

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



19 May 2008

Case document No. 3

European Roma Rights Centre (ERRC) v. Bulgaria
Complaint No. 46/2007

**OBSERVATIONS FROM THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 2 May 2008

Position of the Government of Republic of Bulgaria on Collective Complaint No 46/2007 of the European Roma Rights Centre v. Bulgaria, filed with the Council of Europe pursuant to the collective complaints system under the European Social Charter

I. General Comments

Bulgaria's health care policy is oriented towards creating conditions for equal access to health care services by all citizens of the Republic of Bulgaria regardless of their gender, age, ethnic, social and political affiliation. The access to medical care for every Bulgarian citizen is guaranteed by the Constitution and is regulated by the Health Act (HA), the Health Insurance Act (HIA) and the regulations for their implementation.

Every Bulgarian citizen has the right to accessible medical care in observance of the principles of timeliness, sufficiency, and quality of the medical care; equality in the provision of medical care with a priority given to children, pregnant women and mothers of children aged up to one year; cooperation, consistency and coordination of the activities among the medical establishments, observance of the rights of the patient (Art. 81 of the HA).

The development and implementation of health and social policy oriented towards raising the standard of living of the people and protection of those who, due to certain risk factors, cannot ensure the meeting of their needs on their own, is one of the main tools of Bulgaria for ensuring social protection.

The social assistance system is part of Bulgaria's overall social policy. Social assistance in Bulgaria guarantees the right to social protection to every Bulgarian citizen who, due to health, age, social or other reasons beyond his/her control, cannot satisfy his/her basic needs on his/her own or with the help of his/her family.

Given the subject of collective complaint No 46/2007, an analysis of the Bulgarian legislation in the area of health care, social assistance and protection against discrimination, will be analysed further in this document, as well as the practical actions and positive measures of the Bulgarian Government to guarantee access to medical care and services, social assistance, in observance of the principles of non-discrimination.

I. Regarding the statement of violation of Article 11 (right to health protection) of the European Social Charter (revised)

CONSTITUTION OF THE REPUBLIC OF BULGARIA

Art. 52. (1) The citizens are entitled to health insurance guaranteeing them accessible medical care and medical services free of charge in accordance with the terms and conditions of the relevant law.

1. Legislation

Health insurance in the Republic of Bulgaria and the public relations thereunder are regulated by the Health Insurance Act (HIA). According to art. 2, para 1, health insurance is

an activity of collection of health insurance contributions and health insurance premiums, the managements of the funds collected in this manner, and their spending for payment of health activities, services and goods, provided for by the law, the National Framework Contract and the voluntary health insurance contract.

Mandatory health insurance is **the activity of collection of funds from mandatory health contributions determined by law**, performed by the National Revenue Agency, the management and spending of such funds for health related activities, performed by the National Health Insurance Fund (NHIF) and its regional branches - Regional Health Insurance Funds (RHIF). **Mandatory health insurance provides a package of health related activities guaranteed by the NHIF budget.**

Mandatory health insurance guarantees **free access of insured persons to medical care through a package of specific activities varying in their type, scope, and volume** as well as a free choice of provider that was contracted by a RHIF.

Mandatory health insurance is implemented in accordance with the principles of:

1. mandatory participation in the collection of contributions;
2. participation of the State, insured persons, and employers in the management of the NHIF;
3. solidarity of the insured persons in the use of the collected funds;
4. responsibility of the insured persons for their own health;
5. equality in the use of medical care;
6. equality of the medical care providers for the purposes of contracting RHIF's;
7. self-management of NHIF;
8. negotiation of the relations between the NHIF and the medical care providers;
9. a basic package of health activities guaranteed by the NHIF budget;
10. free choice of medical care providers by the insured persons;
11. public openness of the activity of the NHIF and public control on the costs incurred thereby.

In relation to the above-said, we would like to note that **the obligation to participate in the health insurance system** occurs for all Bulgarian citizens **regardless of their ethnicity, gender, race and religion** following the law's coming into effect, and for newly-borns - on the date of their birth.

Persons who, pursuant to the legislation, perform their obligations related to payment of health contributions, have the following rights:

1. to obtain medical care within the scope of the basic package of health activities, guaranteed by the NHIF budget;
2. to choose one medical care provider who is a contractor of the NHIF;
3. to receive emergency care wherever they need it;
4. to obtain information from the RHIF regarding contracts of the RHIF with medical care providers;
5. to participate in the management of the NHIF through their representatives;
6. to file appeals to the Director of the NHIF in case of violations of the law and the contracts
7. to obtain a document necessary for exercising their health insurance rights in accordance with the rules for coordination of social security systems.

Primary medical care providers are those who inform the insured persons on all health related issues.

According to art. 40, para 3 of the Health Insurance Act, the following persons shall be insured **at the account of the republican budget** unless they are insured under art. 30, para 1:

1. all persons up to the age of 18 and after that age if they are regular students until completion of high school;
2. regular students of universities and colleges up to the age of 26 as well as PhD applicants in state programs;
3. **citizens who meet the requirements for monthly social assistance and targeted assistance for heating under the Social Assistance Act, unless they are insured under other premises, as well as those accepted at specialized social service institutions;**
4. persons under detention or those at correctional facilities;
5. parents, adoptive parents or spouses who look after disabled persons who have lost more than 90% of their working capacity and who constantly need assistance;
6. spouses of military personnel participating in international operations and missions, and persons receiving benefits under art. 233 of the Defence and Armed Forces of the Republic of Bulgaria - for the period of benefit payment.

Regardless of the above-said concerning the status, rights and obligations of insured persons, art. 82 of the Health Act regulates the types of **medical services provided to Bulgarian citizens outside the scope of mandatory health insurance**, namely:

1. medical care in case of emergency;
2. obstetrical care for all women who are not insured regardless of the type of delivery, in accordance with the provisions of a regulation issued by the Minister of Health;
3. stationary psychiatric care;
4. provision of blood and blood products;
5. transplantation of organs, tissues and cells;
6. mandatory treatment and/or mandatory isolation;
7. examinations for degree of damage and permanent incapacity;
8. payment of treatment of diseases in accordance with a procedure determined by the Minister of Health (Regulation No 34 of 25 November 2005 on the method of payment from the republican budget of the treatment of Bulgarian citizens of diseases not covered by mandatory health insurance);
9. medical transportation in accordance with a procedure determined by the Minister of Health.

Every Bulgarian citizen, regardless of his social insurance participation, may use:

1. vaccines for mandatory vaccination and re-vaccination, vaccines for special purposes and extraordinary circumstances, specific serums, immunoglobulins and other bio-products related to the prevention of contagious diseases as well as the technical means for their application;
2. full scope of anti-epidemic activities;
3. access to health activities included in national, regional and municipal health programmes.

Children up to 16 years of age are entitled to medical care outside the scope of the mandatory health insurance.

According to art. 85 of the HA, the assessment of the patient's health condition may not be based on race, gender, ethnicity, origin, religion, education, cultural level, beliefs, political affiliation, sexual orientation, personal and public status or material status. As a patient, every individual is entitled to:

1. recognition of civil, political, economic, social, cultural and religious rights;
2. care by the community in which they live;
3. accessible and quality health care;
4. more than one medical statement regarding a diagnosis, treatment and estimate of diagnosis;
5. protection of data concerning their health condition;
6. compensation for their work equal to what they would receive if they did not have the disease;
7. presentation of their rights and obligations in an accessible language;
8. clear and accessible information regarding their health condition and the methods for potential treatment.

Children at medical facilities under art. 5, para 1 of the Medical Institutions Act /social-medical institutions providing medical supervision and specific care for children/ are entitled to social and medical care free of charge.

The activities listed above are financed from the republican budget and the municipal budgets and are used in accordance with the provisions of a regulation issued by the Minister of Health.

The rights of the Bulgarian citizens (regardless of the fact whether they are insured for health care or not, regardless of their ethnicity, gender, race, and religion) are also guaranteed by the Medical Institutions Act. For example, according to art. 7, no medical institution can deny medical care to persons who have appeared there in a condition that endangers their life, regardless of their place of abode.

The scope, terms and conditions for emergency care provided by medical institutions are regulated by Regulation No 25 of 4 November 1999 on emergency care provision. Emergency medical care includes all medical activities for rehabilitation of acute life-threatening disorders and maintenance of vital functions of the organism. **All medical institutions provide the necessary scope of emergency medical care to every individual in need thereof, regardless of their citizenship, place of abode and health insurance status.**

The following are subject to emergency medical care:

1. all individuals who are sick or injured and their condition is life-threatening;
2. all individuals who are sick or injured who have sought assistance on their own from emergency rooms or sectors of the emergency medical care centres (EMCC);
3. individuals for whom there are data certifying their psychological disorder who are dangerous to themselves or to the others;
4. women who have started delivery or abortion;
5. children up to one year of age for whom medical help has been sought;
6. all individuals who are sick or injured for whom the nature and gravity of the disease cannot be determined.

Art. 222, para 3 of the HA also aims at guaranteeing the rights of every Bulgarian citizen. According to that article, any doctor, dentist, nurse, obstetrician or medical assistant who denies emergency medical care to a person whose condition is critical for his/her life, is penalized by a fine amounting to between 1000 and 5000 leva, and in case of a second violation - by suspension of their right to practice their profession for a period between three months and one year.

2. Practical activities

Simultaneously and regardless of the existing opportunities under the current legislation, related to prevention, treatment and improvement of the health condition of individuals with disabilities in the Republic of Bulgaria, the Ministry of Health also implements a number of EU-funded projects aiming at improving the access to health services by vulnerable groups of the Bulgarian population. The direct benefit from investment in health care is measured in the medium and, most of all, in the long run. Health care indicators are very specific and results are reported over a longer period of time. Currently, there are three projects in this area and they are extremely important for expanding the access to health insurance:

A. Project BG2003/004-937.01.03 Educational and Medical Integration of Vulnerable Minority Groups with a Special Focus on Roma

The main objective of the project is to contribute to the implementation of the education and health care components of the Framework Programme for Equal Integration of Roma in the Bulgarian Society. The specific objective of the project is to improve the access to quality education and health care by vulnerable minority groups with a special focus on Roma through:

- Ensuring support for access to health care services, including through introduction of mobile teams;
- Ensuring qualification of medical staff for working in a cross-cultural environment;
- Improvement of prevention;
- Ensuring better knowledge about health care and its promotion among the Roma, including through health mediators and medical personnel;
- Prophylactic examinations of individuals who are not contributors to the health fund, including through mobile teams.

In 2007, the efforts of the Ministry of Health and the Regional Inspectorates for Prevention and Control of Public Health (RIPCPH) were focused on the successful implementation of the prophylactic programme under the health care component of the Educational and Medical Integration of Vulnerable Minority Groups with a Special Focus on Roma Project. The good coordination among the RIPCPH representatives, the health mediators and the mobile office workers was a prerequisite for the successful implementation of the examinations. With the help of lectures and workshops (some of which preceded the arrival of the mobile offices in the region), the Roma were convinced in the necessity of prophylactic examinations. The educational materials that were distributed also contributed for the raising of the health case awareness among the *Roma population*.

A total of 23 lectures, workshops and discussions were held in Kyustendil region with 345 Roma, 850 educational materials were distributed as well as 720 condoms. The main topics of discussion and lectures by the Kyustendil RIPCPH for the period of the examinations were related to health insurance, contraception and prevention of unwanted pregnancy, AIDS and sexually transmitted diseases, the harmful effects of smoking and drinking on human health, drugs - types and effects, tuberculosis - risk factors and prevention, prophylactics of echinococcosis.

A total of 30 lectures and 10 workshops were held in Pazardjik region with 780 Roma, 2 965 educational materials were distributed as well as 864 condoms. The main topics of discussion and lectures by the Pazardjik RIPCPH for the period of the examinations by mobile units were related to contraception, the harmful effects of smoking, prevention of tuberculosis, healthy diet, AIDS, family environment issues.

A total of 34 lectures were held in Yambol region with 528 Roma, 280 educational materials were distributed as well as 2 000 condoms. The main topics of discussion were related to sexually transmitted diseases, prevention of tuberculosis, reproductive health, the harmful effects of smoking, contraception, pregnancy hygiene.

A total of 17 lectures and workshops were held in Vratsa region with 342 Roma, 15 individual consultations were given, 1 670 educational materials were distributed as well as 846 condoms. One radio programme was broadcast and one publication appeared in the press. The main topics of discussion and lectures by the Vratsa RIPCPH were related to AIDS and STD prevention, life free of drugs, the importance of prophylactic examinations for the treatment of diseases of social significance, the harmful effects of smoking and drinking on human health, risk factors for cardio-vascular diseases, prophylactics of visceral infections, way of life and health of the population.

A total of 11 lectures and workshops were held in Sofia with 260 attending Roma, 6 000 educational materials were distributed. Social surveys were held on the following topics: "Knowledge and personal hygiene habits of Roma students at a school in Fakulteta Area" and "The need of health knowledge of Roma students". The lectures held and the health workshops were on topics related to the importance of prophylactic examinations, prophylactics of disorders of the spine in students, building of healthy bones in children, infectious diseases in children and practical steps for prevention of viral hepatitis.

In the course of implementation of the Programme, in December 2006, **five mobile offices were delivered together with two mobile fluorographs** were provided for examinations free of charge. The work started in February 2007 jointly with the Regional Health Care Centres in the five pilot regions (Yambol, Pazardjik, Kyustendil, Vratsa, Sofia City).

The commitments of the Ministry of Health were implemented as follows:

- Ensuring a team - a doctor, a nurse and a driver;
- Ensuring supplies for the mobile equipment and compensation for the team;
- Providing a coordinator from a Regional Health Care Centre.

For the period February - October 2007, **a total of 21 841** members of vulnerable minority groups were examined in the five pilot areas with a special focus on Roma citizens.

In the last months of 2007, a series of prophylactic examinations was implemented with the two fluorographs (mobile). A total of 720 individuals were examined.

The funds spent by the Ministry of Health amounted to 150 000 leva.

B. Multi-annual project BG2004/016-711.01.03 (Phase 1) Improvement of the situation and inclusion of the disadvantaged ethnic minorities with a special focus on Roma.

The Project is implemented over three consecutive years. It ensures the implementation of measures within the scope of the Framework Programme for equal integration of Roma in the Bulgarian society. The main objective of the project is inclusion of vulnerable groups in the Bulgarian society with a special focus on Roma.

Four mobile paediatric offices will be purchased as part of the plan, as well as four mobile gynaecological offices, and two mobile mammograph offices, which are expected to start working at the end of May of this year.

Four regions have been identified and approved by the Directing Committee and the mobile medical equipment of examinations will be delivered to Montana and Dobrich in North Bulgaria, and to Pazardjik and Yambol in South Bulgaria.

B. Project BG 04/IB/SO/04 Restructuring of pilot multi-profile hospitals and developing of emergency medical care to improve access to health care for vulnerable groups of people with a special focus on Roma.

The project was completed at the end of March 2008. It was launched in May 2006 in two pilot regions - Vratsa and Smolyan. It was implemented over 22 months by a consortium between the Public Health School of Andalucia, Spain and the Ministry of Health Care of Italy in close cooperation with the beneficiary of the project - the Ministry of Health Care of Bulgaria. The total budget of this EU-funded project was EURO 1 million of which 10% was allocated to Bulgaria.

The general objective of the project is to provide access to quality medical services, including emergency medical services, to ethnic minorities with a special focus on Roma, vulnerable groups of people, and individuals living in remote locations and locations that are difficult to access, and to improve the quality of life of the population by reducing mortality, secondary complications and incapacity caused by emergency medical conditions and cardiovascular diseases in particular (myocardial infarction, acute cardiac deficiency, etc.)

The immediate objective of the project is the development of pilot emergency care units in two pilot areas (Vratsa and Smolyan) located on the territory of the respective multi-profile hospitals. The activities implemented within the framework of the twinning project are the following:

- An assessment was performed of the real needs of health services as well as analyses of the necessary medical services in both regions. An effective, practical and simplified information was established together with an electronic database used for collection and analysis of the necessary information;
- A proposal was developed and submitted for restructuring of hospital services as well as the services provided by the emergency care, including an analysis and recommendations for changes in the existing legislation, aiming at improvement of the links between hospital and emergency care;
- Recommendations for multiplication of the project-created model for interaction between hospital and urgent medical services at national level.
- Methodological manuals were developed and distributed for action in case of chest pain, stroke and polytrauma;
- A training methodology was developed and submitted and training seminars were held for the emergency care centres staff and emergency rooms staff, as well as for the management teams of the hospitals and the emergency care centres in both pilot regions. A total of 156 staff of the pilot hospitals and the emergency care branches were trained in Smolyan and Vratsa;
- Roma leaders were identified to be mediators and 24 of them were trained and informed about health and the health system to enable them to supplement and facilitate health specialists when working with Roma;
- Technical assistance was provided for development of final specifications for the medical equipment for both hospitals and emergency care centres. A tender was held and finalised for delivering equipment for EURO 4 400 000.

3. Positive measures

A. The improvement of the health condition of disadvantaged people from the ethnic minorities is the foundation of the Government's **Health Strategy for Disadvantaged People from Ethnic Minorities** and the respective **2005 - 2007 Action Plan**. The plan envisions access to health information, improvement of prophylactic activities and expansion of the scope of insured persons. The main objective of the strategy is to overcome the negative trends in the health condition of disadvantaged people from ethnic minorities and to ensure equal access to health services. The objectives and areas of the document should be implemented over a period of ten years. The strategy envisions the implementation of in-the-field screenings of neighbourhoods predominantly populated by Roma, for prophylactics, early detection and timely treatment of tuberculosis, mammary cancer and cervical cancer, cardio-vascular and other diseases characteristic of the area.

Since 21 July 2006, in-the-field prophylactic examinations have been performed as part of the implementation of the Action Plan for the Health Strategy for Disadvantaged People from Ethnic Minorities in areas predominantly populated with Bulgarian citizens of Roma origin. The examinations are performed by teams equipped with specialized equipment and transportation.

The financing of the examination is from the budget of the Action Plan to the Health Strategy as part of the total budget of the Ministry of Health Care.

The Ministry of Health Care implemented a number of activities at the local level through its structures -- the regional health care centres and the regional centres for prevention and control of public health. These activities are oriented mainly towards raising health awareness of prevention of the most common diseases and ensuring access to health information. The vaccination offices under the Regional Inspectorates for Prevention and Control of Public Health (RIPCPh) perform the necessary vaccinations of children who do not have a General Practitioner. Lectures and discussions are organised with young Roma on health related topics. Those activities are predominantly organised jointly with non-government organizations and with the assistance of the leaders of the respective community.

In 2006, the main activity under the Action Plan was focused on implementing prophylactic examinations in-the-field in areas predominantly populated with people of Roma and Turkish origin.

Prophylactic gynaecological exams were performed for Roma women from Bourgas, Vidin and Montana who are not contributors to the health care system.

A total of **1 111 women** were examined and **968 Pap Smears** were taken and analyzed. In addition, **968 secondary examinations** were performed and directions have been given as to the measures that need to be taken by each woman.

When organising the examinations in each region, preliminary meetings were held with the district governments, municipal administrations, mayors, mayor representatives, RHC's, RIPCPh's, mediators, leaders of Roma organizations. The number of women was determined and agendas were developed based on those data for each day and for each location.

The examinations were held by specialists from a Medical Centre which is contracted by the Ministry of Health Care.

The total amount spent on examinations was 26 613 leva.

Broken down by month, the report indicates the following results:

In June 2006, in Bourgas district (Tsarevo, Ahtopol, Sozopol, Ravadinovo, Sinemorets, Lozenets), a total of 302 women were examined, 287 Pap Smears were taken and 204 secondary examinations were held. Hospital treatment was proposed for one of the women. Uterus myomas were detected in 14 women and operations were recommended.

The examinations in Vidin District were held in September 2006 covering locations with predominantly Roma population - Belogradchik, Drenovets, Roujentsi, Belo Pole, Archar, Dounavtsi and the neighbourhood in Vidin. A total of 385 women were examined, 316 Pap Smears were taken and analyzed and 316 secondary examinations were performed.

The examinations in Montana district were held in October 2006 in Varshets, Septemvriitsi, Medkovets, and Dolni Tsibar. A total of 424 women were examined, 393 Pap Smears were taken and analyzed and 393 secondary examinations were performed. A case of carcinoma was detected in a woman from Medkovets who was operated in Sheinovo Hospital.

In 2007, prophylactic examinations were performed for persons who are not contributors to the health system and who are from vulnerable minority groups with a special focus on Roma and without mobile units as follows:

- General prophylactic examinations for persons who are not contributors to the health system from Vidin, Veliko Tarnovo, Rousse, Razgrad, Targovishte, Bourgas, Blagoevgrad, Stara Zagora, Shoumen, and Haskovo districts - **6 048**.
- On-site examinations in the neighbourhoods for prophylactics and early detection of lung diseases for persons who are not contributors to the health system in Vidin, Veliko Tarnovo, Rousse, Razgrad, Gabrovo, Bourgas, Blagoevgrad, Varna, Stara Zagora, Shoumen, Haskovo, Dobrich, Kurdjali, Lovech, Montana, Pleven, Plovdiv, Silistra, Sliven and Smolyan - **14 501**.

A total of **170 000 leva** was allocated for performing those activities in **21 districts**. The total number of examinations held was **20 549**.

In 2006, 13 mediators were hired under the Ministry of Labour and Social Policy Programme “From Social Assistance to Employment” under a proposed project of the Ministry of Health Care - “Employment for Roma mediators for creation of a sustainable scheme for dissemination of health knowledge among the Roma.

In January 2007, a list of names of 60 health mediators who were trained and are willing to work with a Roma community was sent to the Ministry of Finance. In November and December 2006, a team from the Health Problems of Minorities Foundation visited 29 municipalities where there are trained health mediators. Meetings were held at all locations with both health mediators and with deputy mayors, heads of Health Care and Social Activity Departments, experts in ethnic and demographic issues at the municipalities, representatives of RIPCPH’s, RHIF, etc. The motivation and level of readiness to start working of the health mediators were assessed at those meetings as well as the municipalities’ motivation and readiness to appoint mediators in 2007. The Ministry of Health Care supported the full consensus among the non-government organisations that implemented the training, as regards the choice of health mediators.

In 2007, 52 mediators were appointed in 28 municipalities.

During the last quarter of 2007, the Ministry of Health Care held a competition for projects for implementation of activities focused on ethnic minority groups. Projects developed by the RIPCPH’s of Blagoevgrad, Pleven, Plovdiv, Pernik, Razgrad, Smolyan, and Targovishte were financed which totalled to 10 030 leva allocated in accordance with the Action Plan.

The Blagoevgrad RIPCPH implemented the project Knowledge - the Road to Health. The Roma population of Simitli, Kroupnik, Damyanitsa, and Satovcha was introduced to the ways of prevention of tuberculosis and was motivated to take a Mantoux test. Training events were also held presenting the importance of mandatory vaccination included in the National Vaccination Calendar. Based on the data obtained from the screenings, a model for combating tuberculosis is being developed at a regional level.

The Pernik RIPCPH implemented the project I have the Right to Choose. The purpose of the project was to raise the Roma's awareness of issues related to sexual and reproductive health and it was achieved. A total of 15 young people of Roma origin were trained. Presentations on sexually transmitted diseases, gender and gender roles, the reproductive system of the man and the woman, and contraception, were held. A positive attitude in the young boys and girls towards the training was observed. Consequently, the trained young people will disseminate the knowledge they acquired during the training among their peers.

The Pleven RIPCPH implemented the project The Young Roma's Guide. The purpose of the project is to raise the young Roma's awareness of the most common sexually transmitted diseases and to explain the harmful effects of early pregnancy. After a focus group discussion of the content of the Young Roma's Guide, 4000 copies were printed.

The Plovdiv RIPCPH's implemented the project In an Unusual Kingdom. The target group of the project were Roma children aged 3 - 6, who were included in an interactive training aided by theatrical plays. Their health knowledge was reaffirmed through the emotional experience in an easy and entertaining manner.

The Razgrad RIPCPH implemented the project Hand in Hand which was launched with the examination of 12 Roma for echinococcosis and another 12 for AIDS. Discussions were held about the problems of reproductive health and early marriage and pregnancy. The middle-aged Roma were trained in the prerequisites of a healthy life resulting in their understanding of the need of personal hygiene and healthy nutrition. Future and current parents were introduced to the required care for breast-fed babies and young children.

The Smolyan RIPCPH implemented the project Hygiene in My Everyday Life. With the help of lectures, audio-visual materials and interactive methods, the Roma at a social pedagogical facility were helped to create a positive attitude to their own hygiene and health and to realize the importance of environmental protection. A demonstration was made and techniques for personal hygiene were practiced. The topics were contraception and sexually transmitted diseases, poor hygiene diseases (cavities, hepatitis, parasitoses, etc.), environmental protection.

The Targovishte RIPCPH implemented the project A Journey to Health Country. An information campaign among the Roma population was held with the help of lectures and discussions. The children's daily regime was discussed, as well as their healthy nutrition, the need of prophylactic examinations and vaccinations. Based on the painting contest titled A Tale of Health, a psychologist made an assessment of the children's knowledge and attitude to a healthy way of living that would later help the development of the educational modules. With the help of numerous games, video demos and entertaining workshops, the students were introduced to a variety of topics, i.e. Environment and Health, The Dog - a Friend and a Foe, Healthy Nutrition, Smoking and Abuse of Alcohol and Drugs, Sexual and Reproductive Health, Sexually Transmitted Diseases.

In relation to, and as part of the implementation of the projects indicated above, as well as of the Health Strategy for Disadvantaged People from Ethnic Minorities and the respective 2005 - 2007 Action Plan, it should be emphasized that the Ministry of Health Care spent the following resources - 30 000 leva in 2006, 350 000 leva in 2007, and 750 000 leva is allocated for 2008.

B. The national policy for limiting the spreading of HIV/AIDS is conducted through the implementation of the HIV/AIDS Prevention and Control Programme financed by the Global Fund to Fight AIDS, Tuberculosis and Malaria (2004 - 2008). Thus Bulgaria ensures financing of an integrated approach to the disease which includes services for prevention, diagnostics, treatment, care, and support.

The grant from the Global Fund is also used for activities related to services to vulnerable groups that are performed at the national and regional level in 19 municipalities in partnership with 48 non-government organisations, 13 Regional Inspectorates for Prevention and Control of Public Health, the National Centre for Contagious and Parasitic Diseases, 147 schools from 13 municipalities and 44 school boards.

The main tool for reaching the people from the Roma community is working in the field. Such an endeavour is supplemented by two mobile medical offices and eight health and social centres. The following services are offered:

- Testing and consultations for HIV/AIDS, hepatitis B and C, syphilis;
- Medical examinations by a dermatologist/venereologist;
- Treatment of sexually transmitted diseases;
- Consultations for avoiding risk behaviour.

A total of **USD 1 429 627** was spent on prevention of HIV/AIDS among the Roma community in the period 2004 - 2007 and **USD 339 743** is budgeted for 2008.

C. Improvement of the control on tuberculosis is achieved through two main programmes: 1) National Programme for Prevention and Control of Tuberculosis in Bulgaria 2007 - 2011, and 2) Agreement on Granting of Funds by the Global Fund to Fight AIDS, Tuberculosis and Malaria and the Ministry of Health Care on the Improvement of the Control on Tuberculosis in Bulgaria Programme for a period of two years, ratified by the National Assembly on 21 March 2008.

The main vulnerable groups that are targeted by the Programme are those indicated in the National Programme for Prevention and Control of Tuberculosis in Bulgaria 2007 - 2011.

The programme activities are divided into five components corresponding to the seven components of the National Programme for Prevention and Control of Tuberculosis in Bulgaria 2007 - 2011, where Component 5 is for **Improving the Detection of Cases and Successful Treatment of Tuberculosis in the Roma community**. A total of **EURO 520 564** was allocated for the duration of the Agreement.

Specific approaches will be applied for early detection of infectious cases among those groups through screening of the spreading of tuberculosis, including fluorographic examinations in regions with a greater number of cases than the average for the country; support for treatment of the diseased; detection and assistance for examinations and prophylactics of positive cases; establishing a more tolerant and supportive environment for diseased individuals.

For the two-year duration, 120 medical specialists will be trained, as well as on-site assistants from the community for participation in the control of tuberculosis among risk groups and the Roma community.

During the first phase of the Programme, 30 000 community members in 10 Roma neighbourhoods will be reached in order to achieve a positive change in the behaviour with respect to tuberculosis related prevention, treatment and care. This will result in directing 1 500 community members with suspicion for tuberculosis.

Given the contents of the collective complaint and the data therein, it should be noted that the collection and processing of data for the purpose of statistics is performed on the principle of national and not ethnical affiliation. According to the current legislation, every Bulgarian citizen has the right to self-determination and to declare his/her ethnic affiliation. The statistical data used in the complaint are dated from 2002 and 2003 and are taken from a sociological survey performed in several Roma communities with a low social status, commissioned by the Ministry of Health Care for the purposes of a specific project. In this context, the data quoted in the complaint could not be viewed as valid for the population of the country or for the Roma community as a whole.

There are also contradictory views regarding the number of Roma in Bulgaria resulting from the official statistical data of the National Statistics Institute and the data of non-government Roma organizations. The latter claim that the Roma community is two times larger than the number from the national statistics data, based on self-determination of ethnic affiliation.

Until now, no national statistical survey has been performed based on the ethnic principle and no data can, therefore, be quoted and rate of disease contraction and death rate can be indicated for specific diseases as most frequently observed among disadvantaged minorities (Roma and/or Turkish population). No representative surveys are known to have been performed among minority groups of the Bulgarian population in relation to death rate by groups of diseases. There are no data in Bulgaria indicating a higher death rate among newly-borns in the Roma populations or the lethality among Roma and Turkish population, i.e. infarction, stroke, pneumonia, malignant tumours, etc. The official statistics gives a picture of the rate of disease contraction, but not by ethnic group. Their reporting is performed by the National Health Information Centre which uses data provided by medical institutions throughout the country.

We deem the retelling of cases and the presentation of conjectures regarding the lethal end for specific patients irrelevant without any checked proof and objective data. It does not become clear whether the responsible state bodies have been notified.

Cases that are isolated and lacking proof have been presented against all government actions for integration of the Roma and relevant measures are provided in case of proved violations.

It is not reasonable to present cases unilaterally without taking into consideration the circumstances and arguments of the responding party, the respective doctors in this case. In every separate case, the issue is related to the responsibility of the respective officials and not of a state institution.

Health care legislation could not regulate health care based on the ethnic principle. The advantages that the legislature allows for specific categories of persons are mainly based on the health and social status of the individuals, and on their ethnic affiliation. We deem unacceptable for the Health Insurance Act to provide privileges and rights for Roma community members based on their ethnic affiliation. Health care legislation does not prevent initiative. In order to solve the problems of the Roma, however, both in terms of their using of rights and in terms of taking up the respective responsibilities, a major role is given both to the municipal administrations and to the non-government Roma organizations that have a higher level of trust by the Roma community (according to sociological survey data).

II. Regarding the statement that there is a violation of art. 13, para 1, 2 and 3 (right to social and medical care) of the European Social Charter (revised)

Social assistance is based on social work where an individual approach is applied as well as an assessment of the specific needs of the individuals and families and it is manifested in the form of assistance and services.

Social assistance is performed in a manner that maintains the citizens' dignity. It is manifested in the form of assistance in the form of cash and/or in kind and services for basic human needs of the citizens when that cannot be achieved through their labour and their property.

The following are entitled to social assistance - Bulgarian citizens, families, and co-habitants who, due to health, age, social and other reasons beyond their control, are not able, through their work or income from owned property or with the help of individuals who have the legal obligation to support them, to meet their basic needs.

Foreigners who have been granted permission for permanent residence in the Republic of Bulgaria, foreigners who have been given shelter, refugee status or humanitarian status, foreigners under temporary protection and individuals under an international treaty to which the Republic of Bulgaria is a party, also have that right.

When performing social assistance, no direct or indirect discrimination is allowed based on gender, race, skin colour, ethnicity, citizenship, political or other beliefs, religion or faith, disability, age, sexual orientation, family status or origin, membership in labour or other public organizations and movements (art. 3 of the Social Assistance Act).

1. Legislation

On page 12 of the Collective Complaint (II.2.A), the claimants have presented their statement regarding "additionally impeded access" of socially vulnerable individuals to health insurance and health care in relation to the amendments to the Social Assistance Act (SAA). According to art. 12c of the SAA in force from 1 July 2006, socially vulnerable individuals receive social assistance for a period of 18 months. After that period, they lose their right to social assistance for one year. In view of the above-said, it was concluded that "they are not entitled to public health insurance either".

In this regard, we deem necessary to indicate the arguments supporting the amendment to the SAA introducing the 18-month rule and the cases when it does not apply inasmuch as this issue is indicated in the Collective Complaint as a reason resulting in the lack of right to public health insurance.

The SAA provision which introduces a period of 18 months after which the payment of monthly social assistance is terminated, does not violate art. 13, para 1 of the European Social Charter (revised), regulating the commitment of the negotiating parties to provide the necessary assistance to every individual who does not have sufficient funds and who is not capable of providing such funds with his/her own efforts or to obtain them from another source. The conditions for ensuring the right to the necessary assistance for each individual are indicated **cumulatively**. Therefore, every individual would have the right to such assistance if he/she meets the following criteria simultaneously:

- not have sufficient funds, **and**;
- not be able to provide such funds with his/her own efforts or to obtain them from another source.

This leads to the conclusion that the basis for granting of social assistance is the existence of both conditions and a respective grounds for termination of such assistance would be the existence of any one of those two conditions.

The provision of art. 12c of the SAA provides a measure that only applies to unemployed individuals whose age, health condition and family status **allow them to work**. The purpose of the measure is to create incentives and desire in the unemployed to obtain and raise their qualification, to seek and accept jobs, and most of all to find a permanent solution to their difficulties through activation and effective inclusion in public life.

The provision of the SAA only applies to unemployed individuals in active age. It cannot be claimed, by any means, that this category of persons are not capable of providing funds with their own efforts. Just the opposite, the capacity of these individuals is a prerequisite for exercising their right to labour. Termination of monthly social assistance after the expiration of the 18-month period of uninterrupted payment will encourage and activate the personal initiative of this category of persons to find their place on the labour market and will support their reintegration after a prolonged period of absence from the work environment.

A leading **motive** for implementing the legislative amendment and introduction of the provision of art. 12b, para 1 of the SAA is the European priority **to overcome the long-term dependence of unemployed persons on social assistance**. Based on the understanding that the effective participation in the labour market is the basis of effective social integration and earning of income, active labour market policy has changed in the past years in order to facilitate the achieving of those goals. In this respect, the introduction of an 18-month limitation on uninterrupted payment of social assistance to unemployed individuals in active age is a continuation of the overall policy in this regard and is part of the overall strategy for raising the supply of labour in the context of changing labour market realities.

As it was already emphasised, the desired effect is activation of permanently unemployed persons in active age and their inclusion in the labour market. Thus the changes will affect not only people in active age, as per the language of art. 12c, but in practice only persons in active age for whom there is a constitutional right to labour. The challenged amendments to the SAA encourage the entire population to work, not only the members of the Roma ethnic community.

According to the Bulgarian legislation, the limitation on provision of social assistance for periods not longer than 18 months **does not refer** to persons **in the most disadvantaged position** and in the greatest need (art. 12b, para 2 of the SAA). These are persons who:

- look after children up to 3 years of age;
- pregnant women after the third month of their pregnancy
- persons with permanent disabilities or certified temporary incapacity;
- persons who look after a sick family member or relatives up to the second degree, either descending or ascending;
- persons who look after a family member or relatives up to the second degree, either descending or ascending, who have a disability and need permanent assistance by another person;
- persons found with mental disorders.

Under para 3 of art. 12c of the SAA, these categories of persons are explicitly excluded from the provision, which means that the provision of art. 40, para 3, item 5 of the SAA will continue to apply for them and they will be subject to health insurance at the account of the republican budget.

In addition, it should be noted that the termination of the right to social assistance of individuals in active age will not result in a suspension of the right to health insurance at the account of the republican budget as most of those individuals are also subject to targeted assistance for heating in accordance with Regulation No 5 of the Minister of Labour and Social Policy on the terms and conditions for granting targeted assistance for heating where there are no limitations on the period of payment (this targeted assistance is also a type of social assistance under the SAA and the receipt thereof entitles the beneficiary to be exempt from payment of health contributions).

It should also be noted that persons without any income and property who are not insured for health care in accordance with the terms and conditions of the Health Insurance Act, receive hospital care under **Decree No 17 of the Council of Ministers of 31 January 2007 on determining the terms and conditions for spending of targeted funds for diagnostics and treatment at hospitals for Bulgarian citizens for 2007 and 2008, who do not have any income and/or personal property that can allow them to participate in the health insurance process** (promulgated in State Gazette, issue 13 of 9 February 2007, supplemented issue 16 of 15 February 2008). The funds necessary for the treatment of such persons are provided under the State Budget of the Republic of Bulgaria Act for the respective year. The funds are granted through the Ministry of Labour and Social Policy budget to the budget of the Social Assistance Agency for performing the activity of their spending.

In 2007, the medical treatment of 1 359 persons was paid through the Social Assistance Directorates on the territory of the entire country. Hospitals were paid 590 916 leva for the medical services they provided.

In 2006, 2 245 persons received medical treatment and their hospital stay was paid in the amount of 879 060 leva under Council of Ministers Decree No 13 of 30 January 2006.

The substantial decrease of the natural and value indicators in 2007 was due to Regulation No 26 of 14 June 2007 of the Ministry of Health Care on the provision of obstetrical assistance to women without health insurance and for medical tests outside the scope of mandatory health insurance for children and pregnant women, in effect from 1 January 2007. The scope of medical services related to obstetrical assistance to women without health insurance includes services indicated in clinical path No 141 "Birth-giving regardless of the term of the pregnancy, the position of the foetus and the type of delivery". These funds are at the expense of the republican budget.

2. Practical actions and positive measures

The Social Assistance Agency (SAAg) implements the government policy in the area of social assistance by performing the activity of granting of social assistance and provision of social services. It permits the opening and closing of specialized social service institutions. It registers social service providers. It prepares summarized annual reports and analyses of the social assistance activity on the country and presents them to the Minister of Labour and Social Policy. It also performs other activities determined by law or by a Council of Ministers regulation.

The implementation of the international initiative - Decade of Roma Inclusion 2005 - 2015 as a manifestation of the active domestic and foreign policy of the Republic of Bulgaria is, in its essence, a political commitment of the government to fight at a regional level poverty, exclusion and discrimination of Roma.

The SAA has, in practice, implemented a substantial number of specific activities focused on achieving the commitments related to the implementation of the national action plan for the Initiative and within the framework of its overall influence, a number of specific steps and actions were taken as follows:

Regarding social support in **2004**, 222 040 individuals and families received support under art. 9 of the Regulation on the Implementation of the SAA, and 212 180 in **2005** of whom 186 631 individuals were in active age. It is evident that at the end of the indicated period a decrease of 9 860 cases was reported. The funds for the assistance increased by 9 052 711 leva for 2005 as the amount for 2004 was 86 345 482, and 95 398 193 leva in 2005.

In **2006**, as part of the implementation of Protocol Decision of the Council of Ministers of 29 June 2006 for detailing the measures under the adopted Action Plan for Implementation of the Frame Programme for Equal Integration of Roma in the Bulgarian Society and the commitments thereunder regarding its main component – Raising the efficiency and effectiveness of planned measures, a number of modular training courses were held through an integrated training system for working in a multi-ethnic environment for improving the practical skills and knowledge of the employees.

In 2007, 253 648 individuals and families were supported under the Regulation on the Implementation of the SAA through monthly, lump sum and targeted social assistance, and the funds used were 74 039 081 leva. Compared to 2006, a decrease of 6.3% in the number of beneficiaries of social assistance was observed. A total of 270 772 individuals and families were supported in 2006 and the amount of assistance was 91 165 217 leva.

According to Social Assistance Directorates data, in 2007, an average of 76 532 individuals and families were supported monthly. The amount that was paid out was 65 758 492 leva. In 2006, an average of 102 220 individuals and families were supported through 83 480 338 leva. The data indicate a decrease of 25.1% in the number of beneficiary individuals and families in 2007 as compared to the previous year. The absolute amount of funds paid out on this legal basis decreased by 17 721 846 leva for the respective reporting period. The total decrease of cases of monthly assistance is due both to the established mechanism and prevention of abuse by social assistance applicants and to the employment created under the National Programme From Social Assistance to Employment, seasonal and permanent jobs, as well as the trend toward increase in the income of individuals after active age.

The data by individual and family group supported under art. 9 of the Regulation on the Implementation of the SAA are as follows:

- Individuals and families under active age: in 2007 the average monthly number of beneficiaries is 1 353, which is 20.6% lower compared to 2006, when the average monthly number of beneficiaries was 1 703 individuals and families;
- Individuals and families in active age: in 2007 the average monthly number of beneficiaries decreased by 19 331 cases (21.7%). In 2007 they are 69 625 individuals and families, and in 2006 they were 88 956.
- The average monthly number of unemployed persons from the families registered with the Labour Office Directorates and supported under art. 9 of the Regulation on the Implementation of the SAA decreased by 41 614, which is 40.6% lower than the same period of 2006. In 2007 they were 60 925, and in 2006 they were 102 539.
- Individuals and families above active age: a decrease of the average monthly number of beneficiary individuals and families by 6 007 cases. In 2007, the number of cases was 5 554 and 11 561 in 2006;
- For the reporting period the number of beneficiary individuals and families of persons with disabilities decreased by 2 212 cases in comparison to the same period in 2006. In 2007 the number of cases was 5 772 and 7 984 in 2006.

Under the targeted energy protection programme, Regulation No 5/30 May 2003 of the Ministry of Labour and Social Policy regulates the terms and conditions for granting targeted assistance for heating. For the 2005/2006 heating season covering the period 1 November 2005 – 31 March 2006, the number of filed applications for heating with solid fuels was 404 308. From them 227 714 were for wood and 176 594 for coal and briquettes. A total of 355 102 orders for granting of targeted assistance for solid fuels were issued. The predominant part of Roma population uses precisely solid fuel.

The 2007/2008 heating season covers the period 1 November 2007 – 31 March 2008.

The amount of assistance for solid fuel during the heating season is 180 leva.

A total of 266 862 applications were accepted by 30 December 2007, 223 817 orders for granting of assistance were issued. A total of 220 774 orders were implemented, which accounts for 98.64% of all approved assistance for solid fuel. 5 357 individuals and families were sanctioned.

Compared to heating season 2006/2007, the number of filed applications for heating with solid fuel decreased by 67 244 and the number of orders issued for granting of assistance decreased by 44 461. The decrease in the number of beneficiary individuals and families receiving assistance for solid fuel is mainly due to the increased level of income of the population.

The increased level of control exercised by the social assistance directorates and the adequate coordination with local administrations, territorial offices of the National Revenue Agency and the Ministry of Interior Departments allow for a more precise assessment of the data in the applications and limit to the maximum extent possible the irregular granting of targeted assistance.

The filing of applications for targeted assistance for heating with electricity, central heating and natural gas started on 1 November 2007. The data as of 6 February 2008 are as follows:

- 88 422 applications were filed of which 78 723 for electricity, 9 531 for central heating and 168 for natural gas;
- 74 557 orders for granting were issued;
- 13 642 applications were denied;
- 137 persons were sanctioned.

For the reporting period 1 January 2007 – 31 December 2007, a total of 76 477 383 leva was paid out for targeted assistance for the heating season 2006/2007 and 2007/2008.

The amendments to the social assistance legislation shift the priorities towards assistance of families with children and, more precisely, towards single parents and multi-member families in order to prevent the risk of poverty for the children. The family members in active age were given a priority when referred to Labour Office Directorates for employment.

A major point in the amendments and supplement to the Regulation on the Implementation of the Family Assistance for Children Act enforced on 1 September 2006 is Chapter VI “ Social Investment”, which regulates the terms and conditions for granting of family assistance for raising a child in the form of a social investment. The main purpose of providing family assistance in the form of a social investment is to ensure equal opportunities for the children during their raising, training, education, health care, development and socialization. This type of assistance is geared towards and is in support of families and parents with children and children in a disadvantaged social condition, children from poor families from different ethnic groups, children with disabilities, orphans, in order to guarantee their effective socialization and social integration in order to overcome the negative demographic trends.

In 2007, habilitated lecturers from the Institute of Sociology under the Bulgarian Academy of Sciences were invited to participate in the training seminars on the following topics:

- Life, culture and religion of the Roma ethnos. Cultural peculiarities of the Roma sub-groups.
- Poverty and ethics. Problems of social inclusion. Special accents in social assistance to Roma and representatives of other vulnerable communities.
- Techniques for overcoming mistrust and aggression of Roma in their contacts with social workers. Mediation of conflicts.
- Overcoming stress in the social worker.
- Poverty among women from minority groups. Single mothers.
- Domestic and sexual violence. Begging.
- Socio-psychological problems of ethnic interaction. Group identity. Social isolation. Ethnic mobilization. Ethno-social contacts.

According to the requirements of art. 40, para 3, item 5 and item 9 of the Health Insurance at the Account of the Republican Budget Act, in 2007 an average of 133 250 people were insured through the Social Assistance Directorates for the amount of 10 369 580 leva, and for the same period of 2006 the number of insured person was 165 228 and the amount paid was 13 083 986 leva.

In comparison with 2006, the average monthly number of persons insured for health care through the Social Assistance Directorates decreased by 31 978 which is 19.35% lower. The decrease is mainly due to employment provided to individuals receiving monthly social assistance.

III. Regarding the claim of violation of art. E (non-discrimination) of the European Social Charter (revised) in relation to art. 11 of the European Social Charter (revised)

One of the main constitutional principles of the Republic of Bulgaria is that of equality of all citizens before the law (art. 6, para 2). The main law does not allow any limitations of the rights or privileges based on race, citizenship, ethnicity, gender, origin, religion, education, beliefs, political affiliation, personal and social status or property. In its Interpretation Decision No 14 of 1992 regarding this language, the Constitutional Court of the Republic of Bulgaria ruled that the equality of all citizens before the law under art. 6, para 2 of the Constitution means equality before all legislative documents. The same ruling provides the interpretation that privileges based on the features indicated in art. 6, para 2 of the Constitution present a violation of the principle of equality of all citizens before the law. This main principle is further developed in a number of laws and regulations, the Protection against Discrimination Act, in compliance with the Constitution, the international legal obligations of the Republic of Bulgaria and the EU legislation (*acquis communautaire*). At the same time, the legal provisions are further developed and implemented by the relevant judicial and administrative bodies.

1. Legislation and practical actions

The Protection against Discrimination Act (PDA) was adopted in 2003 and enforced on 1 January 2004. It was amended and supplemented in 2004, 2005, 2006 and 2007 and the latest supplement was published in the State Gazette, issue 100/30 November 2007 in force from 20 December 2007.

The law was adopted in compliance with the international commitments made by the Republic of Bulgaria for legislative banning of discrimination based on different features and protection against discrimination. The Protection against Discrimination Act is a frame law for prevention and protection against discrimination. The purpose of the law is to provide every individual with the right to:

1. equality before the law;
2. equality in the treatment and opportunities for participation in social life;
3. effective protection against discrimination.

Art. 7, para 1 of the PDA enumerates the exceptions which do not present discrimination under the law. These are cases when the government's interference is needed for bringing equality to the opportunities of specific groups or categories of persons. Two of the exceptions indicated in the article mentioned above are items 15 and 16 according to which: "The following shall not be considered discrimination – the measures for protection of the originality and identity of persons belonging to ethnic, religious or linguistic minorities and their right to maintain and develop their culture, to profess and practice their religion or to use their language either independently or together with other members of their group;

Item 16 „The following shall not be considered discrimination – measures in the area of education and training aimed at ensuring the participation of persons belonging to ethnic minorities inasmuch as such measures are necessary”.

The PDA provides for the establishment of the Commission for Protection against Discrimination (CPD). The Commission is an independent specialized government body for prevention of discrimination and ensuring equal opportunities. The Commission exercises control on the implementation and compliance with the PDA or other laws regulating equal treatment. It is comprised of nine people of whom four have a degree in law. The principles of balanced participation of men and women and participation of persons from ethnic minorities are observed when selecting the Commission members.

The proceedings before the Commission which is, in its essence, an activity of anti-discrimination law enforcement, are regulated in Chapter IV, Part I of the PDA. In such proceedings, the Commission exercises its right to:

- establish violations of the PDA and other laws regulating equal treatment, establish the violator and the affected person;
- provide independent assistance to victims of discrimination when filing appeals for discrimination;
- impose legal sanctions and implement administrative enforcement measures.

The uniqueness of the national system for combating discrimination is the legal possibility for the affected persons to protect their violated right by referring the dispute for solving it outside the court to the CPD or to file a claim to a court for settling the issue through judicial proceedings. Both mechanisms for protection of violated rights to equal treatment are regulated by the PDA. At the same time, the Bulgarian system guarantees the right for the decisions issued by the Commission to be subject to judicial control through appeals to the Supreme Administrative Court in the event that a party to the dispute is not satisfied with the Commission's decision.

The Commission's experience so far indicates that the preferred form of protection is proceedings with the Commission. The reasons for the affected persons to seek the CPD's assistance are to be found in several legal *provisions*:

1. no state fees are collected for opening proceedings with the Commission as most victims of discrimination are socially weak and the proceeding costs are at the account of the Commission budget. In this sense, art. 53 of the PDA is a guarantee for **accessibility** of the proceedings with the Commission which makes it preferred to legal proceedings under Chapter IV, Part II of the law;

2. this manner of protection is preferred to the court due to the **short terms** of the Commission proceedings;

3. last but not least is the legally regulated obligation of the CPD to **provide independent assistance to victims of discrimination** which is part of the official basis. When performing its rights, the Commission has the right to request documents and other information related to the investigation, to request explanations from the investigated persons on issues related to the investigation and to question witnesses. All individuals, state and local bodies should cooperate with the Commission in the course of the investigation by providing the requested information and documents and providing the necessary explanations.

The Commission proceedings take place in several phases. One of them is the investigation phase in which the reporting officer collects the necessary materials and evidence allowable by law to identify the overall factual situation of the case. In this phase, the Commission, in accordance with art. 55 of the PDA, has the right to use employees and external experts. In the majority of the investigations related to proceedings, the Commission use Roma people.

In proceedings for reviewing appeals and signals and ruling on cases, the CPD acts through its expert teams designated by the Chairperson of the Commission. The Chairperson of the Commission assigns permanent expert teams specialized in discrimination as follows:

FIRST expert team specialized in discrimination on ethnic and racial affiliation;

SECOND expert team specialized in discrimination based on gender, human genome, protection for exercising the right to work, harassment when exercising the right to work on the workplace, labour union affiliation and membership;

THIRD expert team specialized in discrimination based on nationality, citizenship, origin, religion and faith;

FOURTH expert team specialized in discrimination based on education, belief, political affiliation, personal and social status, property;

FIFTH expert team specialized in discrimination based on disability, age, sexual orientation, family status.

For cases other than the ones indicated above the Committee Chairperson designates two other teams for each separate case as follows:

FIVE-MEMBER expert teams for solving cases dealing with more than one discrimination factor, i.e. multiple discrimination, and experience shows diversity in the combination of more than one factor.

AD HOC expert team for solving discrimination cases other than the ones explicitly listed herein.

Pursuant to art. 5 of the PDA, every year by 31 March, the Commission presents to the Parliament an activity report which also includes information about the activity of each standing expert team.

Throughout the overall activity of the CPD, based on statistical data, there is a trend towards decreasing the number of cases based on **ethnic origin, as well as a general trend toward a decrease in the number of registered signals and appeals by Bulgarian citizens of Roma origin.**

The statistics from First Expert Team shows that the number of appeals based on ethnic affiliation under “Protection in Exercising the Right to Work”, “Protection in Exercising the Right to Education”, “Protection in Exercising Other Rights”, from which the most frequent case is denial of provision of goods and services in 2007, is 28% of the total number of cases, compared to 2006 when it was 32%.

The collective complaint contains claims in the area of health care and medical services and the CPD performed an inspection which indicated that only two appeals have been filed by **Bulgarian citizens who define themselves as Roma**, on which the Committee has ruled as follows:

► Decision No 38/27 July 2006 on case No 28/2006 of the list of the CPD established that the operator on duty at the Emergency Medical Care Centre in Montana exercised direct discrimination based on ethnic affiliation by refusing to provide emergency medical care. In fact, the Committee assumed that the operator on duty at the Emergency Medical Care Centre refused to register and did not assign to the medical team on duty a call from citizens from Roma origin needing emergency medical case, and only did it after a call from the police officer on duty at the Montana Police Department. Pursuant to art. 78 of the PDA, the operator on duty was imposed an administrative sanction amounting to 1000 (one thousand) leva.

The above decision was appealed to the Supreme Administrative Court, but the Court rejected the appeal and confirmed the decision of the CPD.

Pursuant to art. 67 of the PDA, the CPD exercises control on the compliance with administrative enforcement measures. Upon an on-site examination by CPD experts in relation to the enforcement of the above decision, it was established that the operator on duty at the time of the accident was discharged disciplinarily by the Director of the Emergency Medical Care Centre in Montana, and it was also established from the printout of the information system registering signals from Roma neighbourhoods, that the employees respond on a timely basis and the addresses are visited.

► Another decision No 26/08 February 2008 on Case No 15/2007 from the list of the CPD established that discrimination was exercised against the claimant under art. 5 of the PDA in the form of harassment under §1, item 1 of the Additional Provisions of the PDA by the Emergency Medical Care Centre in Montana. Pursuant to art. 76, para 1, item 1 of the PDA, an administrative measure was enforced and recommendations were issued to the Director of the Emergency Medical Care Centre in Montana to take effective measures to disallow discrimination by his/her employees against the patients in the activity of the Emergency Medical Care Centre in Montana.

► On 5 August 2007, the evening news edition broadcast a report about a woman who passed away in a neighbourhood in Sofia due to a lack of timely emergency medical care. In relation to that, the Committee took action on its own initiative. The investigation of evidence provided by witnesses, the complaints were that the Emergency Medical Care Centre did not respond adequately to the signal because it was received from a neighbourhood populated by Roma. The Committee's proceedings are not completed yet.

2. Positive measures

As a national body, the CPD, within its competencies, exercises control on the implementation of the international standards in the area of human rights protection and in cases of established discrimination should propose specific measures for prevention. In this regard and in compliance with the Strategy and Long-term Action Plan against Discrimination 2006 – 2010, adopted by the Commission, information campaigns are implemented on a monthly basis on the territory of the entire country. Such campaigns are aimed at raising the public awareness of the functions and rights of the CPD in implementing anti-discrimination legislation, as well as to inform the public of the opportunities for defending the principle of equal treatment and change the attitude in the Bulgarian society. **The implementation of the national educational campaign continues and the established practice of organizing on-site offices for citizens in the different regions and towns in the country. Active participants in the events are non-government Roma organizations, public leaders of Roma origin, as well as experts from institutions representing the Roma community.** The Commission's policy and practice is to include non-government Roma organizations and experts of Roma origin in the independent investigations pursuant to art. 47, item 10 of the PDA.

In March 2007, the CPD launched the implementation of a project within the common European initiative "European year of equal opportunities for everybody – 2007". The National Roma Centre St. Georgi – Sofia and the non-government Roma organization Human Rights Project, based in Sofia, were involved as partners in the implementation of activities geared towards one of the project's target groups – the Roma community. A number of events were held with their assistance for promotion and explanation of the PDA.

The CPD has signed a memorandum with the National Council for Cooperation in Ethnic and Demographic Issues under the Council of Ministers.

As evident from the statistical data mentioned above and the experience of the CPD, it can be concluded undoubtedly that the statements in the collective complaint about "systematic discrimination practices" in the area of health care, and emergency health care, in particular, **are not confirmed.** It is a matter of accidental cases in separate regions, resulting from non-professional attitude by separate medical officials in some medical units and facilities. It is a fact that there have been signals and appeals filed with the CPD against the Emergency Medical Care Centres for discrimination based not only on ethnicity, but also on other features as a whole by Bulgarian citizens.

That evidences the existence of measures for protection against discrimination at a national level, but they are not used in the cases cited in the complaint. The cases of ethnic discrimination are isolated.

The indicated measures are not exhaustive and in case of need or request by the ECSP we could provide additional information in this regard.

CONCLUSIONS:

In the context of the above-said, and in response to the collective complaint allegations, we would like to express the following opinion:

The Bulgarian legislation provides sufficient guarantees for prevention of discrimination, as well as for protection of the access to medical care, health services and social assistance for everybody. There are sufficient arguments and facts supporting the provision and guaranteeing equal access to health insurance for all citizens of the Republic of Bulgaria, as well as sufficient positive measures for improvement of the health status of the Roma.

We believe that Bulgaria has ensured the observance of the principle of non-discrimination based on ethnic affiliation and has, at the same time, taken a number of positive measures for bringing the unfavourable position of the Roma to equality.

There are also sufficient arguments supporting the challenged amendment to the PDA as well as sufficient mechanisms for integration on the labour market of persons who will be removed from the social assistance system after that amendment.

We must emphasize that the limitation on provision of social assistance for a period not longer than 18 months does not apply to persons in the most disadvantaged position who will continue being protected by the law.

Given the information above and the facts supporting the consistent and targeted policy implemented by the Government of the Republic of Bulgaria in the area of health and social care, we believe that the statements in the collective complaint are unjustified and ungrounded.

Inasmuch as the evaluation of the performance of commitments under other international agreements to which the Republic of Bulgaria is a party, other than the European Social Charter (revised), is not within the competence of the European Committee for Social Rights, we shall not comment on the statements claiming violations of such documents and the rights and obligations thereunder.

In view of the above-said, the Government of the Republic of Bulgaria would like to address the European Committee for Social Rights with the following request:

1. To recognize the efforts made by the Bulgarian government to ensure equal access to medical care and services and to provide social assistance to the people, incl. the Roma.
2. To recognize/note the practical activities contributing to the observance of the principle of non-discrimination based on ethnicity, the positive measures taken with regard to the Roma community, as well as the political will for further actions for the implementation and performance of those measures in accordance with the objectives of the European Social Charter (revised).
3. To accept the allegations in the collective claim by the ERRC as not proved.

4. To reject the claims of the ERRC as unjustified.

The Government of Bulgaria remains available for providing any other additional information and/or clarification that the claimant or the ECSR might request, including through personal participation of the government agent designated, in order to ensure more complex examination of the facts and find a just solution to the case in question.