април 2016 г., accessible at: http://offnews.bg/news/Politika_8/Valeri-Simeonov-Badete-patrioti-Glasuvaneto-v-chuzhbina-e-v-polz-na_628250.html.

³³ „Elections 2016: How did the Bulgarians abroad vote?“, *Webkafe*, 8 November 2016, available at: http://www.webcafe.bg/webcafe/politika/id_1535466802_Izbori_2016:_Kak_glasuvaha_balgarite_v_chujbina.

elections the number of voters was 60,090. At the 2014 parliamentary elections, the total number of electoral sections abroad was 427, of which 136 in Turkey.³⁴

On 8 March 2017 the Central Election Commission (CEC) prohibited the broadcasting from all electronic media and from the Internet of an election video clip of the political party DOST, whose primary constituency is the Turkish minority. The reason – a short presence in the clip of the Turkish ambassador to Bulgaria. On 14 March 2017 the Supreme Administrative Court (SAC) with its Decision No. 3095 upheld the ban. As there is nothing in the law prohibiting the use of images of foreign government representatives in the election campaign materials, the CEC and the SAC justified the ban with the alleged contradiction of “good morals”. Article 183, para. 4 of the Election Code prohibits the “use canvassing materials that jeopardise human life and health, private, municipal and state-owned property and traffic safety, or materials that harm good morals, the honour and reputation of the candidates”. On no other occasion was this provision used in the past to suppress canvassing materials with images of foreign government representatives. Moreover, most political parties have used such images in their election materials in the past routinely. Thus, a video clip of the ruling party GERB for the 2013 parliamentary elections consists only of images and statements of foreign government representatives praising the leader of GERB, including among others Barack Obama, Angela Merkel, Vladimir Putin, David Cameron, Benjamin Netanyahu and John Brennan (former CIA Director).³⁵ Similarly, a video clip of GERB for the 2014 parliamentary elections features Barack Obama, Benjamin Netanyahu and David Cameron, among others.³⁶ No action was taken to stop the broadcasting of these video clips.

Another serious concern with the exercise of political rights by Roma is the denial of registration of their permanent addresses by the municipal authorities. In many cases this leads to a denial of personal documents. Thus, on both grounds they may be denied the right to vote. At the end of 2016, two NGOs filed a complaint to CPD over the refusal to register the permanent addresses of Roma because they do not possess the necessary documents. These include among others also a title of ownership of their homes. As many of these homes have been built without permits in the past, Roma who have lived in them for long periods of time, in some cases all their lives, do not have titles of ownership. The recent amendments of the Citizens’ Registration Act restricts the possibility for registration of an unlimited number of residents on an already existing address. The CPD has not issued a decision on the complaint so far.

³⁴ Source: Central Election Commission, at: <https://www.cik.bg/en/>.

³⁵ The video clip (“Рекламен клип - Партия "Герб" клип 4) is available on YouTube at: <https://www.youtube.com/watch?v=GpsK4HFtU44>.

³⁶ The video clip (“Предизборни клипове на ПП ГЕРБ - Парламентарни избори 2014 - 1 клип”) is available on YouTube at: <https://www.youtube.com/watch?v=qkWwFB2rgsw>.

2. Discriminatory non-recognition of Macedonians and violations of their right to freedom of association and of peaceful assembly

The Council of Europe bodies tasked with monitoring racism, intolerance and the rights of minorities on numerous occasions have expressed concerns over the non-recognition of Macedonians as an ethnic minority and over the unjustified restrictions of their right to freedom of assembly and freedom of association by the Bulgarian authorities. The last published report of the Advisory Committee on the Framework Convention for the Protection of National Minorities observed their reluctance to expand the personal scope of the convention to the Macedonians. It also observed that the long-term effect of the difficulties Macedonians experience regarding their freedom of assembly and association is to create a climate of intimidation and harassment that runs counter to the provisions of the Framework Convention.³⁷ The Advisory Committee expressed similar concerns in all of their earlier opinions on Bulgaria. Similarly, in its last report ECRI also expressed concerns about the non-recognition of Macedonians.³⁸

Denial of the Macedonian ethnic identity, the belief that Macedonians are in fact Bulgarians and that Macedonia is nothing but a geographic region that ethnically belongs to Bulgaria, is deeply rooted in the official Bulgarian politics since Bulgaria's independence. It was one of the major causes of all the wars Bulgaria has been involved in throughout the course of the 20th century. With the exception of the period from the late 1940s to the late 1950s, denial of the Macedonian identity was also the official policy under communism. This resulted in various forms of repression and imprisonment of ethnic Macedonians. When in January 1992 Bulgaria recognised Macedonia as an independent state, the then President of Bulgaria declared that this does not mean that Bulgaria recognises the Macedonian ethnic identity. Since then this has been the official policy of all subsequent governments. All heads of state after 1990 have expressed clearly their belief that there is no Macedonian ethnic minority in Bulgaria.

This general policy of denial is reflected also in the Bulgarian judiciary's approach to the recognition of Macedonian identity and the rights of Macedonians in different types of proceedings. In the 1999 case of the dissolution of the political party UMO Ilinden PIRIN, on which the European Court of Human Rights gave judgment on 20 October 2005, the Constitutional Court of Bulgaria refused to consider PIRIN's unconstitutionality on the basis of the alleged breach of art. 11, para. 4 of the Constitution, which prohibits political parties formed along racial, ethnic or religious lines. The Constitutional Court's argument was that "there was no separate Macedonian ethnos in the Republic of Bulgaria" and that therefore that

³⁷ Advisory Committee on the Framework Convention for the Protection of National Minorities, *Third Opinion on Bulgaria*, ACFC/OP/III(2014)001, Strasbourg, 30 July 2014, § 10.

³⁸ *ECRI Report on Bulgaria: Fifth Monitoring Cycle*, § 68. In its 2009 report ECRI placed the Macedonians among the vulnerable groups and urged the Bulgarian authorities to monitor closely and undertake measures against discrimination and intolerance towards them.

party could not be formed along ethnic lines. PIRIN was ultimately declared unconstitutional but on other grounds. Other courts too expressed similar attitudes. This is by no means the only case of denial of Macedonian identity by Bulgarian courts. On 7 May 2009 with its Decision No. 407 the Sofia Appellate Court upheld the decision of the Blagoevgrad Regional Court No. 3/12.01.2009, with which the latter refused to register the Macedonian non-profit association “Macedonian Society for Culture and Education Nikola Vaptsarov”. A year later, on 14 July 2010, the Sofia Appellate Court with its Decision No. 64 upheld Decision No.29/19.02.2010 of the Blagoevgrad Regional Court by which the latter refused to register another Macedonian non-profit organisation, the “Society of the Repressed Macedonians”. In both decisions the Sofia Appellate Court held that “in Bulgaria there is no separate Macedonian ethnicity”. Decision No. 64/14.07.2010 went even further in reasoning that the very existence of an organisation of ethnic Macedonians, which struggles for the rights of Macedonians who suffered repression in the past, is contrary to art. 6, para. 2 of the Constitution, which prohibits discrimination on the basis of ethnicity and origin, among other grounds.

Macedonians have suffered systemic and repeated violations of their rights to freedom of assembly and freedom of association. These have been the subject of judgments and proceedings before the European Court of Human Rights. So far the Court had ruled on eight cases involving ethnic Macedonians, in all of which it found violations of Article 11 of the ECHR. These include:

- a. The case of *Stankov and the United Macedonian Organisation Ilinded v. Bulgaria* in which the Court found a violation of the right to freedom of assembly in five incidents of banning peaceful rallies of ethnic Macedonians by Bulgarian authorities in the period July 1994 – August 1997.³⁹
- b. The case of *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria* in which the Court found a violation of the right to freedom of assembly in 15 incidents of banning peaceful rallies of ethnic Macedonians by Bulgarian authorities in the period March 1998 – September 2003.⁴⁰
- c. The case of *United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria* in which the Court found a violation of the right to freedom of association in a case of a prohibition of a Macedonian political party.⁴¹
- d. The case of *Ivanov and Others v. Bulgaria* in which the Court found a violation of the right to freedom of assembly in two incidents of banning peaceful rallies of ethnic Macedonians by Bulgarian authorities in the period August - September 1998.⁴²

³⁹ ECtHR, *Stankov and the United Macedonian Organization Ilinden v. Bulgaria*, Nos. 29221 and 29225, Judgment of 2 October 2001. In this case the applicants brought complaints of violations of their right to freedom of assembly and of association in the period 1990 – 1993 but they were declared inadmissible by the Commission, some of them as being outside of the scope of the case *ratione temporis*.

⁴⁰ ECtHR, *United Macedonian Organization Ilinden and Ivanov v. Bulgaria*, No. 44079/98, Judgment of 20 October 2005.

⁴¹ ECtHR, *United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria*, No. 59489/00, Judgment of 20 October 2005.

⁴² ECtHR, *Ivanov and Others v. Bulgaria*, No. 46336/99, Judgment of 24 November 2005.

- e. The case of *United Macedonian Organisation Ilinden and Others v. Bulgaria* in which the Court found a violation of the right to freedom of association of a Macedonian organisation.⁴³
- f. The case of *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria (No. 2)* in which the Court found a violation of the right to freedom of assembly in 22 incidents of banning peaceful rallies of ethnic Macedonians by Bulgarian authorities in the period March 2004 – September 2009.⁴⁴
- g. The case of *United Macedonian Organisation Ilinden and Others v. Bulgaria (No. 2)* in which the Court found a violation of the right to freedom of association of a Macedonian association.⁴⁵
- h. The case of *Singartiyski and Others v. Bulgaria* involving a restriction of the right of freedom of assembly of ethnic Macedonians.⁴⁶

In addition, several other applications of ethnic Macedonians related to violations of Article 11 of the ECHR are pending before the Court.

3. Forced evictions of Roma

Since 2006, three international bodies – the European Court of Human Rights in the case of *Yordanova and Others v. Bulgaria* (2012), the UN Human Rights Committee in the case of *Naidenova et al. v. Bulgaria* (2012), and the European Committee of Social Rights in *European Roma Rights Centre v. Bulgaria* (2006) – have ruled against Bulgaria in connection with forced evictions of Roma. In all of the above cases, the respective bodies established inconsistency between the Bulgarian legislation on evictions and different provisions of international human rights law. In November and December 2014 the *Municipal Property Act* was amended, creating more possibilities to notify individuals about actions planned by municipal authorities, to allow those affected to express their opinion and to provide owners with guarantees against arbitrary and uncompensated implementation of municipal measures. Nevertheless, the possibility for the demolition of one's only home on the sole ground that it is illegally built, no matter what the consequences on the inhabitants may be, remains for all illegally built properties after 2001 and for those properties built before that year, which the owners have failed to make legal. The Bulgarian legislation and the case law of the administrative courts do not envisage obligatory assessment of the proportionality of a demolition *vis a vis* the right to private and family life.⁴⁷

⁴³ ECtHR, *United Macedonian Organisation Ilinden and Others v. Bulgaria*, No. 59491, Judgment of 19 January 2006.

⁴⁴ ECtHR, *United Macedonian Organization Ilinden and Ivanov v. Bulgaria (No. 2)*, No. 37586/04, Judgment of 18 October 2011.

⁴⁵ ECtHR, *United Macedonian Organisation Ilinden and Others v. Bulgaria (No. 2)*, no. 34960/04, Judgment of 18 October 2011.

⁴⁶ ECtHR, *Singartiyski and Others v. Bulgaria*, No. 48284/07, Judgment of 18 October 2011.

⁴⁷ Cf. ECtHR, *Ivanova and Cherkezov v. Bulgaria*, no. 46577/15, Judgment of 21 April 2016.

Demolition of Roma houses and forced evictions of Roma families from their only homes without alternative accommodation took place throughout the period between 2009 and 2016. It became a particularly serious problem and was used for political purposes in advance of the 2015 municipal elections.

a. The case of Maksuda neighbourhood in Varna

On 20 August 2015, the Municipality of Varna, in cooperation with the state authorities, carried out a forced eviction of hundreds of people living in Varna's Maksuda neighbourhood. The authorities' inadequate and poorly planned actions resulted in a humanitarian crisis that threatened the health and the life of a large number of people, many of them children. This was the largest forced eviction carried out by the Bulgarian authorities since the beginning of the democratic change. According to official data, 46 of all 58 houses scheduled for demolition were actually demolished. Official data provided by the municipal authorities at a later stage indicates that a total of 520 individuals, of whom 233 children, were registered as resident at the 58 condemned houses, and 490, of whom 211 children, were registered as domiciled. Assuming that the residents were distributed evenly between all condemned houses, this means that more than 400 persons, of whom more than 150 children, became homeless on August 20. For most families, this was the only home in which they had lived unmolested by the authorities for many years, in some cases more than a decade. Bad weather with low temperatures and rain followed the forced evictions.

The affected persons were not provided with adequate information about the exact date and time of the scheduled demolition. This resulted in the destruction of the residents' personal belongings, including clothes, electronics and furniture. Some of the people were not in their homes when the demolition began and were later not allowed by police officers to enter and collect their belongings. The eviction was preceded by police harassment of residents. On the day of the eviction there was a strong police presence. Women affected by the eviction were pushed, hit with a bat and threatened. Racist insults were made.

Despite the authorities' claims that all affected persons had been offered accommodation at social services, BHC received credible information that the offer was not made to everyone in an understandable language and after a careful discussion of the existing alternatives with every household. Official information provided in writing by the municipal authorities on the day of the eviction shows that alternative shelter was provided to only 48 persons at the Shelter for Temporary Accommodation of Homeless and Poor Persons located in the building of the Dr Anastasia Zhelyazkova Social Educational and Vocational Centre. The other alternatives announced by the authorities, the Gavrosh Shelter for Homeless Children and the Mother and Baby Unit, were in fact inaccessible due to the non-fulfilment of the requirements of the placement procedure for these facilities. The alternative accommodation option itself was made

impromptu by the municipality on the eve of the evictions, without preparation. Many of the people who could not be accommodated had to spend the night in the open or in improvised shelters. Despite the fact that the accommodation at the Shelter continued over the next several days, it was carried out gradually, with many people having to spend the nights outside, deprived of their homes.

The partial alternative accommodation in a social service was a temporary and insecure measure. The placement was carried out without a placement order, on the basis of an oral agreement with the shelter's management. According to the agreement, the placement was for a period of one month. This basically made the placement in a social service an inadequate alternative to the demolition of the affected persons' homes. The initial capacity of the shelter in which some of the newly homeless persons were placed was 50 beds. It was exceeded twice even before the admission of the affected persons from the Maksuda neighbourhood. According to the official information provided by the Municipality of Varna, 20 adults and 28 children had been accommodated there by 21 August 2015, which means that the number of residents exceeded the number of beds almost threefold. By the end of 2015 and in 2016 Roma families temporarily placed in alternative accommodation were forced to leave.

b. The case of Gurmen municipality

Another case of mass forced eviction took place in the municipality of Gurmen. In 2010, the National Building Control Directorate of the Ministry of Regional Development and Public Works established that 134 illegal houses existed in the Kremikovtzi neighbourhood of the village of Marchevo, municipality of Gurmen. The houses were built on municipal arable land, the first of them some 60 to 70 years ago. In 2011, the Directorate issued 134 orders for the demolition of the illegal buildings. Meanwhile, the former mayor of Gurmen issued 134 tolerance certificates, which made the Roma families think that the demolition orders would not be executed. However, the Directorate found only ten of them legitimate and terminated the execution of the orders for the demolition of these ten houses. The procedure for the remaining 124 went on. In 2013, the execution of all 124 orders was suspended by a letter of the former minister of investment planning until alternative housing was found.

A conflict arose on 25 May 2015 between representatives of the Roma and the Bulgarian communities, resulting in a fight in which three persons sustained injuries. Although the reason behind the conflict was not ethnically-based, the first media announcements spoke of a brawl between groups of ethnic Bulgarians and Roma. Several anti-Roma rallies were organised. On 23 June 2015, the Building Control Directorate issued letters for the execution of six orders for involuntary demolition of illegal buildings. Four buildings of Roma families in Gurmen were demolished on 29 June 2015 under public pressure, as a collective punishment for alleged unlawful actions of individual Gurmen residents and without consideration for the specific

situation of their residents who were in no way privy to past incidents. This campaign was accompanied by public anti-Roma rhetoric fuelled, among others, by the media and parliamentary represented ultra-nationalist political parties.

At a meeting of the BHC with the mayor of Gurmen on 3 July 2015, the mayor explained that the local authorities did not have the capability to provide alternative accommodation to the affected persons. A proposal was made to accommodate these families in an old school in another village but the local residents opposed. According to the mayor, no funds were available to repair the school building.

Another six houses were demolished on 7 September 2015, leaving 41 persons, including 21 children, homeless. Some houses were demolished by the authorities. For others, the families hired demolition crews because they were told that they would have to pay a large amount for the demolition. A real alternative was not offered, despite claims by the local authorities and the Building Control Directorate that alternative accommodation had been proposed, but the families had refused it. The families explained that the only proposal was for accommodation at the home of an ethnic Bulgarian in a village where the May and June 2015 protests were organised. Altogether ten houses of some 100 residents, most of them children, were demolished since the start of the forced demolitions.

c. The case of Orlandovtsi neighborhood in Sofia

Several anti-Roma protests were held in Sofia's Orlandovtsi neighbourhood in 2015. On 13 June 2015, a conflict arose in this neighbourhood between Roma and ethnic Bulgarians when a group of Roma drove around the park playing loud music. The conflict culminated in a mass fight in which six people were injured. A rally took place on June 14 to protest against "Roma crime" that was attended by some 200 people. Protesters, some of them armed with sticks, attempted to enter the Roma neighbourhood shouting "Gypsies into soap!" and "Bulgarian heroes!" They were repelled by the police. Thirty-four persons were arrested, only six of whom residents of the neighbourhood; some were football hooligans. A second rally took place on June 15, calling for an end to "abuse by the Roma". Protesters again attempted to enter the Roma neighbourhood shouting "Janissaries!" and "Bulgarian heroes!". Roma from the neighbourhood said that they had evacuated their children before the rally. Twenty people were arrested. A third protest against "Roma crime" took place on June 16, with neighbourhood residents explaining that they have no problems with the local Roma, but with the "sojourners". On June 17, some 100 persons once again held a rally in Orlandovtsi. There was yet another attempt to enter the Roma neighbourhood, but it was thwarted. Some protesters, headed by an initiative committee, organised a petition in favour of removing Roma from the neighbourhood. They called for checking the domicile of the Roma living in the neighbourhood, eliminating the illegal buildings, creating video surveillance, restoring street lighting and providing police

patrols until the situation calms down. Some 600 signatures were collected. The protests went on until June 19.

Answering a question by municipal councillors on the “issues in the Orlandovtsi neighbourhood and the responsibility of the Municipality of Sofia for solving them”, the mayor of Sofia, Yordanka Fandakova, answered that in 2012 the Municipality had removed nine illegal buildings in the Gradinite area. Some were re-built anew in 2013 and were then removed again. Another five illegal buildings were removed in 2014. As for 2015, she indicated that the mayor of the respective municipality had issued “another 14 protocols for the demolition of illegal buildings in the Orlandovtsi neighbourhood”, and that two more illegal buildings for which forced demolition orders had already been issued would be removed by the end of July. This did not happen. Despite that, the Roma residents continue to live in fear and insecurity.

In addition to the above incidents local authorities in several other municipalities of Bulgaria demolished illegally built Roma houses without providing any alternative accommodation.

4. Discrimination of Roma in education

The most serious problem in Roma education is its territorial segregation. According to different estimates, segregated schooling of Roma children comprises between 44% and 70% of the Roma children in school age, i.e. between 44 000 and 70 000 students.⁴⁸ This system of segregated schooling was created for the most part under communism with the growth of the large Roma ghettos in the cities. At that time most urban Roma schools were officially called "basic schools with enforced labor education". They had a separate curriculum stressing vocational training and development of manual labour skills from the first grade. This curriculum was abolished in 1991 but the system was preserved. It continued to be maintained by the official policy of attachment of students to school districts, i.e. they were prohibited to enroll in a school outside of their "region". This policy was abolished as late as 2003. Almost all "Roma schools" however continue to operate at the present time. Moreover, many other schools, located mainly in the small towns and villages became almost exclusively Roma over the past two decades with the migration of the Bulgarians from these locations. With almost no exception the quality of education in all these schools is extremely poor.

Series of official government documents, starting with the 1999 Framework Program for Equal Integration of Roma in Bulgarian Society envisaged desegregation of the “Roma schools”, including enrollment of Roma children into mainstream schools. This policy however remained largely on paper. Since the year 2000, several Roma NGOs supported by international donors

⁴⁸ For a detailed analysis of the findings of different estimates see: OSI/EUMAP, *Equal Access to Quality Education for Roma*, Vol. 1, Budapest, 2007, p.42-45.

started enrolling students from segregated Roma schools in mainstream schools. These projects quickly expanded in ten Bulgarian cities involving at their peaks some 3,500 Roma students.⁴⁹

The negative effects of segregated education on Roma children prompted CERD to make a recommendation in its 2009 concluding observations that “the State party continue measures to integrate Roma children into mixed schools, in cooperation with civil society organizations” (§ 13). The government report does not address this recommendation in the relevant section (§§ 28-33). One of the reasons for this omission is the deterioration of the situation in that regard.

Since 2009, the then government started a concerted effort at destroying all non-governmental desegregation projects as they saw in them centers of uncontrolled Roma mobilization. Through a combination of criminal investigations, directing local authorities to stop their cooperation with the NGOs, extensive tax inspections and smear media campaign the government achieved its aim. Ultimately, no one was convicted. But the NGOs gradually stopped operating desegregation projects. At present, there no desegregation projects in operation anywhere in Bulgaria. This is recognized officially in the new Strategy for Educational Integration of Children and Pupils from Ethnic Minorities (2015-2020) adopted by the Ministry of Education and Science in 2015: “Due to the lack of normative regulation, of a long-term targeted financial support, as well as of a consistent institutional and public support, the process of closing of the segregated kindergartens and schools stopped, and its positive results were minimized to a significant degree by the consequences of the secondary segregation, which followed.”⁵⁰ Yet, the new strategy does not make desegregation a focus of the government policy on minority education. It provides for four strategic goals with between 8 and 12 objectives in each goal. “Realisation of gradual desegregation plans at the municipal level” is one among many other objectives in Strategic goal No. 1. At that, it makes these plans conditional on the “public attitudes”, which are usually hostile to Roma enrollment in mainstream schools. No other strategic goal talks about desegregation.

Another serious deterioration in Roma education is the study of mother tongue. In its 2009 concluding observations CERD recommends that “the State party further develop structures and means for the teaching to ethnic communities in Bulgaria of their mother tongue” (§ 14). The government report does not address this recommendation. It restricts itself to only citing the relevant provisions of the Constitution and to pointing out how is this process organized. The official statistics provided in the government report suggests that at present no Roma children study their mother tongue in any Bulgarian school. The last school year, in which 52 Roma children could study Romanes in public schools, was 2007/2008. Since then a number of smaller minorities could study their mother tongue in public schools. Classes in Armenian (81

⁴⁹ The last assessment of the operation of the desegregation projects can be found in: BHC, *On the Road to Maturity: Evaluation of the Non-Governmental Desegregation Process in Bulgaria*, REF, Budapest, March 2008, available at: https://www.romaeducationfund.hu/sites/default/files/publications/bulgaria_deseg_report.pdf.

⁵⁰ The new strategy is available at: mon.bg/?h=downloadFile&fileId=7634.

children in 2014/2015 school year), Greek (35 children in 2014/2015 school year), Arabic (21 children in 2014/2015 school year), Hebrew (197 children in 2014/2015 school year) were offered. However, not in Romanes.⁵¹

In addition to Romanes, the study of Turkish as mother tongue also deteriorated over the past ten years. In the 2014/2015 school year, some 6,381 Turkish students studied their mother tongue. This is more than twice less compared to the 2005/2006 school year when 13,800 Turkish students were offered Turkish as mother tongue.

5. Discriminatory restrictions of family allowances

In July 2015 Parliament approved amendments to the Family Allowances for Children Act (FACA), which regulates the payments of family allowances for children. The amendments have a discriminatory effect on the Roma and were adopted on the insistence of the Patriotic Front, as part of their platform to sanction Roma families and combat the dangers they perceive exist from the higher birth rates of the Roma.

The amendments contain three features, which are highly controversial and have a detrimental effect:

- (i) The monthly child allowance can now only be paid in-kind rather than in cash, if the qualifying parent is a minor. Since the vast majority of births that take place to mothers who are minors are in the Roma community, this measure is aimed entirely against them. The provision of support through ‘in kind’ assistance only is detrimental because it risks being demeaning and it is unable to take into account the views of the recipient. Underage mothers are basically at the mercy of the local Directorates for Social Assistance, where the social workers are free to decide what a given family needs or does not need. The value of the goods and services provided is potentially opaque and is less valuable than the cash payments provided to all other mothers.
- (ii) The monthly child allowance is terminated if a minor becomes a parent. Again, this measure aims to prevent births to under-age minors but it does so in a punishing, aggressive way instead of through recognition of the vulnerability of under-age parents and their greater need for support.
- (iii) The monthly child allowance is terminated when the child stops attending school, and is thereafter stopped for a minimum period of one year, even if the child quickly returns to school. Prior to the amendments, allowances were terminated in order to provide a stimulus for parents to send their children back to school but they could be reinstated as soon as the child starts attending. The new regulations state that once allowances are terminated, they cannot be reinstated for minimum one year, regardless if the child starts attending school earlier. Again, this measure is primarily aimed at the Roma community and is having a detrimental impact on the education of Roma children. Given that the most common reason for dropping out of school

⁵¹ Source: MES, *Strategy for Educational Integration of Children and Pupils from Ethnic Minorities*, Annex 5.

is poverty, this measure in no way supports the policy of preventing schools drop outs, but instead (as recent statistics show) has led to an increase in school drop outs among Roma children since the introduction of the amendments.

Roma are much more likely than other ethnic groups to be adversely affected by these provisions. Statistics from the Bulgarian Agency for Social Assistance show that there are about 800 underage births annually and up to 90% of them are from the Roma minority, and Roma constitute a substantially higher proportion among persons who are poor and among those who rely on social assistance.

The new measures were adopted in a political context that was heavily influenced by ultra-nationalist parties, which have for a long time insisted on the need to restrict the higher birth rates among the Roma minority and decrease the financial compensations they receive for their children. One of the Patriotic Front's flagship issues has been underage births among the Roma community. Under the guise of promoting "responsible parenthood", they have led a mass public and media campaign against what they refer to as "children bearing children". The Patriotic Front were the most vocal defenders of the measure in the parliamentary debates that took place prior to the adoption of the amendments, both within the parliamentary commissions and in the plenary sessions. This is evidenced by the speeches of one of the party's leading figures, Dimitar Bayraktarov, who acted as the primary spokesperson during the debates. During a session of the Parliamentary Commission on Labour and Social Policy on 1 July 2015, he stated in relation to the amendments proposed by his party: "You see the tragedies that are happening in the ghettos, where there are mothers who are 16-17 years old with 3-4 children, living in unregulated slums... I am convinced that you know the structure of the population and it is good to say it out loud, that 22% of children under the age of 10 are Roma. At the moment there is the possibility that they are already one-fifth of the population of children, and they are illiterate, uneducated, without any health culture. Yes, I agree that [the children] are not to blame, but it has become a form of business and I am sure that you realise it."

The Patriotic Front has made numerous other appeals to this effect on the media, including for instance on SKAT television channel. The Patriotic Front submitted an even more restrictive parallel bill disadvantaging the Roma than the one introduced by the government – in response to what they perceived as "too soft" measures in the above bill – but it failed to gain parliamentary support. Some of the media appeals have been much less measured in tone than the quoted statement and have denigrated Roma mothers and compared them to breeding animals.

A number of children's rights NGOs and organisations working in the Roma community advocated against the adoption of the bill but it was passed anyway. Since then the Patriotic Front has been using it to show their constituency of voters that they are succeeding in combating the "bad behaviour" of the Roma and their high birth rates. Several NGOs have initiated a collective complaint procedure before the European Committee of Social Rights⁵²,

⁵² See Collective Complaint No. 121 of 22 of April 2016 by Equal Rights Trust against Bulgaria, pending before the European Committee of Social Rights.

asking for the amendments to be rolled back due to their discriminatory nature. The complaint is currently pending before the Committee.

III. RECOMMENDATIONS

The Bulgarian Helsinki Committee recommends that the Bulgarian government:

- *Adopt measures to prevent, identify, and where occurring, punish manifestations of racial bias among law enforcement officials;*
- *Investigate promptly and impartially incidents of violence and abuse of Roma, other ethnic minorities and foreigners by law enforcement officials;*
- *Investigate vigorously and punish assaults and desecration of mosques;*
- *Take measures to prevent, investigate and punish all manifestations of public incitement to hatred, discrimination and violence on national, racial and ethnic grounds;*
- *Speak out against racial discrimination and promote tolerance toward ethnic minorities;*
- *Build capacity in the law enforcement bodies and the judiciary to effectively combat racial discrimination in all its manifestations, including through public instigation to hatred, discrimination and violence.*
- *Take measures with a view to improve the representation of minority groups in public service, including the police, at the central and at the local level;*
- *Adopt legal and policy measures to protect Roma from forced and arbitrary evictions, as well as to improve Roma housing and the infrastructure in Roma neighborhoods;*
- *Adopt legal and policy measures to ensure that evictions, when carried out, are proportional to the pursued aim, respect the dignity of the affected persons and ensure alternative accommodation to those who are likely to become homeless;*
- *Undertake comprehensive legislative and policy measures to continue the process of desegregation of the Roma schools;*
- *Develop structures and means for teaching of ethnic communities in Bulgaria of their mother tongues;*
- *Take effective measures to penalize organisations, which instigate racist hatred, discrimination and violence and stop their financing;*
- *Ensure that Macedonian minority is legally recognized and that Macedonians are not discriminated against in exercising their right to freedom of assembly and freedom of association;*
- *Abolish all restrictions on the exercise of the political rights of minorities and ensure that their participation in the electoral process takes place on an equal basis;*
- *Repeal discriminatory restrictions in the Family Allowances for Children Act;*

- *Abolish all restrictions on the right to campaign in all types of elections in the language of ethnic minorities;*
- *Undertake measures in the spheres of education and culture to combat prejudices towards minorities.*