

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



26 July 2006

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

Case Document No. 6

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

registered at the Secretariat on 19 July 2006

The Government of the Republic of Bulgaria welcomes the position put forward by the ERRC on the 15 May 2005. Meanwhile, we regretfully establish that in the presented document the ERRC raises grave and groundless accusations in racial discrimination and/or racial segregation, racial animosity, systematic forced evictions of Roma and misinterpretation of the principles of non-discrimination by the Bulgarian Government.

In connection to the claim by the plaintiff that it has been presented sufficient supportive evidence for the claims of racial segregation in housing policy and that this is “evident *inter alia* from the Committee's decision to declare the matter admissible”, we would like to remind that the decision on the admissibility of the complaint only concerns the procedural conditions for its regularity, whilst the review of its merits, during which the assessment of the presented supporting evidence is also done, is a separate stage of the proceedings. Regarding the accusation in racial segregation in housing policy itself, the Government of the Republic of Bulgaria would like to remind the ERRC of the existence of a significant distinction in the interpretation of separate private cases, as claimed by the plaintiff, and the implemented policy, as stipulated in the relevant Government documents. The violation of a certain kind of personal rights does not automatically mean that the state is leading a policy of violation of this kind of rights.

The Government of the Republic of Bulgaria would also like to note that article 16 of the ESC (r) stresses on the social, legal and economic protection of **the family**, part of it being the state's obligation to **assist** with a range of measures, including by providing housing **for the family**. Under the jurisprudence of the European Committee for Social Rights, the right to adequate housing is only reviewed in the light of the family. The protection measures under article 16 should be viewed as a whole, rather than as autonomously detached rights outside the family scope. The right to adequate housing of a decent standard is specifically stipulated in article 31, which Bulgaria has not ratified. We therefore consider the automatic transfer of the right to adequate housing from article 31 to article 16 to be inadmissible. The same also pertains to the references to the ECSR jurisprudence concerning Collective Complaint 27 (ERRC v Italy), as the latter concerns article 31 of the ESC (r).

We find that there is a certain inconsistency in the ERRC position regarding the present case. On one hand the Bulgarian Government is criticized for its alleged intentions to demolish the illegal buildings. On the other, the Government is also criticized because these buildings do not meet modern-day living standards and lack the infrastructure, which in its turn hinders the provision of sufficient community and other services. In the meantime, the authorities' lawful actions for the prevention of the practice of illegal occupation of others property and construction of resemblances of housings, is treated as racial segregation and forced evictions, and the cases of provision of alternative rented housing, with a rent several times lower than the market price, also fail to satisfy the plaintiff. We would like to state once again that the requirements and the procedures that are to be followed in order for a construction to be legal are not arbitrary, rather than in conformity with the relevant city plans, as well as with the safety requirements and other sanitary and hygiene requirements for buildings, allowing its proper use and occupation. These requirements are in force for everyone. We firmly state that the Bulgarian Government will not tolerate violations of the law by any group of citizens and this concerns on equal footing property rights,

as well as construction requirements. We also find it to be perfectly natural and mandatory for the state to abide by the observance of legislation by all its citizens and to react with the relevant sanctions to infringements. Offences may not be allowed with the justification of executing measures of positive discrimination. Even if we were to assume hypothetically that the Roma dwellings in question were to be legalized, this would not improve the infrastructure or the emergency assistance services, and neither would it contribute to the security and adequate development of the families living there. Large portion of the dwellings in question do not meet construction standards and requirements and it is practically impossible for them to meet those requirements. Therefore, a solution may not and should not be sought through the formal legalization of constructions that never met the requirements to begin with.

We would like to turn your attention to the fact that Bulgaria is a party to the main international legal human rights instruments but the assessment of the implementation of the obligations that stem from these is not part of the competences of the European Committee for Social Rights.

In this sense, the conclusion by the European Committee for Social Rights concerning the present Collective Complaint should be based solely on the relevant provisions of the European Social Chapter (revised), rather than on other international legal instruments and the practice of their relevant control mechanisms.

More specifically, the European Roma Rights Center quotes the practice of the European Court of Human Rights (ECHR), but in this case the complaint is not brought before the ECHR and it does not concern possible violations of rights, guaranteed under the European Convention on Human Rights.

The same goes for the International Convention on the Elimination of All Forms of Racial Discrimination that has its own control body – the United Nations Committee on the Elimination of Racial Discrimination, part of whose competences is the assessment of the observation of obligations stemming from this Convention. Thus, the quotes provided by the plaintiff from this Committee's *General Comments* may not be correlative to the present case. Furthermore, we would like to note that these *General comments* have no mandatory legal power.

We firmly reject the ERRC “findings” that the Bulgarian Government has admitted the existence of discriminatory policies and practices in the field of housing regarding the Roma, as well as the accusations of misunderstanding the principles of non-discrimination. The policy of equal integration of ethnic minorities and preservation of their cultural identity stands as a priority in the government programmes of the Bulgarian cabinets during the period since 1989. Draft legislation has been developed through the legislative programme of the Government and has been approved by the National Assembly, which lead to the establishment of a system of legal guarantees for the protection of rights and from discrimination.

Similarly to the Roma in other Central and Eastern European countries, the Roma in Bulgaria are the most vulnerable ethnic minority.

After the democratic changes in the country, the Roma integration has become a priority state policy. Active dialogue has begun between the Roma community and the Bulgarian Government and it was noted that even the best of strategies could not be successfully carried out without the active participation of the Roma community itself.

In 1999 the Framework Programme for Equal Integration of the Roma in Bulgarian Society, the initiative for which came from Roma community NGO's, was approved. The Programme places the elimination of discrimination against the Roma as one of the main political priorities of the Bulgarian state. In correspondence with the UN International Convention on the Elimination of All Forms of Racial Discrimination, to which Bulgaria is a party, this Programme outlines the medium-term actions of state institutions aimed at establishing real political, social, economic and cultural conditions for the equal integrations of the Roma in society.

The Protection against Discrimination Act entered into force in 2004 and it was developed with the active contribution of representatives of nongovernmental human rights protection organizations and of the Roma community. In 2006 an up-to-date Action Plan on the Framework Programme for the period until 2007 was developed with the assistance of three NGO's and following a broad discussion with the Roma community. This Plan aims to synchronize the measures under the Decade of Roma Inclusion 2005-2015.

The accents under the Framework Programme laid the groundwork for the approval of specialized programmes and strategies, with the more important ones being: Health Strategy for the Persons in Disadvantaged Position Belonging to Ethnic Minorities, as well as an Action Plan until 2007 towards it; Strategy for Educational Integration of Children and Students from Ethnic Minorities and an Action Plan towards it until the 2008/2009 school season; National Programme for the Improvement of the Housing Conditions of the Roma in the Republic of Bulgaria and an Action Plan towards it until 2007.

The National Programme for the Improvement of the Housing Conditions of the Roma in the Republic of Bulgaria is developed in correspondence with the National Housing Strategy of the Republic of Bulgaria, adopted with Council of Ministers Decision № 395 of 14 May 2004.

The Programme is developed in implementation of the Action Plan for Implementation of the Initiative Decade of Roma Inclusion 2005-2015, adopted with Council of Ministers Decision in Protocol № 15 of 15 April 2005, as well as of the Framework Programme for Equal Integration of the Roma in Bulgarian Society, adopted with Council of Ministers Decision in Protocol № 18 of 22 April 1999. The working party that developed the Programme featured experts from ministries and institutions, representatives of the local authorities, as well as representatives of the Roma community.

The development of the Programme fulfilled Measure 579 of the Political Criteria for Accession of the Republic of Bulgaria to the European Union.

The programme and resource provision for the improvement of the Roma housing conditions in the Republic of Bulgaria will be executed within the framework of this National Programme through Action Programmes for certain periods. The Programme is developed for a period of 10 years (2005-2015) and will be updated and improved along the process of its implementation. The Programme is implemented through an **Action Plan**.

The main goal of the National Programme for Improvement of the Roma Housing Conditions (NPIRHC) for the period 2005-2015 is to unite, direct and coordinate the efforts of state bodies, local authorities, nongovernmental organizations, the Roma community and all interested institutions inside the country for increasing the living standard and for the equal integration of the Roma in Bulgarian society.

The Programme is aimed above all towards the improvement of housing conditions of the Roma community in urban environment. The prioritization of urban areas is based on the fact that the problems in the towns are graver, more complex and are of diverse nature, including housing problems. Therefore the challenges faced by the cultural, economic and especially legal integration of the Roma community there are much more urgent and more serious than those in rural areas.

Expected results include the urbanization of parts of the territories (including regulation, urban development, development of engineering infrastructure, planting, removal of illegal constructions that do not meet construction regulations and requirements, thus construction of housing for the Bulgarian citizens of Roma descent living in these constructions and are in need of such) of settlements, on which Romani neighborhoods have come into being in a natural manner.

Description of measures under the Programme:

Investment Measures (I):

11. Regulation of the territory of existing neighborhoods with overwhelming Romani population;

12. Improvement of the existing and construction of new technical infrastructure in existing neighborhoods;

13. Improvement of those dwellings in existing neighborhoods that meet the legislative requirements and the current and updated regulation for the relevant neighborhood;

14. Assignment, picturing and development of detailed development plans (DDP) of new terrains (municipal property) that can be destined for the construction of dwellings;

15. Development of new and further development of existing technical infrastructure in the newly assigned terrains according to the detailed development plan for the provision of necessary conditions for the following construction of dwellings;

- I6. Construction of social dwellings in the newly assigned terrains;
- I7. Development of establishments of social infrastructure on the terrains assigned for construction of dwellings.

Support Measures (S):

- S1. Preparation of strategies for local economic development of neighborhoods;
- S2. Mobilization of community based Romani organizations;
- S3. Capacity building and development of partnerships with the participation of organizations from the communities, other nongovernmental organizations, servants in municipal and state bodies, representatives of the business community;
- S4. Setting-up consultation, information (including for the conditions for receiving credit) and assistance and “self assistance” bureaus;
- S5. Issuance of credits for building materials for improving the quality of existing dwellings and development of small business;
- S6. Setting-up centers for vocational training in order to prepare the future newcomers to participate directly in the construction of their own dwellings, as well as of the social dwellings and the technical and social infrastructure;
- S7. Development of forms for the auction documentation for the future developers of projects, that will be assigned by the municipal or state administration in correspondence with the provisions of the Public Procurement Act and the relevant amendments;
- S8. Development of an information system and a monitoring system in order to insure transparency and public character of the whole process of the Programme.

The total maximum cost of the Programme is approximate and as of the moment of its creation is established at **1.26 billion BGN** for a period of **ten years**. The investment measures represent **91.4%** of the total cost of the Programme. The remaining **8.6%** are allocated for the support measures. The greatest capital investments are designed for the **terrain regulation and technical infrastructure improvement measures** for which **42.3% (532.30 million BGN)** of the total cost of the Programme; construction of new social housing is the second most cost-consuming measure with envisaged **41.4% (521.37 million BGN)** of the total cost of the Programme.

The main sources of financing will be the state budget, the municipal budgets and the European Union Structural Funds. The state budget financial support from the Programme accounts for 40% of the total amount. It will be implemented mainly through the budget of the Ministry of Regional Development and Public Works within the framework of the common budget procedure and regulations and depending on the possibilities of the budget. The financing of Programme activities for 2006 will be carried out within the framework of the approved budget of the Ministry of Regional Development and Public Works and the budgetary relations with the respective municipalities.

It is foreseen that the municipalities’ contribution will be 17% of the total cost of the Programme. Part of this contribution is expected to be in the shape of municipal terrains necessary for the implementation of the housing Programme.

Regarding the European Union Structural Funds, financing is to be sought after for all eligible activities under the Operative Programmes in the different stages and on different planning and programming levels of funding under these. The

provisional amount of such assistance is evaluated at 30% of the total funding for the implementation of the current Programme.

Part of the necessary means could be secured in the form of credit financing, including by international sources. This should happen predominantly after the initiative of the municipalities and under the provisions of the Municipal debt Act.

Guaranteeing the sustainability of the Programme supposes seeking financial participation from the beneficiaries as well. For this purpose, the beneficiaries may be encouraged to share the costs through the introduction of appropriate lines of crediting for loans for the purchase of housings, built in correspondence with the Programme. Budget forecasts show that about one third of the total investments could be financed this way. After reaching specific agreements for financing and encouraging the financial institutions to support the implementation of the Programme, the necessary state budget funding will decree accordingly.

The Programme will be carried out by the Ministry of Regional Development and Public Works. The National Council for Cooperation on Ethnic and Demographic Issues will bare coordination and consultation functions regarding this Programme.

The Action Plan for 2006-2007 was approved at a Council of Ministers meeting on 11 May 2006. In implementation of its responsibilities under it, the Ethnic and Demographic Issues Directorate of the Council of Ministers Administration started a training campaign for raising public awareness about the goals, tasks and means for the implementation of the measures and activities laid out in the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria and the Action Plan towards the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria. A round table took place in the beginning of the month of June 2006, with the participation of regional governors and deputy-regional governors, mayors of municipalities, experts in ethnic and demographic issues in regional and municipal administrations. The experts from the Ethnic and Demographic Issues Directorate, the Ministry of Regional Development and Public Works and the Ministry of Finance presented the most important points in the Programme and the Action Plan in the aspect of possibilities for their implementation in the regions.

Specific actions undertaken in 2006

The financing of activities under the Programme in 2006 will be implemented through the budget of the Ministry of Regional Development and Public Works within the framework of the common budget procedure and regulations and depending on the possibilities of the budget.

The Action Plan towards the National Programme has foreseen specific preparatory measures for 2006, which have been laid down in the yearly plans of the respective authorities:

1. Law for Amendments and Supplements of the Territory Management Act;
2. Housing Associations Act;
3. Law for Amendments and Supplements of the Small and Medium-Sized Enterprises Act;

4. Consumer Credit in the Private Sector Act;
5. Law for Amendments and Supplements of the Municipal Debt Act;
6. Regulations and procedures for the responsibilities of the institutions regarding the preparation for making use of the financing from the EU Structural Funds and the EU Cohesion Fund;
7. Development of new detailed structural plans of Roma neighborhoods and amendment of the active ones;
8. Public development activities, construction, reconstruction and repairs of technical infrastructure worth 240 000 BGN;
9. Development, together with the Commercial Banks Association, of a model and a mechanism for targeted provision of affordable credits for building materials for improvement of the quality of residential buildings with the persons' own powers and for the development of small business;
10. Module trainings for social workers from Social Assistance Directorates for work in multiethnic environment;
11. Establishment of schemes for the development of partnerships with the private sector;
12. Training of the personnel in regional and municipal administrations in connection with the implementation of the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria (seminars and work meetings);
13. Training of NGO's and beneficiaries under the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria;
14. Establishment of organization for resources management for the implementation of the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria;
15. Study of employers' needs in terms of labor force with specific qualifications;
16. Development of a system for monitoring the implementation of the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria.

The requests towards the budget for the means necessary for the implementation of the Programme over the next three years will be consistent with the fiscal goals foreseen in the Three-year Budgetary Forecast for the 2007-2009 Period. The current ambitions for the following amounts:

- 2007 – 10 million BGN;
- 2008 – 15 million BGN;
- 2009 – 20 million BGN.

After the implementation of the abovementioned period of the Programme the achieved outcomes will be assessed and based on that, bearing in mind the financial capacities of the sources of financing, the amounts for the following years will be determined.

Expected outcomes:

- Regulation of terrains and creation of appropriate conditions for new residential building construction, as well as for the development of new social housings on the newly-assigned terrains, town development of neighborhoods with overwhelming

Roma population through improvement of the existing technical infrastructure and construction of new.

- Mobilization of the Roma community organizations in order to assist the overall process of implementation of the Programme.
- Provision of access to credits for improvement of existing housing in target neighborhoods, as well as to credits for starting, continuing and expanding projects for small business in the form of providing loans for a certain number of households.

The Bulgarian Government considers that the evidence presented to this point not only fails to support the plaintiff's claims of discriminatory policies of the Bulgarian Government concerning the Roma community, but it also proves exactly the opposite.

Regarding the additional information received by the ERRC concerning the alleged demolition of illegal housing constructions in Sofia (letter from 26 May 2006), the Bulgarian Government would like to note the following:

There is in fact an Order of the Mayor of the Vazrazhdane District in Sofia for the demolition of the illegal Roma housings in the neighborhood of Batalova Vodenitza. The Order has been issued as early as 2005 but has since been appealed against, its implementation has been suspended, which clearly proves the availability of court protection in such cases, as well as the possibility for suspension of the implementation of such orders for the duration of the court proceedings. The Order has been upheld at two court instances, the latter one being the Supreme Administrative Court.

Despite the Order definitive and fit for implementation from legal point of view, the Bulgarian Government and the Sofia Municipality sought other ways to solve this problem. At a joint meeting, at which representatives of Romani NGO's also took part, the following decisions were taken:

The Roma from Batalova Vodenitza will not be evicted from their homes until a more durable solution of the problem is found. To begin with, the Sofia Municipality will provide for free several terrains in the capital, on which temporary housings will be built. The Government will provide the initial financing for the construction, with additional financing to be sought after from other sources further down the line. The Roma that are going to live in these housings will be invited to take part in the construction of their homes and will be remunerated for their work through existing employment programmes. Planning of these housings has already been started.

An agreement was reached for these measures to cover the persons whose address registration in this district dates from before 1996. The rest are to be invited to return to the places from where they have come. For this purpose the Government will provide priority financing for programmes for subsidized employment in these regions directed exclusively to the returning Roma. An appeal was sent out to the Romani NGO's to take part in this process by assisting for the registration of the Roma and the awareness raising activities in the community.

In case the aforementioned measures do succeed, a similar pattern of action will be employed for the other illegal Romani constructions in Sofia as well. This could serve as an example for a best practice of cooperation between the Government, the municipalities and the NGO's. These measures could also be employed in other parts of the country as part of the integrated state policy for the integration of minority groups.

In addition to the abovementioned, we would like to state the following:

- The Government of the Republic of Bulgaria has developed an up-to-date system for the protection of human rights and in particular for protection against discrimination. It is embodied in legislation, as well as in a broad specter of national and regional programmes and campaigns in this field.

- Being an extremely vulnerable group, the Roma are subject to special measures in the field of employment, education, housing, etc. These measures are consistent with the contemporary international legal instruments concerning the prevention of discrimination and the special treatment of those persons who are in a significantly differing situation.

- Meanwhile, deployed measures should be bound with the observance of the laws of the country on behalf of the relevant vulnerable group of the population and the prevention of abuse of rights.

Bearing in mind the evidence presented above, the Bulgarian Government kindly invites the ERRC to establish the following:

1. To acknowledge the efforts of the Bulgarian Government for the equal integration of all its citizens from vulnerable groups, and especially of the Roma.

2. To take note of the legislative and practical measures that contribute to dealing with the poor housing conditions, in which part of the Roma persons reside, as well as the political willingness for further actions in the implementation and carrying out of these measures in conformity with the ESC (r) goals and the possibilities to employ the available resources.

3. To reject the requests of the ERRC as unfounded.

The Bulgarian Government reconfirms its position that it hopes to achieve the goals of article 16 of the ESC (r) in a reasonable period of time, proof of which are the timetables and schedules, resources and outcomes of the National Programme for Improvement of the Roma Housing Conditions in the Republic of Bulgaria.