

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



18 May 2006

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

Case Document No. 5

**RESPONSE BY ERRC
TO WRITTEN SUBMISSIONS FROM THE BULGARIAN
GOVERNMENT ON THE MERITS**

registered at the Secretariat on 16 May 2006



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Response by the European Roma Rights Centre to the “Written Submissions from the Bulgarian Government on the Merits”

The European Roma Rights Centre (ERRC) welcomes the comments of the Bulgarian Government concerning the merits of Collective Complaint 31/2005, dated 16 March 2006 (“Written Submissions from the Bulgarian Government on the Merits”, hereinafter “Bulgarian Government Merits Comments”).

Concerning the Contention that Insufficient Factual Material Has Been Brought by the ERRC to Support the Contentions in Collective Complaint 31/2005

1. The Bulgarian Government’s expressed view that the ERRC has provided “no evidence whatsoever” to support claims of racial segregation in the field of housing,¹ and elsewhere that the claims brought under Collective Complaint 31/2005 “lack adequate precision and supporting evidence”² are not accurate. The ERRC has presented extensive written evidence to support its claims, as is evident *inter alia* from the Committee’s decision to declare the matter admissible. The material brought by the ERRC in its Collective Complaint of 21 April 2005, as well as in subsequent written comments of 20 September 2005, establish (i) sufficient indications that there exists currently in Bulgaria a vacuum of protections available to Roma sufficient to shield them from abuses of the fundamental right to adequate housing as set out in international, European and Charter law and/or to secure redress when these fundamental rights have been violated, and (ii) that this vacuum of protections has resulted in practice in a pattern and practice of abuses in this area, amounting to a systemic Charter concern.
2. By contrast, in its document of 16 March 2006, the Government has brought insufficient material to set to rest the concerns raised by the ERRC. Indeed, it has made a number of statements in the 16 March 2006 which (i) explicitly acknowledge the veracity of the claims brought by the ERRC in Collective Complaint 31/2005, and/or (ii) raise concerns that the Government may not fully grasp its international law obligations in the areas addressed by Collective Complaint 31/2005.

Concerning Transposition into Bulgarian Domestic Law of the Right to Adequate Housing as Established under International and Charter Law

3. The Government provides, at pp.4-5, summary information about several domestic law provisions, as part of commentary under the heading “The Right to Housing and Bulgarian Law”. The material provided by the Government supports the ERRC’s contention that Bulgarian lawmakers have to date failed to transpose into domestic law the right to adequate housing as provided under Charter Article 16 and related international law.

¹ Bulgarian Government Merits Comments, p.5.

² Bulgarian Government Merits Comments, p.4.

4. The Government explicitly acknowledges, in its comments on the merits of Collective Complaint 31/2005, that the Constitution of Bulgaria lacks an explicit provision recognising the right to adequate housing.³
5. The Government argues that Constitution Article 33 on the inviolability of the home provides sufficient guarantees to establish the Charter Article 16 right and related international law guarantees. The Government however describes the content of the Article 33 Constitutional rights as comprising in substance the following: “No one may enter or remain in it [the home] without the consent of its inhabitant, except in cases specifically provided for by the law.” This provision, as summarised in the course of these proceedings, falls far short of the Charter Article 16 right and related international law establishing the right to adequate housing.⁴
6. No other information provided in the Bulgarian Government Merits Comments indicates that the Article 16 right and related international law establishing the right to adequate housing is effectively transposed into Bulgarian domestic law.

Concerning the Denial of Racial Discrimination and/or Racial Segregation in the Bulgarian Government Merits Comments

7. In its General Remarks, the Bulgarian Government claims that there are no discriminatory practices concerning the housing of Roma in Bulgaria. It is instead argued that the poor living and housing conditions constitute a problem for the Bulgarian population as a whole, and those are related to the economic conditions and the living standard in the country. The Bulgarian Government rejects the ERRC claim of the existence of residential segregation in Bulgaria.
8. In relation to the above-mentioned claims and as stated in the Collective Complaint, the ERRC alleges that Roma in Bulgaria live in areas of significantly worse conditions compared to the housing in other areas and inhabited by ethnic Bulgarians or other ethnic groups. Romani neighbourhoods are overcrowded and have markedly substandard conditions. Many homes in such neighbourhoods consist of makeshift shacks made of cardboard, metal scraps and mud bricks and are frequently devoid of windows, doors and walls. The majority of Romani settlements constitute de facto "no services" areas, almost completely removed from the mainstream of Bulgarian social and economic life. Romani neighbourhoods are usually found on the outskirts of cities, towns and villages. In many of the neighbourhoods there is a lack of technical, underground or above-ground infrastructure and whatever infrastructure exists is frequently outdated, partial, in need of repair or renovation, and greatly insufficient to meet the needs of the population. Homes in informal settlements often lack electricity and running water. Public services such as trash collection or public transportation are limited in such areas.
9. The increase of family members in households as a rule involves enlargements of existing houses or construction of new ones. This results in random and chaotic building, which might be detrimental for the security of neighbourhood residents in terms of potential fire hazards since unsystematic illegal constructions brings dwellings closer to each other and narrows already inadequately small mud tracks which frequently constitute the only access roads or paths in a given slum. This makes many buildings virtually inaccessible to fire-fighters and ambulance personnel.
10. The housing conditions of the Romani community are thus substantially substandard as compared to those of the rest of the Bulgarian population, contrary to the Bulgarian authorities' claim that poor residential conditions affect Bulgarian citizens equally, and no effective policy exists to reverse this. As noted in the original Collective Complaint document of 21 April 2005, the Bulgarian Government has indeed in recent years eroded protections against forced

³ Bulgarian Government Merits Comments, p.4.

⁴ The ERRC is unaware of any jurisprudence developing substantively Bulgarian Constitution Article 33, but the provision *prima facie* appears far more symmetrical with components of rights established under the Article 8 European Convention on Human Rights than with the Article 16 Charter rights.

evictions, and failed to protect Roma from systemic housing rights violations and discrimination in the field of housing.

11. Although the Bulgarian Government refutes the claim of disproportionately substandard residential conditions of Roma in the Bulgarian Government Merits Comments, the ERRC's claim in this respect finds support in the National Program for Improvement in the Housing Conditions of Roma in Bulgaria for the 2005-2015 Period, as accepted by the Bulgarian Government on 22 March 2006, eight days subsequent to the document provided to the Committee. It has been stated in the part Analysis of the State of Living Conditions of Roma in Bulgaria of the Program that, "a stable tendency of increasing difference in the conditions of life in the Roma groups and the living conditions of the majority of the rest of the population is noticeable." Moreover, this document notes that:

"During the last 15 years the housing conditions of the majority of Roma in Bulgaria have been stably deteriorating. The greatest part of the buildings is constructed with makeshift materials, illegally [...], the street and utility networks are in bad conditions and this turns the Roma neighborhoods into ghettos. The overpopulated houses and the overall increase in the density of inhabitation strain the servicing systems, which are anyway insufficient and service merely 46% of the population in the Roma neighborhoods, the consequences being bad hygienic conditions and health risks for the population, as well as social stress. There is a great difference between the provision of community services in the Roma housing and the housing in the country as a whole."⁵

Thus, the Bulgarian Government has elsewhere acknowledged policies and practices which it has denied in the course of these proceedings.

12. The factual situation of Roma in Bulgaria as it currently exists at present does not support the claim of the Bulgarian authorities that there are no discrimination against Roma in Bulgaria in the field of housing, and this has been acknowledged by the Government in the aforementioned Program.

Concerning the Systemic Forced Eviction of Roma, as Presented in the Bulgarian Government Merits Comments

13. Regarding Part IV. Illegal Dwellings of the Bulgarian Government Merits Comments, the Bulgarian Government makes the untenable claim that the demolition of illegal housings "is part of the Government's policy for improvement of the living conditions of the Roma population." Were this in fact the case, the Government might have been able to bring compelling evidence that the housing situation of Roma is in fact improving. In fact, extremely substandard housing conditions appear to be worsening. In the capital Sofia, the locus of a number of recent housing destructions by municipal officials, slum settlements such as Fakulteta are visibly growing in population. In the case of Fakulteta in particular, an urban plan exists to level significant parts of the quarter, but, as noted in the original Collective Complaint document of 21 April 2005, no plan apparently exists to address the need to re-house the several tens of thousands of persons living in the settlement, currently threatened with forced eviction into homelessness, and the Government has provided no evidence in the course of these proceedings of the existence of a plan to re-house these persons. The expansion of slums and the heightening of the degrading conditions in them is also evident in many other settlements throughout the country.

⁵ National Council for Cooperation in Ethnic and Demographic Issues towards Council of Ministers of Bulgaria, *National Program for Improvement in the Housing Conditions of Roma in Bulgaria for the 2005-2015 Period*, <http://www.ncedi.government.bg>.

14. The Government further maintains that:

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 neighbourhoods 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 [Territory Planning Law] until 26 January 2004.

15. With respect to the foregoing, the ERRC would note that:

- i. The provisions mentioned have never been made widely known in Romani communities or in any manner which might facilitate the regularisation of housing or tenure in Romani communities;⁶
- ii. There is no indication that, even had they been made widely known, the Provisional Regulations under § 16 of the Territory Planning Law could have had the effect of remedying the widespread problem of lack security of tenure among Roma, since, as noted by the Government, the Provisional Regulations of the Territory Planning Law merely “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 [...]”. Given the scope and dimensions of the problems as described by the ERRC in the documentation presented under Collective Complaint 31/2005, the Government’s apparent claim here that Provisional Regulations of the Territory Planning Law might have had the effect of removing the conditions giving rise to Article 16 Charter issues in Bulgaria is disingenuous;
- iii. Most importantly, no Romani persons of whom the ERRC is aware have managed to legalise housing under the provisions mentioned;
- iv. Finally, although the Government has provided no comparative data on percentages of non-Roma lacking security of tenure in Bulgaria, it would appear from the data presented in the paragraph cited above that the Government is and has been aware of the extremity of the issue and that its claim of non-discrimination is not made in good faith.

16. The Government has confined its comments in Part IV on factual material brought by the ERRC in the Collective Complaint document of 21 April 2005 and the supplementary comments of 20 September 2005 to three individual cases and four instances in which all or parts of Romani settlements were obliterated by officials. Of these:

- i. In the case of Ms Elena Tsvetkova, the Government holds that the matter described “is a private one and no general conclusions can be drawn from it”, without providing any reasons as to why such a claim might be true;
- ii. In the remaining cases discussed by the Government, the Government concedes all claims by the ERRC. In the case of Yordanova, it is imputed that a sentient adult preferred homelessness to adequate accommodation;
- iii. The Government has provided no comment on the many tens of other cases brought as illustration of generalised patterns and practices of frustrating the fundamental rights of Roma to adequate housing in Bulgaria.

⁶ Announcements were posted in the Bulgarian language in the offices of the local authority. Bulgarian attorneys involved in Roma housing rights cases with whom the ERRC works note that (i) the wording of the law has been difficult even for legal professionals to understand; and (ii) due to the very specific criteria set out in the law, few or no constructions in Romani slum settlements met the criteria for legalization under the law. In a number of instances of which the ERRC is aware, applications under this provision were summarily rejected by municipal officials, who warned the Roma concerned that, initiating such procedures might result in the destruction of the dwellings concerned, because these could not meet the specific terms of the provision.

17. Further, although the Government has chosen to comment on these issues as ones of “Illegal Dwellings”. The ERRC however raised them as issues of fundamental and systemic insecurity of tenure prevailing among Roma in Bulgaria, under two separate headings: “Factual Denial on a Massive Scale of Legal Recognition of Romani Housing” and “Systemic Threats of and/or Actual Implementation of Forced Evictions. Planned and Realised Wholesale Destruction of Romani Neighbourhoods”. The Government has brought no material to refute the matters raised in these two sections of the 21 April 2005 Collective Complaint.
18. The ERRC has, moreover, provided documentation in the Collective Complaint of a number of cases in which the evictions of Roma have led to homelessness, relocation to housing with similarly substandard or even worse conditions, and/or increased overcrowding of alternative dwellings. Here again, the Government has remained silent on these matters giving rise to fundamental Charter concerns.
19. In many of the cases of forced evictions of Roma from their dwellings, as in the Assanova urban slum settlement in Sofia, Meden Rudnik in Burgas, and many others as cited in the Collective Complaint, those evictions do not aim at improving Roma living conditions but rather aggravate the already deplorable conditions.
20. In *European Roma Rights Center v. Greece*, assessing the matter of forced evictions of Roma from illegally occupied sites or dwellings, the Committee prescribed a test as to whether the eviction was acceptable. The test consists of three elements: 1) criteria of illegal occupation must not be unduly wide, 2) the eviction should take place in accordance with the applicable rules of procedure and 3) these [rules] should be sufficiently protective of the rights of the persons concerned.⁷
21. The ERRC noted in the cases referred to in the Collective Complaint, as for example in the case of Ms. Zlatka Marinova, that the requirements of the test as recommended by the European Committee of Social Rights in *European Roma Rights Center v. Greece* were not abided by. Moreover, the requirements of Bulgarian law, as elaborated by the Bulgarian Government in part IV. *Illegal Dwellings*, do not provide for rights of any kind for the persons occupying illegal housing.
22. The matter of forced evictions of Roma has recently been addressed by the Committee in the case of *European Roma Rights Center v. Italy*. In its assessment, the Committee reaffirmed with regard to evictions from illegal housing that the state needs to ensure that “the evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available”⁸ [emphasis added]. Thus, it has been established that even in cases of illegal occupation of dwellings or occupation of illegally constructed dwellings, the state cannot resort to forced evictions that result in homelessness.
23. In marked contrast to these standards, Bulgarian authorities have forcibly expelled Roma from their housing into homelessness in recent years, and many tens of thousands of Roma in Bulgaria currently live under threat of forced eviction into homelessness, as documented in the ERRC submissions of 21 April 2005 and 20 September 2005. The Government has not, in its document of 16 March 2006, adequately demonstrated otherwise.

Concerning Misinterpretation by the Government of the Non-Discrimination Right under the Charter, as well as under Related International Law

⁷ European Committee of Social Rights, Report to the Council of Europe Committee of Ministers on the Collective Complaint *European Roma Rights Centre v. Greece*. See Collective Complaint No. 15/2003, paragraph 51. Strasbourg, February 7, 2005.

⁸ European Committee of Social Rights, Report to the Council of Europe Committee of Ministers on the Collective Complaint *European Roma Rights Centre v. Italy*. See Collective Complaint No. 27/2004. Strasbourg, December 7, 2005.

24. In its 16 March 2006 comment on the merits of Collective Complaint 31/2005, the Government presents the view that any “more efficient protection of the rights of [the Roma] group [...] would constitute discrimination against the rest of the population.” With regards to the latter, the ERRC holds that the interpretation of the term discrimination by the Bulgarian Government is incorrect, and is indeed a misinterpretation of the international law ban on discrimination.

25. The obligation of states to take action for the protection of specific groups of the population who may be threatened with racial discrimination or otherwise labouring under burdens imposed by past or present discrimination forms the basis of Article 1(4) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which states that:

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

26. Article 2(2) of the ICERD further provides:

States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

ICERD Article 2(2) imposes a burden ("shall, when the circumstances so warrant") on states to adopt positive action measures if there is evidence that such are needed in order to ensure equality of outcome, provided that such measures are limited in time and end once their objectives (the effective equality of the persons concerned) have been met.

27. The European Court of Human Rights has emphasized that positive action measures are not only permissible under the European Convention's non-discrimination requirements, but in certain instances are indeed required. Ruling in the matter of *Thlimmenos v. Greece* in 2000, the Court held:

The Court has so far considered that the right under Article 14 not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is violated when States treat differently persons in analogous situations without providing an objective and reasonable justification [...]. However, the Court considers that this is not the only facet of the prohibition of discrimination in Article 14. The right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when States without an objective and reasonable justification fail to treat differently persons whose situations are significantly different.⁹

28. The Court has further elaborated this principle in particular with respect to States obligations vis-à-vis Roma/Gypsies. In the judgment in *Connors v. United Kingdom*, the Court asserted the need for positive action on the part of states with regards to Roma in particular, stating that,

⁹ European Court of Human Rights, Judgment, *Thlimmenos v. Greece*, (Application no. 34369/97), 6 April 2000.

“the vulnerable position of gypsies as a minority means that some special consideration should be given to their needs.”¹⁰

29. In its decisions concerning Roma and the right to housing, the Committee has developed an approach derived at least in part from that of the Court in its decisions in *Thlimmenos* and *Connors*. In its decision in *European Roma Rights Centre v. Italy* (Collective Complaint No. 27/2004), the Committee elaborated on the Charter’s non-discrimination requirements in this area as follows:

19. The Committee recalls that in its decision on the right to housing of Roma in Greece it emphasised that “one of the underlying purposes of the social rights protected by the Charter is to express solidarity and promote social inclusion. It follows that States must respect difference and ensure that social arrangements are not such as would effectively lead to or reinforce social exclusion” (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 19).

20. Similarly, equal treatment requires a ban on all forms of indirect discrimination, which can arise “by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all” (Autism-Europe v. France, Complaint N° 13/2002, decision on the merits of 4 November 2003, § 52).

21. In this case, equal treatment implies that Italy should take measures appropriate to Roma’s particular circumstances to safeguard their right to housing and prevent them, as a vulnerable group, from becoming homeless.¹¹

30. Also in *European Roma Rights Center v. Italy*, addressing the issue of social housing, the Committee noted the need for the state to ensure access for disadvantaged groups in particular, referring to the presence of indirect discrimination. Moreover, the Committee stated the need for the State Party to provide information indicative of the effectiveness in practice of the access of Roma to social housing. State authorities have additionally been judged based on their failure to “take into consideration the different situation of Roma or to introduce measures specifically aimed at improving their housing conditions, including the possibility for an effective access to social housing.”¹² The Committee also derived violations by the Italian government of the Charter’s non-discrimination guarantees as a result of its failure “to take due and positive account of all relevant differences, or adequate steps to ensure their access to rights and collective benefits that must be open to all.”¹³
31. It flows from the foregoing that, by clinging to a rigid standard whereby the administration treats all persons identically, regardless of their particular circumstances and the very real and powerful forces of (i) unaddressed legacies of exclusion on an ethnic basis and (ii) present intense racial animosity currently prevailing in Bulgaria, the Government of Bulgaria misinterprets and therefore misapplies European and international standards in the field of the ban on all forms of discrimination.
32. Further, with respect to the Government’s comments on pp. 5-6 of the Bulgarian Government Merits Comments concerning racial segregation of Roma in the field of housing in Bulgaria, it is evident that, similar to its confusion with respect to European anti-discrimination law, the Bulgarian Government misunderstands and therefore misinterprets the requirements of

¹⁰ European Court of Human Rights, *Connors v. United Kingdom*, Application no. 66746/01, paragraph 84. Strasbourg, May 27, 2004.

¹¹ The Committee further linked data collection obligations (Decision, Collective Complaint No. 27/2005, paras. 22-24) and state responsibilities (Decision, Collective Complaint No. 27/2005, paras. 25-26) to the Charter non-discrimination right.

¹² Decision, *European Roma Rights Centre v. Italy*, Collective Complaint No. 27/2004, para. 46.

¹³ Decision, *European Roma Rights Centre v. Italy*, Collective Complaint No. 27/2004, para. 26.

international law with respect to the ban on racial segregation. As noted in the original Collective Complaint document of 21 April 2005, these flow primarily from Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).¹⁴ The United Nations Committee on the Elimination of Racial Discrimination (CERD), the body established to monitor States Parties compliance with ICERD has established, in its General Recommendation 19, that:

1. The Committee on the Elimination of Racial Discrimination calls the attention of States parties to the wording of article 3, by which States parties undertake to prevent, prohibit and eradicate all practices of racial segregation and apartheid in territories under their jurisdiction. The reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries.

2. The Committee believes that the obligation to eradicate all practices of this nature includes the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State.

3. The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.

*4. The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.*¹⁵

33. It therefore follows from the foregoing that, similar to the Government's overly rigid interpretation of its obligations concerning the ban on all forms of discrimination, noted above, passages in the Government's document of 16 March 2006 give rise to the concern that it may be operating under a flawed understanding of the term "racial segregation" and that its actions to date may have been insufficient to combat such racial segregation of Roma as occurs in the field of housing in Bulgaria. The factual situation of Roma in Bulgaria, as well as all other relevant material pertaining to policy and law in this field, strongly suggest that this is indeed the case.

34. Finally, the ERRC would comment on one particularly bizarre contention by the Bulgarian Government, appearing on p. 5 of the Bulgarian Government Merits Comments document, namely the expressed view that, "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." Such a statement reveals the complete inability of the Bulgarian Government to grasp what is at issue in the treatment of Roma in Bulgarian society. The Government is apparently fully ignorant of the fact that particular claims, prejudices and stereotypes against Roma currently prevailing in Bulgarian society shape powerfully, particularly and to extreme detriment the treatment of Romani individuals by both the

¹⁴ Article 3 of the ICERD states: "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."

¹⁵ UN Committee on the Elimination of Racial Discrimination (CERD). General Recommendation 19: Racial Segregation and Apartheid (Art. 3). August 18, 1995.

administration as well as by non-Romani Bulgarians. These forces do not affect other ethnic groups precisely because the views entertained by non-Roma in Bulgaria about Roma as a group are neither similar to nor as strong as prejudices and stereotypes against other groups in Bulgaria. One key determinant of the extreme situation in which Roma find themselves in Bulgaria today has been precisely the reluctance to acknowledge these truths and to act adequately through law, policy and budgetary measures to counteract them. Exposed here is the determination by the Bulgarian administration to remain intransigent and inactive in the face of an extreme policy need.

Conclusion

35. In light of the foregoing, it is evident that the Bulgarian Government's rigid one-size-fits-all approach to non-discrimination is derived from a flawed approach to non-discrimination. The damage caused by this abandonment of Roma, whereby it is assumed that all persons begin from the same starting point, an approach which wilfully disregards both centuries of exclusion as well as evident intense anti-Romani hostility in society today, is completely contrary to the responsibilities of government in general and the obligations of governments under the Charter in particular.
36. The Government states that it hopes to "achieve the goals of the Chapter within a reasonable timetable", but it has not in fact provided such a timetable here. In light of the indications the Government has provided in responding to the merits of Collective Complaint 31/2005 and elsewhere that it regards actions to assist particular groups facing threats of discrimination and other exclusionary forces as outside its legitimate scope of action, the ERRC believes that the Committee should regard with deep scepticism any claims that the Government can achieve its Charter obligations with respect to Roma under its current approach.
37. We urge that the Committee find Bulgaria in violation of its Charter obligations as noted in the course of these proceedings, such that the Government may be led to begin to correct matters in these areas.

Thank you for your consideration of these matters.

On behalf of the European Roma Rights Centre,



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