

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**



16 March 2006

**Collective Complaint No. 31/2005
European Roma Rights Center
v. Bulgaria**

Case Document No. 4

**WRITTEN SUBMISSIONS FROM THE BULGARIAN
GOVERNMENT ON THE MERITS**

registered at the Secretariat on 14 March 2006

**Position of the Government of the Republic of Bulgaria concerning Collective
Complaint № 31
European Roma Rights Center versus Bulgaria**

I. General remarks

One of the basic principles of the Constitution of the Republic of Bulgaria is that of equality of all persons in the eye of the law (article 6, paragraph 2). The Fundamental law does not tolerate any restriction of rights or privileges based on race, nationality, ethnicity, gender, origin, religion, education, beliefs, political affiliation, personal and social status or material welfare. In its 1992 Interpretive Decision 14 of this text, the Constitutional Court of the Republic of Bulgaria stated that equality in the eye of the law, in the meaning of article 6, paragraph 2 of the Constitution, means equality in front of all legislative acts. The same Decision provides the interpretation that privileges based on the signs referred to in article 6, paragraph 2 of the Constitution, consist a violation of the principle of equality of all persons in the eye of the law. This fundamental principle is further developed in a number of legislative acts, in conformity with the Constitution and the international commitments of the Republic of Bulgaria. This principle is also in full force when it comes to the implementation of state and regional policy in the field of housing and territory development. Current Republic of Bulgaria legislation provides all citizens with equal rights, regardless of their ethnicity, in terms of opportunity and access to housing under rent in a social dwelling or building of acquiring a private dwelling, as well as in terms of the chance to receive a mortgage-backed credit from a bank with the aim of purchasing or building a dwelling.

The Government of the Republic of Bulgaria does not contest that part of the Roma community lives in poor residential conditions. **At the same time, this** situation is not the result of discriminatory practices, rather that of a complicated complex of economic, social, historic, cultural and other existing objective reasons.

It is a fact that the Roma community is also suffering from the financial difficulties typical for the whole Bulgarian population that are connected to the economic situation and the living standard in the country. The issue has many aspects and concerns the matters of the practical application of fundamental principles and basic rights that lie in international acts such as the European Social Charter. The responsibility precisely for these practical aspects is borne by the state authority, on one hand, but also, to a significant extent, by individual citizens. Achieving the adequate implementation of the fundamental principles and basic rights is unattainable without the conscientious fulfillment of these obligations and the active participation of both parties.

Given the subject matter of the dispute under this Collective Complaint (accusations of residential segregation, substandard living conditions, lack of legal security of tenure and forced evictions, as well as other alleged violations of the right to adequate housing falling “disproportionately” against the Roma) further we shall review the legislative, as well as practical actions of the Bulgarian Government in a number of policy aspects while assessing each and every one of those in the light of Bulgaria’s commitment to the principle of antidiscrimination.

The activity on securing the families' social, legal and economic protection in the meaning of article 16 of the Chapter and the relevant international standards has many aspects and its improvement is feasible in the long term and as a result of continuing efforts by a number of institutions, administrations, as well as the citizens.

The alleged circumstances detailed in the Collective Complaint represent mainly researches and claims that lack adequate precision and supporting evidence, as well as isolated particular cases. The Bulgarian Government does not contest that certain difficulties in the field of housing policy do exist, but these do not affect the representatives of the Roma population exclusively, thus the claims of discriminatory practices and policies are groundless.

Following, we present the stand of the Bulgarian party regarding the claims of the Collective Complaint, while in the same time we state the desire and willingness of the Bulgarian Government to continue and improve its work towards Roma integration, for which purpose we would be happy to also share international experience on these matters.

II. The Right to Housing and Bulgarian Law

The very denomination of II.2.A of the Collective Complaint "Failure to Recognize the Right to Adequate Housing under Bulgarian Domestic Law" is clearly untrue and biased.

The Constitution of the Republic of Bulgaria does indeed lack an explicit provision regarding the right to adequate housing. However, article 33 of the Constitution of the Republic of Bulgaria states that the home shall be **inviolable**. No one may enter or remain in it without the consent of its inhabitant, except in cases specifically provided for by the law. The **Law on State Property** and the **Law on Municipal Property** set out the prerequisites for accommodating persons in state departmental housing or municipal social housing. The terms and procedure for establishing housing needs and accommodating persons on rent in municipal housings are determined by an ordinance by the municipal council of the respective municipality. These conditions are in force for all Bulgarian citizens.

The Roma, under the meaning of the Law on State Property, may apply for accommodation in state departmental housings, **on an equal basis with all administration workers.**

The Roma, the same as all other citizens who are not administration workers, may apply for accommodation on rent in municipal dwellings, with the procedure for establishing housing needs and accommodation on rent in these dwellings being set out with an ordinance by the Municipal Council of the respective municipality. The requirements for accommodation in a municipal dwelling that are referred to in the complaint are extracted from the **revoked Regulation for the Implementation of the**

Municipal Property Law (revoked by Council of Ministers Decree № 35 from 8 March 2005). These requirements were not contradictory to the stated position of the European Committee of Social Rights: “(...) if it is possible to subject the receipt of social rights to the fulfillment of certain number of conditions, the conditions must not be such so that it is impossible in the majority of the cases to satisfy them, with the effect that the realisation of the rights is impeded.” The requirements of the revoked legislative act were in force for all Bulgarian citizens and in no case can be deemed as discriminatory in regards to the Roma community and are appropriate and justified in the Bulgarian transition conditions.

The social assistance system in the Republic of Bulgaria envisages the provision of assistance to persons concerning their right to adequate housing, as well as the basic services, referred to in the complaint. Therein, according to § 1, subparagraph 1 of the Social Assistance Act, **"Basic living needs"** are enough food, clothing and **a dwelling, corresponding to the social and economic development of the country**. Under article 2, paragraph 1 all Bulgarian citizens, foreigners with a permit for permanent stay in Bulgaria and foreigners who have been granted asylum, refugee status or humanitarian status are obliged to make efforts for meeting their own living needs. Paragraph 2 foresees that social assistance shall be executed by providing assistance in cash and/or in kind and rendering services for meeting the persons' basic living needs, when they are not able to do that through their labor or their property. According to article 3, when implementing social assistance, no direct or indirect discrimination, based on gender, race, colour, ethnicity, citizenship, political or other beliefs, religion or faith, disability, age, sexual preferences, family situation or origin, membership in workers' and others social organizations and movements, shall be allowed.

It is evident from the aforementioned texts that social services in Bulgaria are designed to benefit not only Bulgarian citizens, but foreigners as well. The Social Assistance Act also features an anti-discrimination regulation. Violations of legally set subjective social rights by state or municipal authorities are liable to administrative and judicial control when the affected person submits the relevant complaint.

Social assistance represents means in cash and/or kind that supplement or substitute the income of assisted persons and families up to the level of basic living needs or in order to meet needs that have come up accidentally. Those are received after **exhausting all possibilities** for self-support and assistance from the persons who are bound by law to support them. Social assistance can be monthly, targeted and one-off.

The plaintiffs have provided **no evidence whatsoever** to support the claim that there is residential segregation in Bulgaria. The fact that living conditions often do not meet standards does not lead to the conclusion that this concerns solely the Roma. On the contrary, the Bulgarian population as a whole is suffering from residential problems that are quite difficult to overcome. In this aspect there is a number of fields in which Bulgarian legislation can be improved and specified. There is also need for raising public awareness on legal issues, especially amongst those parts of the population that systematically breach the law – regardless of their ethnicity and other features. Otherwise there would be a situation of violation of the rights of the majority through unjustified favoring of the minority. If **we assume that, hypothetically**, in Bulgaria there was ethnically based segregation, it would surely have resulted in discrimination not only against the Roma, but on the contrary – it would have affected representatives of other ethnic groups in the country as well. However there are no

such claims. The authorities develop and carry out a number of initiatives aimed at the integration of the Roma, as a vulnerable social group, both at national and local level.

III. Residential Conditions in Neighborhoods with Overwhelming Roma Population

Part of the factual findings made in the section entitled “Aggravated Residential Conditions of Romani Neighborhoods” are true, although to a great extent they are only valid for the urban Romani neighborhoods. In this aspect, **measures are envisaged in implementation of the National Housing Strategy of the Republic of Bulgaria**, as well as specific measures under the already developed **National Programme for Improvement of the Residential Conditions of the Roma in the Republic of Bulgaria**.

In relation to the comments on a failure to supply electricity to Roma neighborhoods, we must stress that this occurs only when there is a failure by the consumers to pay for the energy they have consumed over a long period of time that has been certified following the respective procedure. This condition is in force for the Roma as well as for all the other consumers in the country. Furthermore, in places with majority Roma population, electricity supplying companies agree terms for rescheduling of payments for services that have not been paid long time. Such practices have not been accounted for when it comes to other private customers who fail to pay for these services. Their electricity supply is terminated after a certain period of time, in which they fail to pay their dues. Cases of cutting off entire neighborhoods from the electric grid are not systematic and are even less of a kind of collective punishment, as is claimed in the complaint. Such measures have been taken by exception, most frequently due to the unwarranted actions of illegal and unsafe plugging into the electric infrastructure by separate persons there has been a risk for the functioning of the system itself, as well as for the safety of the people. We would like to note that when there is a suspicion of unlawful activities on behalf of the electricity supplying companies, the persons affected are entitled to ask a court of law to order the seizure of this action, as well as a compensation for any damages they have suffered. An example of this is provided in the complaint itself, which once again proves the availability of legal means for protection against violated rights. When needed and under certain conditions, legal assistance can also be received /details provided further/.

A possible remittance of debts of any community or group would constitute discrimination against the rest of the population and this would be even truer in case of legislation towards providing or more efficient protection of the rights of such group. This matter relates to observing the universal principle of justice.

One of the main social assistance programmes in Bulgaria is the programme for providing targeted social assistance for heating purposes to persons with low income. It was successfully introduced in 1995 and is being improved constantly towards increasing its targeting and efficiency. For the 2003-2004 heating season **Ordinance № 5 for the conditions and procedure for the allowance of targeted assistance for heating** /State Gazette 53, 10.06.2003, entered into force on

10.06.2003/ of the Minister of Labour and Social Policy was adopted, in which the already developed mechanism for providing targeted social protection to low-income groups was reflected. The programme for targeted assistance during the heating season is one of the biggest social programmes, providing the necessary social protection to those in need during the winter period, including the Roma in need.

IV. Illegal Dwellings

The requirements and procedures to be followed in order to gain legal recognition for a construction are not arbitrary, but are consistent with the relevant urban development plans, as well as with safety and other sanitary and hygiene requirements for the construction, aimed at securing its adequate usage. These requirements are in force for everyone.

The measures for the removal of illegal housing or for cutting off the electricity /potable water/ supply ensue from the **Territory Planning Law (TPL)** and other laws and administrative provisions and are in force for **everyone** who breaches or has breached active administrative provisions. The measures for the removal of illegal housing or suspending electricity supply do not have discriminatory nature. The TPL provides for the legal recognition of buildings in case they meet legal standards and sanitary and hygiene requirements. The demolition of illegal housings in the so called 'ghettos' is part of the Government's policy for improvement of the living conditions of the Roma population.

The existence of certain construction criteria set out in legislature is natural and represents a standard practice in every country. Without a mechanism for state control and regulatory buttons there would be a risk, in the conditions of the free market and the implementation of investment and other intentions, of giving priority to the preservation of the interests of private persons in front of the whole community precisely through the implementation of the so called 'illegal housing'. The TPL and the other legislative acts related to it provide for the relevant regulation, which is in no case excessive. It is adequate for establishing the just balance between private and public interest.

In order to erase the consequences of illegal housing the officials of the Directorate for National Constructions Control executed inspections throughout the territory of the whole country. The rate of illegal housing that was established in the neighborhoods where Roma reside varies from 50 to 85% in different regions. The Provisional Regulations of § 16 of the Territory Planning Law provide for the possibility to gain legal recognition for illegal constructions that have been admissible under the active detailed urban development plans and the rules and regulations and norms that have been in force at the time of their implementation or under this law, in a period of six months after the entry into force of the TPL /until 26 January 2004/.

The procedure for receiving such legal recognition is set out in § 184 of the Provisional and Concluding Provisions of the Law for Amendment and Supplementation of the TPL /State Gazette 65 of 2003/. The procedure for receiving legal recognition is initiated through a **statement of intent** submitted by its owner in a

period of six months after the entry into force of the Law to the authority that has issued or had to issue the construction permit.

Another important feature of this procedure is that such constructions receive legal recognition under the name of the owner of the land, the name of the person that has been issued a building permit or the name of the person that is entitled to build a construction on someone else's property thanks to a special law. In case the housing has been built by a person who is not the owner, the relations between the builder and the owner are settled according to the provisions of article 72-74 of the Property Law:

„Article 72 (1) A conscientious (bona fide) possessor when making improvements may claim the amount with which the value of the object has increased because of these improvements. This increase shall be determined towards the date of announcing the court verdict.

(2) He or she may claim to be redeemed for due expenses made for the preservation of the object.

(3) Until the improvements and expenses have been paid for he or she shall be entitled to keep the object.

Article 73 (1) An unconscientious (mala fide) possessor shall be indebted to the owner for the acquisitions he or she has received and may have received, as well as a compensation for the benefits he or she has deprived the owner from, after deducting the expenses made for the purpose.

(2) He or she may require to be redeemed for expenses needed for the preservation of the object made by him or her.

Article 74 (1) For improvements made, the unconscientious possessor may claim only the smaller amount between the amount paid for the improvements made and the amount with which the value of the property has increased due to these improvements.

(2) When the owner has been aware that improvements are being made on his property and has not opposed them, the rights of the possessor shall be arranged according to article 72.”

Likewise, it has to be noted that the legal recognition consists of coordinating an **investment project** – taking a photograph for legal recognition, bringing the construction in line with the coordinated investment project, payment of due penalties and fares and issuance of an act of legal recognition. The project – taking a photograph for legal recognition, is carried out in scope set through regulation.

In terms of the timetables for coordinating investment projects – taking a photograph for legal recognition, and for the issuance of acts of legal recognition, for announcing the acts issued or the rejections of legal recognition, for appeals against their legality, as well as for notification of the relevant regional directorates, the applicable requirements lie in Chapter 8 of the TPL. The act of legal recognition together with the investment projects – taking a picture for legal recognition, as well as the rejections are subject to appeals.

The illegal constructions that have not been applied for legal recognition within the aforementioned period of time /26 January 2004/ or whose legal recognition procedure has ended with a rejection to issue an act of legal recognition that has entered into force are to be removed under the provisions of article 225 of the

TPL. A court appeal against the order for the removal of an illegal construction **does suspend** its implementation. Thus, a removal of an illegal construction is carried out only in case a court verdict that has entered into force states that the construction is indeed illegal.

Many times in the complaint there is, on purpose or due to lack of understanding, utilization of terms, the meaning of which does not correspond to the cases, to which they are being applied, for example: “Legal security (or protection) of rent relations”, “Wrongful or forced eviction from their homes and/or their land”, “Legal compensation of the affected persons”, etc., when referring to **illegal housing that is being inhabited without any legal grounds**. It is a widely accepted principle of law that no person can gain rights from his/her own unlawful behavior. In case of a violation of the law a sanction is due, rather than protection. **This is** a fundamental principle. Regarding compensations for demolished illegal housings, we should note that the demolition of such housings is a penalty for violating the law. Therefore, active legislation does not foresee a possibility for the person who has illegally built a construction to be indemnified.

Under the provision of article 222 of the Territory Planning Law access is prohibited to constructions or parts of constructions that have not been brought into exploitation following the relevant mechanism or are being used for purposes other than those stated in the issued construction paperwork and the conditions for entry into exploitation. Their supply with electricity, heating, water and gas is also prohibited.

In the same time, as is pointed out in the complaint as well, the European Committee for Social Rights does accept that “illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.”

The case of Ms. Elena Tsvetkova, referred to in the complaint, is a private one and no general conclusions can be drawn from it. Whether this is a case of discrimination or other infringement of the law is up to the relevant national bodies, including the courts, to determine, after referral by the affected person. We shall leave the presented information on this case without comment, since the collective complaint does not mention whether the national means of protection have been exhausted or even used. We consider the claims of “tens of thousands similar cases of denial of security of tenure” to be groundless, biased and untruthful. Solving the problem with illegal dwellings cannot be represented as part of the ‘right to decent housing’, as far as like we already mentioned unlawful behavior can not serve as grounds for making use of the rights acquired through it. The Bulgarian Government is taking measures for solving this problem (see section Practical Activities for Promoting the Roma Integration).

As far as forced expropriation of private properties for municipal needs is concerned, it is only carried out when there is no other way to satisfy those needs. This does indeed happen, based on an entered into force detailed urban development plan and after the payment of a preliminary and appropriate compensation in cash. The only kind of real estate that is not subject to forced expropriation for municipal needs is that property of the state. But in case real estate is private state property it is

transferred into municipal property without compensation under the procedure established in the Law on State Property. In cases of rejection to provide access to the properties, it is secured with the assistance of the police department. State authorities are indebted to provide for free the entire information at their disposal related to the properties subject to expropriation. The property valuation is done at market prices. When the market valuation is lower than the tax valuation, the compensation is at the amount of the tax valuation. Naturally, these rules only apply to the owners of the property. It is a fact that the procedure of expropriation is initiated on proposal of the mayor of the municipality with a Municipal Council Decision, passed by a majority of over half of the total number of councilors, based on which the mayor of the municipality issues an expropriation order, in which he states the grounds for the expropriation, the purpose, the kind, the location, the size and the owner of the property, the amount of the compensation, the commercial bank, in which the compensation is to be paid and the date, on which the payment of the compensation is to begin to the bank account of the entitled. I.e. the procedure is initiated through an act by the administration. However, for the presentation of the order to the owner, the rules of the Civil Proceedings Code of the Republic of Bulgaria are applied. Such order is subject to appeal in front of the Regional Court relevant to the location of the property within a 14 day period from the moment of its presentation. This is an instance higher than the District Court. Therefore, the claims that the aforementioned procedure lacks provisions for compensation and indemnification, as well as legal possibilities for **reconsideration** of the decision by the appropriate judicial body, are untrue.

In regards to the casuistic examples provided in the complaint, these not only do not claim comprehensiveness but also turn out to lack the support of thorough evidence. Nevertheless, the following conclusions can be drawn from them.

The fact that in 1989 and 1990 the municipal authorities in Shumen have built a new road over parts of the former Roma-populated neighborhood Vitosha and that the Roma, whose houses were demolished by the municipal authorities did not receive financial compensations for the houses, which have been built without legal authorization, does not contradict the law. Given that the aforementioned houses were built without legal authorization, the fact that the municipality provided the Roma with the possibility to rent municipal dwellings indicates the efforts of the state to find some sort of solution for the housing problem. The same comment should also be made on the case of Ms. Zlatka Raykova Marinova, given that her case, as most of the cases referred to in the complaint, also has to do with illegally built dwellings. As the complaint itself points out, those Roma families from Asanova Romani urban slum, whose dwellings were built legally were also compensated appropriately.

It is a well known fact that rent relations do not provide the tenant with ownership rights over the property he or she has rented in any legal system. According to the complaint, regardless of the fact that Ms. Anelia Yordanova was a tenant, rather than an owner, the state offered her a dwelling, in which she could accommodate herself after the municipal building she was living in was demolished. Even though Ms Anelia Yordanova was reportedly in utter need, she refused the first and the second dwelling that was offered to her.

In 2001 the Minister of Regional Development and Public Works and the Minister of Finance signed on behalf of the Republic of Bulgaria a Framework Agreement for a credit with the Council of Europe Development Bank to the amount of 5 400 000 Euro (F/P 1395 (2001)) for the purpose of building 284 dwellings and the basic infrastructure for them to the benefit of the Roma families from the disadvantaged areas of Stolipinovo and Sheker Romani urban slum in the city of Plovdiv. The project is co-financed by the state budget.

These facts not only fail to support the proposition that the Bulgarian state does not make efforts for solving the housing problems of the Roma community, but they also indicate quite the opposite. It is an indisputable fact that similar initiatives are also being supported by funds from the state budget.

V. Antidiscrimination Policy

Discrimination is prohibited in Bulgaria by the fundamental law, national legislation and a number of international legal acts that have been ratified by our country and have entered into force.

In the process of transposing *aquis communautaire* in 2003 the Protection against Discrimination Act was passed (entered into force on 1 January 2004), prohibiting discrimination based on thoroughly listed grounds that incorporate “sex, race, extraction, 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 ground provided for by law or international treaty the Republic of Bulgaria is a party to” (article 4, paragraph 1) .

The Act provides definitions to the terms ‘direct’ and ‘indirect’ discrimination:

Direct discrimination shall be treating a person on grounds provided for under the specified markers less favorably than another person is treated, has been treated, or would be treated in comparable circumstances.

Indirect discrimination shall be putting a person on the grounds under the specified markers, through an apparently neutral provision, criterion or practice, at a disadvantage compared with other persons, unless such provision, criterion or practice is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.

The Protection against Discrimination Act introduces a special procedure for protection of equal treatment. An independent body is established – the Protection against Discrimination Commission whose purpose is the “prevention of discrimination, protection against discrimination and securing equal opportunities.” The Commission itself was constituted on 13 April 2005.

The Commission review the issues presented to it in standing compositions, determined by its chairperson according to the matter of discrimination – on ethnic and racial grounds, on gender grounds, on other grounds of discrimination. Persons who are victims of discrimination in the meaning of the Protection against Discrimination Act or any other law dealing with equal treatment may refer to the Commission. The expenses for the procedure itself are met by the Commission’s

budget. The procedure is started on a written complaint by an affected person or a signal submitted by another person or state or municipal body, as well as on initiative of the Commission itself.

Every person whose rights in the field of equal treatment have been violated may also protect them through the judicial system by submitting a complaint to the District Court. The affected person may seek establishment of the violation, compensation for damages or sentencing the respondent to cease the violation and reinstate the previous situation. This procedure is also provided for in the Protection against Discrimination Act and has no reference to the procedure in front of the Commission; it does not form part of it. The Act provides an opportunity for the trade unions and non government organizations with the purpose of socially useful activities to present a claim on behalf of the affected persons and to enter as a party into an ongoing trial. When the rights of a number of persons are violated they may enter into the trial as a supporting party under the rules established by article 174 of the Civil Proceedings Code. Affected persons may make the claim public in a period of one month and send out an invitation to any other affected persons and organizations to join the claim. Such joining is admissible until the end of the verbal controversy. A possibility exists for persons whose equal treatment rights have been affected by an administration act to appeal against it following the procedures of the Administrative Proceedings Act and the Supreme Administrative Court Act.

Under the entered into force **Personal Information Protection Act** (State Gazette 1, 4 January 2002) the explicit written consent of the relevant physical person is required for the development of personal data that reveals racial or ethnic origins, political, religious or philosophical convictions, membership in political parties, organizations, associations with religious, philosophical, political or trade union goals, as well as data relating to health and sexual life. **The Law on the Ministry of Internal Affairs** (State Gazette 122, 19 December 1997, last amendment SG 45, 30 April 2002) prohibits the gathering of information about persons on religious, racial, political or other grounds exclusively.

Under the **Statistics Act** physical persons may not be forced to provide the statistics bodies with data regarding their race, nationality, ethnicity, creed, health condition, personal life, party affiliation, legal offences committed, philosophical and political views.

Apart from legislative, there is a number of practical measures that are being implemented. Under programme VP/2002/016 **“European Community Action Programme for Combating Discrimination – National Level Awareness Raising Activities”** a project on Increasing the Capacity of Bulgarian Judges and Informing Local Communities in the Cities of Veliko Tarnovo, Shumen, Pleven and Stara Zagora about Efficient Methods for Combating Discrimination was implemented by a consortium of two non government organizations – the European Institute and the Center for Magistrates Training. The cost of the programme was 24 000 Euro.

Under programme VP/2003/027 **“European Community Action Programme for Combating Discrimination – National Level Awareness Raising Activities”** the **Tolerance instead of Intolerance** project was implemented by the Integration Research Institute – Sofia. The cost of the programme was 24 000 Euro.

Under programme VP/2004/010, “European Community Action Programme for Combating Discrimination – National Level Awareness Raising Activities” the **For Diversity against Discrimination** – National Awareness Activities project of the European Institute was supported. The total cost of the project is 82 353 Euro. The programme was started in April with a string of workshops in Silistra, Rousse, Varna, Burgas, Sliven, Smolian, Plovdiv, Kardjali and Blagoevgrad.

VI. Practical Actions for Promotion of the Roma Integration

The Bulgarian Government has a sustainable and dedicated policy for the creation of conditions for the integration/incorporation of the ethnic communities in disadvantaged position. Integration is looked at as a complex of measures in the field of education, healthcare, employment, housing policy, etc., with all these elements being related and the underestimation or overestimation of any of them would cause inefficiency. Incorporation, however, does not imply tolerating **violations of the law and rules of the social community**, nor does it mean privileged attitude towards some citizens at the expense of others outside the law.

Certain steps were taken to raise administrative capacity in the field of rights and protection of ethnic communities. Council of Ministers **Decree № 333** of 10 December 2004 transformed the former National Council for Ethnic and Demographic Issues (NCEDI) under the Council of Ministers into a National Council for Cooperation on Ethnic and Demographic Issues (NCEDI) under the Council of Ministers and improved its structure and functional relations. It remains a consultation and coordination body supporting the Council of Ministers in the implementation of state policy in relation with ethnic and demographic issues. Under the Council was established a **Commission for Roma Integration** that consults the Council on matters related to the design and implementation of state policy for equal integration of the Roma in Bulgarian society.

With the entry into force of the new Structural Regulation of the Ministry of Labour and Social Policy (Council of Ministers Decree № 214 of 6 October 2005) a new direction and directorate were established on Demographic Policy, Social Investments and Equal Opportunities. The directorate develops and coordinates the implementation of state policy in the field of demographic development, social investments and equal opportunities. It participates in the development of methods for monitoring researches of demographic processes and equality, carries out researches and analysis for evaluation of the risks of living in poverty and poverty amongst children of different ethnic and social groups of the population.

Council of Ministers Decree 333 of December 2004 establishes an **Ethnic and Demographic Issues Directorate** within the Council of Ministers. This way the administrative capacity of the Government for implementation of state policy in the field of inter-ethnic relations and integration of persons belonging to ethnic minorities was strengthened. The directorate consists of two units one of which is the Roma Integration Unit. One of the priority functions of the Directorate is to carry out the coordination of and regular control over the implementation of the **Framework Programme for Equal Integration of the Roma into Bulgarian Society**.

22 *ad hoc* regional councils on ethnic and demographic issues were established under the regional administrations. Now, in implementation of Council of Ministers Decree № 333 all 28 regional administrations are establishing regional councils for cooperation on ethnic and demographic issues. Thus an efficient mechanism is being created for coordination between central and regional state bodies concerned with solving the problems of ethnic communities and especially the Roma.

Long-term action plan for implementation of the Framework Programme for Equal Integration of the Roma into Bulgarian Society, Decade of Roma Inclusion 2005-2015

The Bulgarian Government's efforts and willingness for equal integration of the Roma received a great recognition with the decision, along with the Hungarian Government, to host the international opening of the **Decade of Roma Inclusion 2005-2015**. Heads of governments of eight participating countries from Central and Eastern Europe signed a declaration in Sofia, through which they committed themselves to work towards the "abolition of discrimination and removing the unacceptable gap between the Roma and the rest of society", by supporting the full participation and contribution of Roma communities in separate countries for achieving the Decade goals.

On **14 April 2005** the Council of Ministers passed a **National Action Plan on the Decade (NAPD)**, which at the same time represents a long-term action plan for the implementation of the **Framework Programme for Equal Integration of the Roma into Bulgarian Society for the 2003-2004** period and is a continuation of the Government's action plan for the 2003-2004 period. The NAPD has a separate section dedicated to the 2005/2006 period, which coincides with the last phase of the preparation for the accession of Bulgaria to the European Union. The NAPD foresees activities in implementation of the four main Decade priorities: education, healthcare, employment, **improvement of living conditions**. As specific for Bulgaria, the priorities culture and **protection against discrimination** and securing equal opportunities were added. Activities under the Plan are financed mainly by the state budget, as well as other sources. In the end of each year the Plan is to be updated on the base of experience gained and is to be coordinated with the state budget for the next year.

In accordance with the NAPD for the 2005 fiscal year 1 000 000 Leva were provided for the creation by the Government of a **Center for Educational Integration** for children and students from ethnic minorities in January 2005.

On 3 February 2005 the Council of Ministers adopted a **National Programme for Fuller Inclusion of Students in Mandatory School Age**, which will provide the biggest support to children and students from ethnic communities and especially Roma. An emphasis of the Programme is the provision of **access to school** to children, regardless of their place of residence and the economic situation of their families. The Plan for the 2005-2007 period foresees the provision of 22 900 Leva per year for support for **studying the Romani mother language in schools**, as well as further 46 250 Leva per year for the 2005-2006 period for the implementation of courses for acquiring additional qualification in Romani language and culture for teachers and carrying out workshops for 20 training teams, who than will prepare the pedagogic personnel in intercultural education and human rights.

Under the *employment* priority the NAPD foresees specifically the following: increasing the employability and qualification of unemployed Roma; providing employment to Roma looking for jobs; increasing entrepreneurship amongst Roma; support for starting private businesses.

The aforementioned initiatives testify that the Bulgarian state is doing what is possible and is striving towards the creation of favorable conditions for the integration of the Roma population in a number of fields. The *housing conditions* priority of the NAPD concerns more specifically:

- allocation of new municipal properties for the construction of housing;
- design of cadastre and other similar development plans of the newly allocated properties, as well as of the properties with illegally built dwellings with overwhelming ethnic community population;
- based on this, legal recognition of existing dwellings when this is possible;
- reconstruction and finalizing the construction of new technical infrastructure and development of regions with overwhelming Roma population.

For the implementation of these activities are foreseen 2 860 000 Euro under the PHARE programme by 2007.

The Decade was inaugurated nationally in Bulgaria on 8 April – the International Roma Day. The Parliament unanimously approved a declaration for the commitment of state institutions to achieving the Decade goals, which states the willingness of the Republic of Bulgaria to lead a policy of social integration aimed at **decreasing poverty** and is beneficial to the Roma community, as well as to society as a whole.

Fulfillment of the short-term action plan (2003-2004) for implementation of the Framework Programme for Equal Integration of the Roma into Bulgarian Society (the Framework Programme).

On 6 October 2003 the Council of Ministers of the Republic of Bulgaria passed Decision **№ 693 for the Adoption of an Action Plan** for the implementation of the Framework Programme for Equal Integration of the Roma into Bulgarian Society for the 2003-2004 Period. In fulfillment of this, inter-institutional cooperation on Roma issues was improved; possibilities for finding additional financial resources for supporting the Plan were sought after. The final report on the implementation of the plan as adopted on 7 June 2005. **The results** achieved are the following:

Urbanization and Housing Conditions

The Ministry of Regional Development and Public Works (MRDPW) adopted towards the end of November 2003 an **Initial Research of Urbanization and Housing Conditions in Romani Neighborhoods**, executed under the PHARE programme with the National Council for Ethnic and Demographic Issues as a beneficiary.

The report presented contains analyzed and summarized data on housing conditions in Roma neighborhoods in 88 municipalities. The results and recommendation from the Initial Research are used to conceive new projects.

Under the **Construction of Dwellings for the Roma Population in the Municipality of Plovdiv** project towards the end of 2004, 80 dwellings were constructed with the appropriate infrastructure. The dwellings are constituted as private municipal property. Eighty Roma families are accommodated in them.

The **Detailed Development Plan of a Romani Neighborhood in the City of Pazardjik**, which was foreseen in the MRDPW plan was designed at a cost of 10 000 Leva and was presented for approval in line with the requirements of the Territory Planning Law.

The implementation of PHARE 2002 project BG0204.01 at a total cost of 6 030 000 Euro – **Urbanization and Social Development of Regions with Minority Population in Disadvantaged Position**, continues. The project goals include the improvement of housing conditions and access to community services and to decrease unemployment amongst ethnic groups in 6 municipalities (Dulovo, Venets, Lom, Pazardjik, Stara Zagora, Omurtag) in Bulgaria through: 1) the construction of public (technical and social) infrastructure, including water utilities and sewage system, electricity, street infrastructure, a kindergarten and a culture center; and 2) professional training and implementation of schemes for temporary employment and business support as a pilot initiative. Construction has begun in Stara Zagora – a Roma culture center and **sewage system** in the Lozenets neighborhood; Lom – technical infrastructure of the Stadion neighborhood; Pazardjik – technical infrastructure of district 540 (Iztok); Dulovo – a kindergarten in the village of Poroino; Venets – water utilities in the villages of Bania and Baikovo. Construction works are being done on schedule. Another project – water utilities in Omurtag, had to be changed in order to achieve greater social significance amongst the municipality's minority population, the auction procedure has ended and construction has started.

Employment and Social Assistance

Measures are being implemented in the labour market for the social and economic integration of unemployed persons from Roma decent. Their main purpose is to provide the Roma community with adequate possibilities for professional fulfillment and vocational qualification, as far as their wellbeing depends on that, as well as to contribute for the implementation of state policy.

On 30 November 2004 the **Roma Integration – Social Incorporation** project under the PHARE programme at a total cost of 3 967 907.11 Euro finished its technical activities. Achieved results are in the following components: development of **Romani Culture and Education Centers (RCEC)**; **creating employment for Roma and other ethnic groups** and groups in disadvantaged position; promoting entrepreneurship.

Legal Assistance in Exercising Citizens' Legal Rights

Equal access of persons to justice for the protection of their rights and legal interests is safeguarded with the securing and provision of efficient legal assistance with the adoption of the **Legal Assistance Act (LAC)**, which is in conformity with the leading European Standards (State Gazette 79, 4 October 2005) and which entered into force on 1 January 2006. In order to guarantee equal access of all persons to justice, the LAC regulates the legal assistance in criminal, civil and **administrative** cases at all judicial instances with the financing for the legal assistance being provided by the state budget. Thus a real guarantee is created for persons' access to justice. A legal assistance body was established in the National Legal Assistance Office, which is an independent state body, established via a law, a judicial person, a second-level director of budget credits under the Minister of Justice. One of the kinds of legal assistance on offer is in the initiation of legal proceedings or filing a case; paperwork preparation for filing a case; procedure representation. The court reaches its assessment on whether the party does not have the means to pay the lawyer's remuneration by taking into account: income of the person or the family; assets, certified with a declaration; family status; healthcare condition; employment; age and other circumstances.

VII. Government Housing Policy

The findings and conclusions of this section of the collective complaint are unreasonably extremely negative. Efforts are being made for the improvement of Roma housing conditions but this is an extremely difficult and complicated issue and **requires a longer period of time**. It also has to do with the prevention of the possibility for ethnic confrontation in case the law is not applied equally for everyone.

We foresee the solving of the housing problems of the Roma population within the framework of the programmes of the **National Housing Strategy**.

The National Housing Strategy of the Republic of Bulgaria was adopted with a Council of Ministers **Decision № 395 of 14 May**. It poses two strategic goals for the National Housing Policy:

1. Stopping the processes of deterioration of the existing dwellings.
2. Development of an efficient mechanism for the provision of new accessible dwellings (for purchasing and for rent)

There are three operational directions of work for the achievement of these goals:

1. Development of a framework for the national housing system;
2. Solving of priority problems in housing consumption.
3. Implementation of awareness raising and educational campaign.

Each of these directions contains a number of programmes included in an **Action Plan** for the Implementation of the National Housing Strategy.

One of the programmes is aimed at improving the housing sector **financing and credit and the taxing system**. The goal of the programme is to establish credit and taxing mechanisms and instruments that would assist and stimulate low-income families and other vulnerable population groups (including the Roma community) to carry out the needed repairs of their homes and to improve their access to the housing market.

In this aspect, the Council of Ministers adapted a National Programme for Renovation of Residential Buildings in the Republic of Bulgaria on 20 January 2005.

Another programme is related to the research and supply of models for the provision of accessible dwellings by supporting municipalities to build social rental dwellings and promotes the establishment of housing associations that would take on some of the functions of the municipalities in solving the residential problems of persons in need (including Roma).

The aim of the development of these programmes is to offer mechanisms and instruments, as well as proposals for changes in legislation, mainly in the field of financing and taxing, which would bring about an improvement in the access to dwellings for persons with insufficient funds and a decrease in homelessness. They are targeted at all Bulgarian citizens, including the Roma.

Nevertheless, given the nature and extreme acuteness of the problem, the Housing Strategy provides for the development of one targeted programme for improvement of the Roma residential conditions. In implementation of this programme a provisional draft for a **National Programme for Improvement of Residential Conditions in Urban Environment of Ethnic Minorities in Disadvantaged Position** was developed with the cooperation with the United Nations Development Programme. This draft serves as the basis for the development of the programme's final draft.

Prime minister Order № P-77 from 24 November 2005 established an inter-institutional working party with representatives of the Ethnic and Demographic Issues Directorate of the Council of Ministers, the Ministry of Regional Development and Public Works, the Ministry of Finance, the Ministry of Justice, the National Association of Municipalities of the Republic of Bulgaria, the Municipality of Sofia, other municipalities, as well as non governmental organizations.

The draft National Programme for Improvement of Residential Conditions of the Roma is in conformity with the principles of the National Housing Strategy, as well as with the goals and purposes of the Action Plan on the Decade of Roma Inclusion.

The strategic goal of the National Programme for Improvement of Residential Conditions of the Roma is to unite, direct and coordinate the efforts of state bodies, local authorities, civil associations and all relevant institutions in the country to increase the living standards and for the equal integration of the Roma into Bulgarian Society.

The main components and measures that the Programme is foreseen to comprise are the following:

1. Territory regulation – updated and new detailed development and cadastre plans;
2. Improvement of the engineering infrastructure of neighborhoods – water utilities, sewage, electricity, street lights;
3. Improvement of existing dwellings through promotion of undertaking improvements with own means. Support with loans and building materials;

4. Construction of new dwellings under standard projects suitable to the number of household members and the financial capabilities;
5. Development of social infrastructure for the purposes of healthcare, education, culture, entertainment and administration;
6. Credit support for the development of small business;
7. Mobilization of community-based organizations through training, consultancy services, exchange of experience and administrative support;
8. Development of partnerships with the participation of communities, other non governmental organizations, municipal and state body officials; private business representatives;
9. Development of an information system and awareness raising.

The targeted programme for improvement of the Roma residential conditions also foresees the usage of state budget funding, municipality financing, as well as financing from the European Union funds.

There are plans for an Action Programme for the period starting in 2006 until the end of the Decade of Roma Inclusion in 2014.

The Programme draft has already been sent for coordination to all administrations and regional governors concerned in compliance with the Structural Regulation of the Council of Ministers and Its Administration. We are now in the process of designing an Action Plan for the implementation of the Programme in the 2006-2007 period.

VII. Conclusions:

In the context of all that has been said up to this point, we would like to note that the Government of the Republic of Bulgaria does not contest that part of the Roma community is faced with residential challenges that are hard to overcome, but however we do object against certain groundless conclusions of the complaint that this is due to “racial animus in the housing policies of the Bulgarian government” that “amount to racial segregation of the Roma community as a whole” or that “Bulgarian housing policy and practice are infected by racial discrimination and thus violate the safeguards for equal treatment.”

As the presented facts show, there is no discrimination in housing policy in Bulgaria, as far as citizens of the Republic of Bulgaria not only from Romani but also from Bulgarian, Turkish and all other descents are also in a similar difficult material situation.

Whereas the evaluation of the implementation of commitments that stem from other international treaties, to which the Republic of Bulgaria is a party apart from the Revised European Social Chapter, does not belong to the European Committee of Social Rights and is beyond its competencies, we shall leave without comment the claims of breaches of those instruments and the rights and obligations that ensue from them.

In regards to the demands made in the Collective Complaint we express the following stance:

Bulgarian legislation provides enough safeguards for the prevention of discrimination, as well as for the protection of all **legally acquired** real rights.

Therefore the demands for constitutional or legislative changes in this aspect are **ungrounded**.

The Government of the Republic of Bulgaria is applying a coherent and dedicated policy for the integration of vulnerable population groups, which also includes a policy in the field of housing accommodation. This is an ongoing process, the visible results of which shall come in a long-term period and require significant financial resources.

As to Protocol 12 to the Council of Europe European Convention on Human Rights we would like to remind that it is a sovereign right of each country to choose which international legal documents it might join.

Baring in mind the aforementioned arguments of the claimant and the responding party and in the context of the economic situation of the Republic of Bulgaria, its Government expresses its intention and willingness to improve the welfare of its citizens, including the Roma who are referred to in the present Collective Complaint. With view of the improvement and specification of the legislative base and the improvement of the practical dimensions related to the right to adequate housing, due to their complexity, including from a financial point of view, the Government hopes to achieve the goals of the Chapter within a **reasonable timetable** with an accountable progress and to an extent that corresponds to the maximum of the present resources used.

Therefore, the Government of the Republic of Bulgaria respectfully invites the European Committee of Social Rights to:

1. Acknowledge the efforts of the Bulgarian Government for the equal integration of its citizens from vulnerable social groups, including the Roma.
2. Acknowledge the legislative and practical measures that contribute to overcoming the poor residential conditions in which part of the Roma live, as well as the political will for further actions in the implementation and execution of these measured in conformity with the goals of the Revised European Social Chapter and the possibilities for making use of the available resources.
3. Reject the ERRC demands as unjustified.

The Bulgarian Government remains at disposal with view of submitting any further information and clarification the claimant or the Committee may request, including for a participation of an governmental agent before the ECSR with the aim of a comprehensive review of the facts and reaching a just decision on the present case.