

ПРИЛОЖЕНИЕ: ПОЗИЦИЯ НА ПРАВИТЕЛСТВОТО

Настоящото приложение не представлява част от анализа и предложенията на ЕКРН, отнасящи се до положението в България

Съгласно своята процедура за изготвяне на докладите по страни ЕКРН води поверителен диалог с българските власти върху първия предварителен вариант на доклада. Редица коментари на властите бяха взети предвид и включени в окончателния вариант на доклада (който в съответствие със стандартната практика на ЕКРН може да отчете само развитието до 21 март 2014 г., датата на разглеждане на първия предварителен вариант).

Българските власти също така изказаха изричното желание като приложение към доклада да се включи и следната позиция.

Observations on the ECRI Fifth Report on Bulgaria

The Bulgarian authorities welcome the continued dialogue with the ECRI and have carefully considered the contents of the Fifth Report on Bulgaria.

The results of this exercise, including observations and additional information concerning certain issues raised by the ECRI, structured on the basis of the Report, are summarized in the present document.

General remarks

The Report rightly points out the strengthened legal and institutional framework for protection against discrimination and for implementing a modern state policy in the field of human rights.

It is regrettable, however, that some other very important contributions and comments of the authorities presented during the last contact visit have not been duly considered by ECRI. Some of the information presented by the Bulgarian authorities was used only partially or even disregarded. It would therefore be stated that with regard to the relevant issues our position remains unchanged.

Generally, it would be emphasised that ECRI must confine itself to issues within the scope of its mandate as approved by the member States of the Council of Europe. Likewise, findings and recommendations should be based on concrete confirmed facts. Any departure from this approach would inevitably undermine the credibility of the report as such. In addition, isolated cases of a private nature cannot serve as a basis for generalizations concerning the overall situation in the country.

Furthermore, some of the conclusions presented by the ECRI are based on information, provided by NGO's selected on the basis of unclear criteria, while neglecting information from other NGO's, uniting many more members and supporters and having a longer record of activities.

More use should be made by ECRI of official sources of information, such as the - widely available and very reliable - annual reports of the Ombudsman before the National Assembly. A more balanced approach towards the information and data, provided by the State authorities and non-governmental sources would certainly improve the pertinence and quality of the conclusions and recommendations of the ECRI reports in general.

In this context, the Fifth Report of ECRI on Bulgaria will be subject to further examination by the competent Bulgarian authorities in view of identifying and adopting further relevant measures to address, as appropriate, certain remaining real situations. Substantive observations and suggestions will also be tested against the existing social practice over a longer period of time and the results will be analysed in dialogue with the competent institutions at national and international level.

Legislation against racism and racial discrimination

The Bulgarian authorities would like to reiterate accession to Protocol No 12 to the ECHR is a matter of sovereign choice for each Member State. It is a fundamental principle of public international law that each state is free to decide whether to accede to any international legal instrument or not. ECRI is under obligation to strictly abide by this principle.

It would also be noted that the Constitution and the relevant laws of Republic of Bulgaria guarantee full protection against discrimination of any person under its jurisdiction in compliance with the relevant international standards. In 2003, the Bulgarian National Assembly adopted the Law on Protection against Discrimination (LPD), which provides for full protection against all forms of discrimination. It contains both substantive and procedural provisions aimed at enabling effective enforcement and achieving equality of status of persons belonging to risk groups.

However, the practical implementation of Protocol No 12 by its 18 States Parties and the practice of the ECtHR in this respect would be reviewed by Bulgaria, as appropriate.

Criminal Law Amendments

In 2009 the scope of application of article 162, paragraphs 1 and 2 of the Criminal Code was expanded. This decision was taken in response to the requirements of EU Framework decision 2008/913/JHA in the field of combating racism and xenophobia through criminal law. The amendment brought Bulgarian laws in conformity with the international obligations. The following provisions were affected: grounds of discrimination in the CRB (article 6, paragraph 2), the Law on Protection against Discrimination (article 4, paragraph 2) and the Criminal Code, which criminalizes any public incitement to violence or hatred.

As evident from the wording of article 162 of the Criminal Code, the provision specifies the grounds for discrimination “race”, “nationality” and “ethnicity”. Nationality can be defined as a cultural-historical community based on ethnic proximity, common religion, common language, historical past, cultural unity, common traditions and customs. In this sense, the Criminal Code penalizes the acts preaching or abetting discrimination, violence or hatred against a given group of persons based on the language used thereby.

As regards the “race”, Bulgarian authorities would like to highlight the fact that that “race” as a notion is implicitly contained in the provision of article 162 of the Criminal Code. There are two reasons for that: first, the Criminal Court has interpreted article 162 in the context of other national legislation. Paragraph 1, sub-paragraph 6 of the LPD specifies that “racial segregation” is defined as ‘performing of an action or omission, which leads to compulsory separation, differentiation or dissociation of persons based on their race, ethnicity or colour’. The court has referred to this provision when interpreting article 162. Therefore Bulgarian Criminal Court has interpreted the two articles in conjunction. That means that “race” is implicitly contained in Article 162 as result of its explicit inclusion in Paragraph 1, sub-paragraph 6. Second, the court has confirmed this interpretation in its use of international norms such as the definition of the term “racial discrimination” laid down in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ratified by Decree of the State Council of 23.06.1966, Official Gazette, No 51 of 1966, issued by the Ministry of Foreign Affairs, promulgated in OG, No 56 of 10.07.1992, effective 4.01.1969), where in the term “racial discrimination” means any difference, exclusion, restriction or preference based on grounds of race, colour, ancestry, national or ethnic origin aimed to destroy or result in destroying or prejudicing the recognition, use or exercise on an equal

footing of human rights and fundamental freedoms in political, economic, social, cultural or any other areas of public life. Therefore colour is an indicator implicitly contained in the provision of article 162 of the Criminal Code.

The Bulgarian authorities note the report's recommendation to include the notion "sexual orientation". Bulgarian authorities have current plans to include "sexual orientation" among the protected indicators. In fact, in the new draft of the Criminal Code the identifier has already been incorporated. According to the draft, "protected indicator" means race, nationality, ethnicity, origin, religion, faith, health status, age, sex or sexual orientation.

As regards the Commission's recommendation for supplementing article 144 of the Criminal Code (paragraphs 6-7), it should be noted that the provision of this article lays down deprivation of liberty of up to three years for a person who threatens another person with a crime against his or her person or property or against the person or property of his or her close relations and where this threat could evoke justified fear of its implementation. The provision is general and does not specify the intent elements of the crime (one of the main elements of the crime). Pursuant to article 54, paragraph 1 of the Criminal Code, when personalizing criminal liability the court takes into consideration the causes (incl. racial and xenophobic) for the commitment of the crime.

Criminal Prosecution of Legal Entities (paragraphs 12-13)

At present the Bulgarian law precludes the possibility for prosecution of legal entities, because the criminal liability may be sought only for personal acts.

The tort liability of legal entities does not concern personal acts committed by the entity, but has warranty and security nature against future infringements caused by people working or hired by the entity. In these cases the victim may seek remedy for the damages caused both from the wrongdoer and from the commissioning authority, i.e. the legal entity.

This warranty and security function is better served by tort rather than criminal sanctions because tort liability provides the right incentives for representatives of legal entities to perform their duties. Criminal sanctions can affect negatively the representatives' economic decision making. The reason is that they will take undesirably cautious decisions. On the contrary, tort liability can lead to substantial financial sanctions that are sufficient to preclude further infringements of the law and ultimately lead to better human rights protection.

In regard to the recommendation contained in paragraph 15, it should be noted that according to the provision of article 56 of the Criminal Code for circumstances to be defined as attenuating and aggravating circumstances, they need to be reflected in the perpetrator's behaviour when committing the crime. The issue is resolved by court practice. Racial grounds are assumed as an aggravating circumstance and are taken into consideration in the individualization of the penalty (e.g. Sentence No 275 of 19.07.2012 of Plovdiv District Court on criminal case of general nature No 7660/2011).

Civil and administrative law

Legal entities may be prosecuted in non-criminal proceedings under the Law on Protection against Discrimination (LPD).

Article 80, paragraph 2 of the LPD states the following: when an individual commits a violation while acting on behalf of a legal person, the latter will pay a fine of 250 to 2500 BGN. Other provisions of the LPD implicitly contain the rule for liability of legal entities for anti-discrimination violations (article 4, article 7, article 10, article 11, the whole Section One of Chapter Two of this Law, imposing a number of obligations to employers, most of which are legal entities, article 32, etc.).

The practice of the Commission for Protection against Discrimination (CPD) shows that often the liability of legal entities is sought for default on obligations under the LPD (*Judgement No 166/ 28.09.2011 on case file No179/2010 imposing a material sanction on NPP Kozloduy EAD in the amount of BGN 2000 for ascertained discrimination on the grounds of “personal status”*). In addition, under article 74 of the LPD in the cases where the CPD has found violation of rights under the non-discrimination legislation, the victim may bring a claim in accordance with the general procedure for compensation against wrongdoers, including legal entities, which have caused the harm (as regards violations committed by public authorities, the compensation is adjudicated under the Law on the Liability Incurred by the State and the Municipalities for Damages). As regards court proceedings, pursuant to article 71, paragraph 1, sub-paragraph 3 of the LPD, simultaneously with the ascertainment of the violation, the court awards damages in cases where such damages have been sought.

Supplementing article 4 of the Law on Protection of Discrimination (paragraphs 18- 20)

The LPD defines comprehensive legal framework for the observance of the principle of equal treatment. The Law protects from discrimination all individuals on the territory of Bulgaria. All direct or indirect discrimination is expressly prohibited. The grounds for discrimination include sex, race, ethnicity, nationality, origin, religion or faith, education, beliefs, political affiliation, personal or public status, disability, age, sexual orientation, family status, property status, or any other grounds provided for by law or international treaties, ratified by the Republic of Bulgaria. The LPD also provides protection in the exercise of the right to work and in the right to education and training.

Non-discrimination in public contracts, grant loans, subsidies

Article 10 of the LPD provides that public authorities and local administrations shall, in the exercise of their powers, undertake all possible and necessary measures for achieving the purposes of the legal act, and therefore there is no obstacle to public authorities to enforce similar to the above-mentioned requirements. This is also valid in the award of contracts, grant of loans, provision of subsidies or other benefits.

Functioning of the Commission on Protection against Discrimination (CPD) (paragraphs 27-30)

The Bulgarian authorities would like to point out that the CPD is independent specialized national public body. The authorities aim to promote non-interference with the work of an independent public body. Separating independence from the full characteristics of “an independent specialized public authority” is essential for understanding the nature of the law and the implementing authority for its application, i.e. the Commission. The independence of the Commission is strengthened by the practice of the National Parliament regarding the amendments to the LPD. The amendments aim to achieve real independence in the operations of the Commission.

The independent nature of the Commission is also set forth in article 2, paragraph 1 of the Regulation on the Structure and Activity of the CPD.

Pursuant to article 41, paragraph 1 of the LPD the Commission is comprised of 9 members. At least four of them are lawyers. The National Assembly elects 5 of the members, including the chairperson and the deputy chairperson of the Commission, and the President of the Republic of Bulgaria appoints 4 of the members of the CPD.

Article 41, paragraph 3 promulgates diversity membership as a guarantee of sound and representative decision making. That is achieved through the principles of a balanced representation of men and women and inclusion of members from various ethnic minorities. One of the members of the CPD was appointed on a prior proposal made by a nationally represented organisation of people with disabilities. This diversity principle has been strictly observed since the beginning of the Commission's first term in office.

Hate speech

The Constitution contains an explicit prohibition for the setting up and operation of organisations whose activity is directed at incitement to racial, religious or ethnic animosity, or at violation of citizens' rights and liberties (article 44, paragraph 2 of the CRB). Moreover, the Law on the Political Parties (LPP) follows the constitutional provision and considers hate incitement and propaganda when it provides for the establishment, registration, activity, control, financing and termination of political parties.

The Constitutional Court is charged with the enforcement of these anti-hate provisions related to political parties. Pursuant to article 149, paragraph 1, sub-paragraph 5 of the CRB shall pronounce itself on any disputes concerning the constitutionality of the political parties and associations. The control on the constitutionality, exercised in such proceedings, should be judged both on the grounds of article 11, paragraph 4 of the CRB and on the grounds of article 6, paragraph 2.

Article 40, sub-paragraph 1 of the LPP provides for the dissolution of a political party in proceedings before the Sofia City Court. Judgement No 7 of 1992 of the Constitutional Court expressly points out that the dispute on the constitutionality of a party does not cover the prohibition under article 44, paragraph 2 of the CRB, which means that the latter is also within the powers of the Sofia City Court.

Following the amendments to the CRB in 2006, Members of Parliament may be prosecuted for offences at public law solely on authorization from the Parliament. Authorization for commencement of criminal proceedings is not required in case of a written consent of the Member of Parliament concerned (article 70, paragraphs 1 and 2 of the CRB). (Suppl. 3)

The Bulgarian institutions have undertaken consistent public diplomacy measures to promote tolerance and informational awareness towards the refugees and asylum seekers. The President Mr. Rosen Plevneliev and the Prime Minister Mr. Plamen Oresharski have presented a joint declaration condemning the xenophobia and racial hatred, as a world phenomena. The aim of the declaration was to identify appropriate measures in combating these negative tendencies. Similar position against inciting hatred, xenophobia, violence and discrimination

was expressed also by other politicians, the academic community, non-governmental organizations and the media.

The Ministry of Interior and the State Agency for Refugees take complex measures to provide adequate assistance to the asylum seekers with regard to registration, the processing of requests for international protection and the overall reception.

One of the court proceedings concerned was initiated against the two books of Volen Siderov, Member of Parliament and a leader of a parliamentary group: '*The Boomerang of Evil*' and '*The Power of the Mammon*'. The claimants consider that the books are used for "anti-Semitic propaganda, inadmissible in modern European societies". The complaints concern the reprinting and distribution of the two books as an illegal activity of a Member of Parliament and a leader of a parliamentary group.

The court has sent the case to Sofia City Prosecutor's Office, on the grounds of article 59, paragraph 4 of the LPD, for exercise by the competent prosecutor of the powers for initiation of criminal proceedings or refusal to initiate such proceedings, as the case may be.

Paragraph 34 contains a statement, according to which some Bulgarian politicians have sent strong message to the public that asylum-seekers are a menace and a burden for Bulgarian society. Provided that the recommendations of ECRI have a reference to the words of the Bulgarian Minister of Interior, Bulgarian authorities would like to point out that they are not cited correctly in the Report. The Report uses part of a statement made at a press conference after an emergency meeting of the Council of Ministers held on the 21st of October 2013 for the purpose of evaluating the situation and the risks caused by the increased migration pressure that Bulgaria experienced.

The exact quote in the document published by the Press centre of the Council of Ministers concerning the measures to be taken in order to bring under control the situation with the asylum-seekers is as follows: "There is no country that has benefited from asylum-seekers entering its territory". In the context of the document this statement relates to the impending financial expenses connected with the various activities surrounding the reception, taking care, and integration of asylum-seekers and minimizing the social risk for the country.

The Report sets out the planned activities aiming to deal with "the very serious challenge relative to the Bulgarian capacity, such as the arrival of sometimes more than 200 illegal immigrants daily. The Report also argues for the need of financial assistance from the EU amounting to € 6 million (the most important point and a title of the document), which was later approved and received.

The complex approach that the Bulgarian government adopted in order to deal with the influx of asylum-seekers was later positively evaluated by the European Asylum Support Office, the UN's High Commissioner for Refugees and the European Commission.

In relation to paragraph 37 of the Report it has to be mentioned that there is a statistic preserved by the police for every reported case of hate speech (a crime under article 162, section 1 and article 164, section 1 of the Criminal Code). Every reported case is entered into a working integrated information system, that is in under the supervision of the Ministry of Interior.

Racist and homo/transphobic violence

In relation to paragraph 51 of the Report as well as in line with the act of violence from November 2013 mentioned in this paragraph, it has to be said that the offenders have been discovered, charged and sanctioned by being held under arrest. On the 24th of July 2014 the case is sent to the Sofia City Prosecutor's Office with a recommendation that the perpetrators are put on trial.

In relation to paragraph 53 of the Report concerning the accident from the 20th of May 2011 in Sofia in front of the "Banya Basha" mosque, several pretrial proceedings were initiated.

In regard to the statements contained in paragraph 38 of the Report, the Bulgarian authorities would like to note that for the period from 01.01.2008 to 31.12.2013, 57 pre-trial proceedings in total were initiated and conducted under article 164 of the Criminal Code. 9 people were convicted with enhanced sentences.

Racism on the Internet and in the Media

The Law on Radio and Television (LRT) of 2002 stipulates the "inadmissibility of broadcasts which incite to hatred on grounds of race, sex, religion or nationality". The Council for Electronic Media (CEM) is an independent regulator. The Council's task is to supervise the activities of radio and television broadcasters for compliance with the Act. It has the right to sanction violations by issuing decrees ranging from imposing fines on broadcasters to revoking their licenses.

The Council for Electronic Media has the obligation to ensure that freedom of speech and right to information in a pluralist media environment are observed. The Council is careful not to impact the programme policy and editorial independence of the providers of media services and considers inadmissible the use of censorship.

In addition, this regulator monitors the compliance with the LRT. The law contains two texts with imperative requirements for broadcasts. The first is prohibition of inciting to "hatred based on race, sex, religion and nationality" (article 8, paragraph 1). The second deals with any attempts at "preventing the creation or provision for broadcasting of any broadcasts in violation of the principles of article 10 herein and any broadcasts inciting to national, political, ethnic, religious or racial intolerance..." (Article 17, paragraph 2).

Article 10, paragraph 1 describes the principles that must be followed by the providers of media services in pursuit of their business. Two of these, described in sub-paragraph 5 - "inadmissibility of broadcasts inciting to intolerance among citizens" and sub-paragraph 6 - "inadmissibility of broadcasts which incite to hatred on grounds of race, sex, religion or nationality", refer directly to the subject.

In addition to the regular monitoring the content of the broadcast radio and TV programmes for compliance with the above mentioned provisions, CEM officials carry out thematic observations (on conducted elections, protests in the country and reporting on the Syrian refugees issue).

Hate speech in electronic media is a priority in CEM's work. In this regard the regulator also issues and organises the following:

1. Opinions and declarations concerning hate speech
2. Public discussions

3. Working meetings with radio and TV operators and various professional organisations on specific supervision-related problems

4. It also sends written warnings to providers of media services in response to complaints filed by citizens regarding hate speech. Most often these are signals in relation to programmes broadcasted on “SKAT” and “Alpha” TV channels

5. Carries out a regular monitoring of the broadcast content in the Bulgarian media to check compliance with the above specified legal provisions. The Council has also carried out observations in relation to conducted elections, protests in the country, as well as in connection with broadcast materials on refugees. The main parameter of the observation was the use of “hate speech”. Moreover, the Council monitors compliance with legal provisions for presence of discrimination elements in commercial broadcasts

6. CEM cooperates with governmental institutions, other authorities and non-governmental organisations. In addition to forwarding signals, complaints and letters “by competence” to other commissions, it participates jointly with their representatives in various initiatives

Integration policies

Bulgarian authorities would like to provide information on the following:

The National Strategy of the Republic of Bulgaria for Integration of Roma People (2012-2020) (NSRBIR) was constructed, by an interdepartmental working group with the broad and active participation of representatives of Roma NGOs and organizations working in the field of Roma integration. The National Strategy was adopted with a Resolution of the National Parliament on March 1, 2012. Bulgaria is the only country that adopted the Strategy with a resolution of its supreme legislative body.

The National Strategy is in line with the National Reform Programme of the Republic of Bulgaria (2011-2015), which is prepared in accordance with the approved by the European Council in June 2010 Strategy “Europe 2020” and in accordance with the new tool for better coordination of economic policies within the European Union, the so called “European semester”, and the National Action Plan for the “Decade of Roma Inclusion 2005-2015” initiative. The strategy adopts and incorporates in one strategic document the objectives and measures of the strategic documents in the field of Roma integration such as: Strategy for the educational integration of children and students from ethnic minorities; Health Strategy for disadvantaged people belonging to ethnic minorities, 2005-2015, and the National Programme for improving the living conditions of Roma people in the Republic of Bulgaria for the period 2005-2015.

National Council for Cooperation on Ethnic and Integration Issues (NCCEII) has the main responsibility to implement the policies in this area. The NCCEII Secretariat (NCCEIIS) coordinates the process of regional planning. A number of meetings were held with mayors, representatives of regional and local administrations in the country, representatives of NGOs, experts from the World Bank and UNICEF. Pilot planning in Sofia Region was conducted. The NCCEII Secretariat prepared Supporting Guidelines for regional planning, which were provided to the regional and municipal administrations. Local operational teams were formed, which included representatives of the regional and municipal government, the territorial structures of the state institutions; representatives of local communities and NGOs. Support and coordination of this process has been done through field visits to 10 areas where NCCEIIS

experts worked together with the teams, which prepared the regional strategies and municipal plans for Roma inclusion.

As a result of this comprehensive process, in the period 2012-2013, 27 municipal strategies and 220 municipal action plans were prepared and adopted. Currently there are 28 regional strategies that will be operating until 2020.

Municipal plans are biennial, and are based on adequate analysis of the needs and specifics of the local communities. The plans for Roma integration are specific and they indicate which of the actions and measures which can be implemented with local financial resources and those which require with outside help.

Financing of these integration measures in the action plan comes from the national budget, EU funds (provided through operational programs) or from other donors. When reporting the implementation of their action plans for 2013, the municipalities state that they are actively working on national programs and various projects/schemes under operational programs and other donor programs in the fields of education, health, housing, employment. The information is included in the Report on the implementation of NSRI.

In 2014, planning on national and local levels for the 2014-2020 period has began (the second period of the Action Plan). It will cover the next programming period of the European Union for the financial support provided by the EU institutions.

The NCCEII Secretariat again coordinates the process on national level.

A review of the lessons learned from the first period of planning has been done, and recommendations have been made for the next period. Again, it has been highlighted the importance of the participation of representatives of the Roma community and NGOs working in the field of Roma integration at every stage of the process - planning, implementation, monitoring and evaluation. NCCEII and the other organizations, which left the council in 2013, have been actively working together in the implementation of the regional planning process. The advisory body, its secretariat and the local administration, together with the NGOs that conduct field work within communities have combined their efforts. Representatives of these organizations participated in the meeting and presented the conclusions and recommendations, based on their activities in this area.

Since last year, six Bulgarian municipalities have been involved in a joint programme of the European Commission and the Council of Europe ROMED2/ROMACT, which aims to increase the capacity to act both of local institutions and of the Roma community. The NCCEII Secretariat has promoted the launch of the program and maintains active relations with the relevant bodies within the Council of Europe and the European Commission. Cooperation is also evident from the fact that pilot action plans to 2020 will be developed in following six municipalities - Varna, Shumen, Sliven, Tundzha, Maglizh, Byala Slatina.

In addition to the national budget, the European Structural and Investment Funds (ESIF) will support the implementation of the National Strategy of the Republic of Bulgaria for Roma Integration (2012-2020). The implementation of regional strategies and municipal action plans for Roma integration will be provided primarily through the funding of integrated projects. The municipalities and Roma stakeholders will be the main beneficiaries. The projects will be designed to improve access to employment, education, quality health and social services.

Measures will be taken to build tolerance for ethnic differences. That will lead to promotion of the cultures of the different ethnic groups.

Each regional administration has a separate Unit for Monitoring and Evaluation with clear, specific tasks and responsibilities. The important role of the units for monitoring and control was noted. The core of the main team the Unit for Monitoring and Evaluation consists of 6-8 people - representatives of the regional government, experts from the local administration, NGOs and others. The participants in the Unit for Monitoring and Evaluation usually have service or employment contracts in these organizations. Their new responsibilities for coordination and monitoring activities and evaluation of regional planning and execution are regulated with an order from the employer concerned and must be included in the job descriptions.

Under the current system for monitoring and control, information at the municipal, regional and national levels is collected by experts in the relevant departments and is summarized at the NCCEII Secretariat. The progress achieved in 2013 on implementation of the strategy by the responsible institutions has been reported in the Administrative Monitoring Report. Currently the report is presented to the National Parliament for adoption. The reports on areas with adjacent municipalities are also attached to it. Progress has also been reported to the European Commission.

The Secretariat of NCCEII has been defined as a beneficiary for the next programming period under OPHRD. The Secretariat will build an improved functional electronic system for monitoring and controlling the implementation of the National Strategy of the Republic of Bulgaria for Roma Integration 2012-2020. The system will include information on municipal, regional and national levels within a unified information platform. It will perform accumulation, aggregation, data processing, which will improve the process of tracking and analyzing the results, and will contribute to the more effective evaluation of the implementation of integration policies on all levels. Performance measurement is an extremely complex and difficult process that will last years.

The National Strategy of the Republic of Bulgaria for Roma Integration (2012-2020) is also supported by projects and programs funded under the Economic Mechanism of the European Economic Area and the Norwegian Financial Mechanism, as well as under the Bulgarian-Swiss Cooperation Programme.

The activities of the Interdepartmental Working Group for resource support of Roma integration with EU funds, is aimed at supporting municipalities in terms of choice of schemes and operations to support the implementation of the action plans. The Interdepartmental Working Group on resource support to Roma integration with EU funds operates under the Commission for Implementation of the National Strategy, which was formed under the National Council for Cooperation on Ethnic and Integration Issues.

Policies for the integration of Roma people and disadvantaged people from other ethnic groups are an integral part of the national policy.

The National Strategy is applied in the framework of the overall policy of combating poverty and social exclusion. The strategic objective is clearly stated - creating conditions for equal Integration of people from other ethnic groups, including Roma people, or any other Bulgarian citizens in socially and economically vulnerable position. These conditions are created by

providing equal opportunities and equal access to rights, benefits, goods and services, participation in all public areas and improving the quality of life in accordance with the principles of equality and non-discrimination.

Policy of the authorities on integration of refugees

The State Agency for Refugees (SAR) operates an Integration Centre which is directly engaged with the implementation of a National Programme for the Integration of Refugees.

The Integration Centre works in close cooperation with governmental institutions such as the Ministry of Labour and Social Policy, the Employment Agency, the Ministry of Education and Science, the State Agency for Child Protection, local administrations, and Sofia Municipality. It partners with non-governmental organisations for exchange of information and coordination in the field of employment, education and social integration of foreigners who have received international protection.

The Integration Centre:

- Supports the integration of foreigners who have received international asylum in Bulgaria by organising and delivering appropriate training and social orientation. Help is provided with professional qualifications, work referrals and other activities related to the integration of foreigners who have received international asylum;
- Carries out programmes for social protection and integration of foreigners with special needs and cooperates in social assistance and health care;
- Organizes and carries out activities for cultural adaptation of foreigners who are seeking or have received asylum; organizes sports and health and educational activities.

Integration activities aim to create conditions for complete accomplishment of foreigners who have received asylum and provide opportunities for development of their personal potential and active participation in the economic, social and cultural life of the Bulgarian society.

For the purpose of children's integration, pedagogical consultations on the rights of children refugees are held, including unattended minors. Refugee parents get acquainted with the Bulgarian culture and education. Work is done for their social inclusion in the Bulgarian environment by organising intercultural activities. These activities include the participation not only of refugee children and their parents but of Bulgarian children as well. Special attention is paid to studies and development of educational curricula and projects related to the education of the children refugees at Bulgarian schools.

An emphasis in the integration of refugees is put on their Bulgarian language skills. There are language courses for both children and adults. Highly qualified teachers provide the language training. The education is based on a curriculum approved by the Ministry of Education and Science (MES). After completing the course with duration of 600 academic hours, the refugees sit an exam before a commission and receive a certificate. The purpose of the children's training in Bulgarian is to enable them to become part of the Bulgarian educational system, to acquire language skills and gradually overcome the negative effects of their interrupted education. After completing the course, children sit an exam at the Regional Inspectorate of Education to determine the level of their knowledge in order to enrol them in a Bulgarian school.

Foreign minors seeking asylum or having received asylum may continue their education under the terms and procedure applied for Bulgarian citizens. For children studying at Bulgarian schools a day-care opportunity is provided. Regular meetings are held with the parents of children who are regular students at Bulgarian schools to clarify the rights and obligations of the students. Working meetings with the faculty staff are a regular practice, aimed at their inclusion in the educational system and prevention of early dropout of children from school.

In accordance with projects of non-governmental organisations, activities are organised for 5 to 16-year-old children and extracurricular education is provided in major subjects taught at school.

Jointly with the MES new curricula and standardized tests in Bulgarian have been developed, combined with for training refugee children. Training aids in accordance with developed and approved curricula are provided. The Integration Centres provide additional training in Bulgarian aimed to facilitate access to the educational system for refugee children who are to attend Bulgarian schools.

An expert from the Integration Centre assists with the translation and legalisation of diplomas of completed academic degrees by country of origin.

Foreigners who have received international asylum have full access to the vocational training provided at the Integration Centre. The training completes with a final exam and receiving a Certificate of Vocational Training.

The Centre operates at full capacity and professions are aligned to the attitudes and interests of foreigners. Many of those remaining in the country get jobs based on the acquired qualification. The financially stable ones start their own small business.

Foreigners who have received international asylum in Bulgaria have equal rights to Bulgarian citizens in regards to their access to the labour market. No direct or indirect discrimination is allowed in the exercise of their employment rights, based on nationality, origin, sex, sexual orientation, race, colour, age, political and religious beliefs, family, social and financial status and psychological and physical disabilities. According to the Employment Promotion Law foreigners who have received international asylum in Bulgaria may work in the country without a work permit.

The Integration Centre of the SAR assists the refugees' job search. It holds consultations for motivation and information about the choice of a profession. Foreigners who are registered as unemployed are entitled to all vocational orientation services offered by the Labour Offices directorates.

To facilitate foreigners' access to employment, the SAR together with the Council of Ministers works in close interaction with the Employment Agency and has signed an agreement on joint work (2011). As a result of this agreement labour exchanges are organised, providing opportunities for direct contacts and negotiation between refugees and employers.

To enhance refugees' employability the Ministry of Labour and Social Policy has developed and is about to implement, through the Labour Office directorates, a programme for training and employment of persons who received international asylum in 2013 and 2014 and who are registered with the Labour Office directorates. This group of unemployed persons is among

the vulnerable groups in the labour market because the problems they face in finding jobs are specific, i.e. not knowing Bulgarian enough, not having documents of completed education and/or vocational qualification, not having any record of service and experience. The programme will ensure inclusion in Bulgarian language training for 200 persons, acquisition of vocational qualification for 100 persons and subsequent subsidised employment for 100 unemployed persons.

Based on the experience and good practices of other member states, the National Integration Strategy for Individuals Granted International Protection in Bulgaria (2014-2020) was adopted on 4 July 2014.m. The Strategy is focused on the refugees from vulnerable groups - unaccompanied minors and women. The Bulgarian authorities provide training for the minors in Bulgarian language and other subjects as well as courses in social orientation and cultural adaptation. The minors also receive social services, such as legal consultations.

Topics specific to Bulgaria

Training in racial discrimination issues

Intensive trainings of magistrates for the purpose of proper enforcement of anti-discrimination law (paragraph 83)

In accordance with the Programme of the National Institute of Justice and the internal programme of the prosecutor's office of the Republic of Bulgaria regular training is provided in subjects related to enhancement of the qualification and specialisation of prosecutors. The purpose of that training is to improve the efficiency of investigation of discrimination-based offences. For the period from 01.01.2008 to 31.12.2013, 205 prosecutors and 50 investigators were trained in the above-mentioned subjects.

In accordance with the duties from the Memorandum of Understanding between the Ministry of the Interior and the OSCE Office for Democratic Institutions and Human Rights of 2012, a two-staged training in preventing, discovering and investigating hate crimes was held at the Academy of the Ministry of the Interior. The training involved employees from the Capital Directorate of Interior as well as employees of the Regional Directorates of the Ministry of Interior. The persons, who were trained in this program, were investigators as well as employees of law enforcement agencies.

During the first stage of the training (training of instructors) issues concerning social diversity, the definition, variations and consequences of hate crimes, as well as the legal framework for regulating hate crimes, and the role of the police in preventing hate crimes, were discussed. Special attention was paid to the dangerous nature of hate crimes, and their negative impact on society.

Everyone who participated in this stage of the training received a special handbook for instructors on hate crimes, written in Bulgarian.

During the second stage of the training the instructors held many training sessions on a regional level. During the training the instructors explored issues such as the term "hate crime", the law in this area (article 116, section 1, subsection 11 - committing murder or bodily harm for racist or xenophobic reasons - and article 131, section 1, subsection 12 - crimes against citizen equality and crimes against the freedom of religion).

In January 2014 an independent evaluator sent from the EU assessed positively the training program.

In the context of the policy of training employees of the Ministry of Interior in protection of human rights, with an emphasis on anti-discrimination measures, a note should be taken of the ISEC project “European Police and Human Rights”, which was successfully completed in 2013 and benefited the National Police Directorate, Ministry of Interior and its international partners - the police in Baden-Württemberg, and the Federal Police of Warsaw and the Belgian Federal Police.

This project involved drawing up of a methodology and a handbook for the training of instructors in protection of human rights, entitled “Police without discrimination”. They were translated into English, German, French and Polish. The project also involved a series of training seminars on a regional level.

Functioning of the Commission for Protection against Discrimination (CPD)

In relation to the Commission’s recommendation contained in paragraph 90 of the Report, Bulgarian authorities would like to note the following:

In compliance with article 40, paragraph 4 of the LPD the Commission opened additional offices in regional cities, staffed with regional representatives.

At present the Regional Representatives Directorate functions within the CPD. The directorate is comprised of 21 employees. There is 1 director and 20 regional representatives who hold the position “chief expert”.

The CPD has 21 regional offices opened as follows:

- 2008 - in Plovdiv, V. Tarnovo, Vidin, Montana, Burgas, Dobrich, Razgrad, Sliven and Lovech
- 2009 - in Vratsa, Kardjali, Silistra, Shumen and Gabrovo
- 2010 - in Pazardjik, Stara Zagora and Varna
- 2011 - in Blagoevgrad and Ruse
- 2012 - Pernik
- 2013 - Smolian

The CPD intends to open seven more offices and to appoint regional representatives. The goal is to cover all 28 regions in the country. The CPD is making best efforts to find premises in the respective regional cities for the new offices. The CPD has sought the assistance of the regional governors of Sofia, Yambol, Pleven, Kyustendil, Targovishte, Haskovo, and Sofia City for procurement of offices.

At present one regional representative works in each operational office. In 2012 and 2013 the CPD participated as an employer under a European project “New Beginning - from Education to Employment” of the Employment Agency with the Ministry of Labour and Social Policy and under the national programme “Career Start”. For a period of six months, under the European project, 12 young people were employed in 12 regional offices to support the work of the respective regional representative. The project ended at the end of July 2013.

Under the “Career Start” programme in the period from 01.11.2013 the CPD appointed 19 young employees to work in 19 regional offices for a term of 9 months, supporting the work of regional representatives.

The integration of Roma children into mainstream schools

Creating conditions for equal treatment and adaptation of Roma children and students to the educational environment is a priority of the Ministry of Education and Science, the regional inspectorates of education and municipalities. The following measures are being taken to this end:

- Exercising control on kindergartens and schools to prevent the existence of groups and classes based on ethnicity.
- Providing specialized help to the students from school psychologists and pedagogical counsellors in order to facilitate the mutual adaptation of Roma and other children to the new educational environment.
- Carrying out activities in kindergartens and schools for building positive attitudes to the educational integration of Roma children.
- Conducting workshops and other forms of parent education in order to remove negative stereotypes and build tolerant relationships.

The regulations of kindergartens, schools and supporting units and the job descriptions of pedagogical experts and non-pedagogical staff contain provisions and clauses for ensuring a tolerant attitude to the children from ethnic communities and creating a favorable school environment.

The Strategy for Reducing the Share of Early School Leaving (2013 - 2020) was adopted in 2013. It provides for policies and key measures for prevention of early school leaving and for offsetting its effect. Implementation of the strategy will contribute to reducing the number of early school leavers. The aim is to reach rates of below 11% by 2020. Other objectives include reducing social exclusion, enhancing the quality of the labour force and the well-being of individuals. Ensuring access to education and enhancing the quality of education for children and students from vulnerable ethnic communities is one of the policies and key measures for preventing early school leaving as set out in the Strategy.

By Order No RD 09-1887/21.12.2013 of the Minister of education and science a working group has been set up and a plan has been developed for the implementation of the Strategy for Reducing the Share of Early School Leaving (2013 - 2020) by 2015.

The Bulgarian authorities have certain reservations to the objectivity of statistics contained in paragraphs 94 and 95 of the Report.

Within its records the MES does not gather information based on ethnicity;

The NSI does not gather statistics on the specified characteristics for the community concerned (from the specified statistics it is not clear whether the statistics refer to children aged 3 to 6 years, 4 to 6 years or aged 3-4 to enrolment in grade one). In fact the NSI has no annual statistics (excluding the census) from gathering ethnicity based data.

Bulgarian authorities are aware of two studies dealing with the problems of school enrolment and attendance in combination with family environment (incl. ethnicity based statistics - *“Reasons for children dropping out of school”* and *“Lost Future? A research of the phenomenon of children left outside of the school system“*). Both were commissioned by UNICEF, the first research was carried out by *“Vitosha Research”* and the second one was conducted by Open Society Institute. Both studies, however, do not consider the group of the smallest children and the studies are based on earlier period data.

The statistics of 81.5% for 2011-2012 astonishingly matches the NSI statistics on the “Group net rate of enrolment of the children in kindergartens - total” for the same school year (Table - *Edu_1.2.1.xls* at address, <http://www.nsi.bg/bg/content/3422/групов-нетен-коэффициент-на-записване-на-децата-в-детските-градини---общо-за-страната>).

It is not logical to have the enrolment rate statistics on Roma children that high at this stage and drastically dropping below the normal rate for the country at all the other stages. In fact, if the figures are true, this would mean that the Roma children have no problem with pre-school attendance.

Refugees and asylum seekers

Bulgaria adheres to the principle of non-refoulement laid down in the Charter of Fundamental Human Rights of the European Union, the Treaty on the Functioning of the European Union, the UN Convention relating to the Status of Refugee, the Schengen Borders Code and other EU secondary legislation acts.

All border control check points (BCCP) are open around the clock.

Any person may apply to Border Police authorities to request asylum in Bulgaria and receive adequate information on his or her rights.

Any person may file an application for asylum at the border orally, in writing or otherwise (with gestures) and if it is necessary an interpreter/translator or expositor is provided. Any discrimination based on sex, race, nationality, ethnicity, citizenship, origin, religion or faith, disability, age, sexual orientation, family status is prohibited.

The procedures for receiving asylum in Bulgaria are explained to every person in printed information materials in different languages provided by UCHCR, SAR and BHC, as well as by an interpreter/translator assisting with the completion of the application for asylum in Bulgaria. Most of the interpreters/translators are naturalized citizens from the countries of origin of the migrants and asylum applicants. Thus they receive additional information from persons who originate from their or similar nationality, ethnicity or culture, in an accessible language and in an accessible way, about their right to receive asylum.

Like other Member States who have faced particular pressure from mixed migration and asylum flows, the Bulgarian government applies a complex and balanced approach for addressing the difficult situation. A key element in this approach is the implementation of the obligations under the EU legislation and the international legal instruments in the field of fundamental rights and asylum, including the principle of non-refoulement.

Bulgarian authorities appreciate the fact that, in writing the paragraph of the Report concerning the situation with the asylum-seekers in Bulgaria, ECRI have taken into account its comments regarding the improvements in the conditions in the reception centres in Bulgaria.

It should be very clearly stated that the border with Turkey is not “closed”. All border crossing points are open and accessible. The border control has been strengthened, inter alia by the deployment of additional police officers and technical equipment, in line with the Schengen catalogues and the integrated border management model of the EU. The objective

is to prevent illegal migration and in the same time to encourage the asylum seekers to use more orderly and safe routes.

As part of the comprehensive approach, after thorough analysis, the competent Bulgarian authorities decided to construct a temporary fence along a 30 km section of the border with Turkey, which represents just 12 per cent of the whole Bulgarian-Turkish land border. The need and the objectives of this construction have been explained in details to the European Commission in a letter from 22 October 2013, as well as to the Turkish side, in order to avoid any misunderstandings or wrong interpretations. The purpose of the construction of the temporary fence is to facilitate border control but equally important to minimise the risks related to border crossings by redirecting the migration flows to other parts of the common border. The terrain in this section of the border is very rugged which significantly limits the visibility of the surveillance equipment and the border patrols. As a result, the capability of the Border Police to react in possible emergency situations is also restricted. In these circumstances it is crucial, especially during the winter season, to consider the safety of the persons crossing the border. No funding by EU or other donors was used for the construction of the fence.

The Bulgarian government pays the necessary attention to the integration of the third country nationals receiving international protection. Based on the experience and good practices of other Member States, the National Integration Strategy for Individuals Granted International Protection in Bulgaria (2014-2020) was adopted on 4 July 2014. The Strategy is focused on the refugees from vulnerable groups - unaccompanied minors and women. The Bulgarian authorities provide training for the minors in Bulgarian language and other subjects as well as courses in social orientation and cultural adaptation. The minors also receive social services, such as legal consultations.

The Bulgarian government uses the experience and the best practices of other EU Member States. In the preparation of strategic documents international organizations, NGOs and local authorities are involved.

The national integration policy envisages a clear distinction between the functions the different stakeholders, establishing a working coordination mechanism, provision of the necessary financial recourses, communication campaigns on supporting the integration. The education institutions - schools, universities, institutes and academies are actively involved in the integration policy. Refugees graduated in Bulgaria are being employed, in order to support and facilitate the integration of the newly arrived. Being familiar with the Bulgarian language and culture they play the role of social mediators.

Policies to combat discrimination and intolerance against LGBT persons

Although effective, the Bulgarian Criminal Code does not expressly contain a provision specifying sexual orientation/sex identity as an aggravating circumstances motive in committing the various types of offences and in determining the punishment. However, the general provisions of the Criminal Code apply and the court takes into consideration, *inter alia*, the motives for committing the crime (article 54, paragraph 1). That includes the potential sexual orientation and sex identity as a motive. If it is ascertained that the motive for committing a given offence is sexual orientation/sex identity, in all cases this is considered as an aggravating circumstance.

A new provision in the draft Criminal code is under deliberation. That provision is planned to deal with incitement to hostile acts and hatred related to sexual orientation or sex identity through speeches, in the press or through other mass media, including electronic information systems.

Additional Statistics

The Bulgarian authorities would like to draw attention to the Statistics on the number of complaints received by the Commission for Protection against Discrimination in relation to discrimination based on race, citizenship, ethnicity, religion and sexual orientation and the outcomes of the cases.

Indicator> ----- Year V	Race	Ethnicity	Citizenship	Religion	Sexual orientation	Faith	Belief
2012	1 - 1	52 - 37	6 - 4	7 - 1	2 - 0	1 - 0	10 - 5
2011	4 - 4	48 - 43	9 - 9	4 - 4	9 - 8	0 - 0	3 - 2
2010	1 - 1	35 - 35	8 - 8	0 - 0	3 - 3	1 - 1	3 - 3

Sofia, September 2014