

**European Commission
against Racism and Intolerance**

Third report on Bulgaria

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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 27 June 2003 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on Bulgaria in March 2000, progress has been made in a number of fields covered by the report. A law on refugees came into force in 2002 and the Ombudsman Act was passed in May 2003. The members of the Turkish community enjoy better representation in public bodies, and the right of peaceful assembly of the members of the Macedonian community is more effectively guaranteed. The National Police Department has set up a specialised human rights committee, and training has been organised for police officers, judges and other public servants. The Ministry of Education and Science has issued an instruction concerning the integration of children and pupils belonging to minorities, which is designed in particular to integrate Roma children in Bulgarian schools. A number of projects, such as the strengthening of governmental structures dealing with minorities issues, are under way. On 16 September 2003, the National Assembly adopted an Act on the protection against discrimination.

However, many of the recommendations in ECRI's second report have not been implemented or have been implemented only partially. For instance, the new Denominations Act passed in 2002 does not remedy all the shortcomings as regards freedom of religion in Bulgaria. The European Court of Human Rights has received an application concerning the creation of a Macedonian political party. There are still stereotypes, prejudices and discrimination against minority groups, particularly Roma, as well as against immigrants, refugees and asylum seekers. Lastly, there are still serious problems connected with the excessive use of firearms and force by the police against Roma. A large majority of Roma continue to face serious financial and social problems, live in very deprived neighbourhoods and are hard hit by unemployment. There is still a widespread problem of segregation of Roma children in schools, and, so far, the implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society, which the government adopted in 1999, is still in its early stages.

In this report, ECRI addresses a series of recommendations to the Bulgarian authorities. In particular, it recommends the ratification of Protocol No.12 to the European Convention on Human Rights and other international instruments concerned with combating racism and intolerance. ECRI draws the authorities' attention to the need to respect freedom of religion, on the one hand, and the freedom of association of Macedonians, on the other. In connection with criminal law, ECRI recommends that the authorities take steps to ensure that criminal law provisions designed to combat racism are more strictly implemented. With regard to civil and administrative law, ECRI recommends that the authorities implement the Act on the protection against discrimination and set up the Commission for the protection against discrimination as soon as possible. ECRI urges the Bulgarian authorities to intensify their efforts in order to improve the situation of Roma in all fields, particularly in economic and social matters. Furthermore, ECRI encourages the Bulgarian authorities to continue their efforts to improve the situation of other minority groups, including Turks, Macedonians and Pomaks, as well as the situation of immigrants, refugees and asylum seekers. It recommends the continuation of human rights training for officials who come into contact with members of these minority groups and awareness-raising among the general public and the media of the issues of racism and intolerance. With regard to the police, it advocates amending the legislation on the use of firearms and closely monitoring the situation as regards the excessive use of such weapons and of force against Roma. ECRI recommends combating the segregation of Roma children in schools and implementing, as soon as possible, the Framework Programme for Equal Integration of Roma in Bulgarian Society, ensuring that suitable strategies are introduced at regional and local level.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON BULGARIA

International legal instruments

1. In its second report, ECRI recommended that the Bulgarian authorities ratify the European Social Charter. It also recommended that Bulgaria sign and ratify the following instruments: the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.
2. ECRI is pleased to note that, on 7 June 2000, Bulgaria ratified the Revised European Social Charter, which came into force on 1 August 2000. To date, none of the other instruments mentioned above has not been signed or ratified. Bulgaria signed the Convention on Cybercrime on 23 November 2001 but has not yet ratified it. Bulgaria has not signed or ratified either the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, or Protocol No. 12 to the European Convention on Human Rights. The Bulgarian authorities have informed ECRI that the government is considering ratifying all these instruments.

Recommendations:

3. ECRI strongly encourages the authorities to ratify, as soon as possible, Protocol No.12 to the European Convention on Human Rights, the Convention on Cybercrime and the Additional Protocol thereto, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.

Constitutional provisions and other basic provisions

4. Article 6 of the Bulgarian Constitution lays down the principle of equality and prohibits discrimination as follows: "(1) All persons are born free and equal in dignity and rights. (2) All citizens shall be equal before the law. There shall be no privileges or restrictions on rights on the grounds of race, nationality, ethnic identity, sex, origin, religion, education, opinion, political affiliation, personal or social status, or property status." ECRI notes that this provision is directly applicable in the Bulgarian legal system under Article 5(2) of the Constitution and that the courts have already applied it in order to sanction instances of racial discrimination.

Recommendations:

5. ECRI encourages the Bulgarian authorities, and in particular the judicial authorities, to make full use of Article 6 of the Bulgarian Constitution, which prohibits discrimination, whenever necessary to counter any form of racial discrimination.

- Constitutional provisions on political parties

6. In its second report, ECRI asked the Bulgarian authorities to clarify the application of Articles 11(4) and 44(2) of the Constitution, concerning restrictions on the establishment of political parties founded on ethnic grounds.
7. ECRI notes that on 29 February 2000 the Bulgarian Constitutional Court ruled that those political parties which, by virtue of their membership criteria or their aims, are reserved exclusively for people from a particular ethnic, religious or

racial group are prohibited. In particular, a political party could be prohibited if its statutes and rules of procedure prevent persons from a certain ethnic group from joining.

8. The Political Party of the United Macedonian Organisation (OMO Ilinden Pirin) was banned by the Bulgarian Constitutional Court in 2000. The European Court of Human Rights has received an application in this connection, lodged on the grounds of a breach of freedom of association, but has not yet handed down a judgment. ECRI notes that on 12 December 2002 the Sofia Court refused to register the OMO Pirin political party.

Recommendations:

9. ECRI encourages the Bulgarian authorities to ensure that the principle of freedom of association, as provided for in Article 11 of the European Convention on Human Rights (ECHR), is respected without any discrimination. It stresses that, under Article 11, paragraph 2 of the ECHR, no restrictions shall be placed on the exercise of freedom of association other than those such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- Denominations Act

10. In its second report, ECRI called for the rapid removal of restrictions on the registration of religious communities.
11. A new Denominations Act was passed on 20 December 2002. It provides that in future religious communities shall be registered with the Sofia Court, except in the case of the Bulgarian Orthodox Church. ECRI notes that several religious communities, non-governmental human rights organisations and independent experts have levelled numerous criticisms at the Act, alleging that it introduces discrimination between the various denominations and restrictions on freedom of religion that are contrary to Article 9 of the European Convention on Human Rights. In particular, the Act makes it possible to restrict the exercise of freedom of religion in the event of a threat to "national security" -rather than public safety as foreseen in paragraph 2 of Article 9 of the ECHR - and states that religious communities and institutions and religious beliefs may not be used for political ends.

Recommendations:

12. ECRI recommends that the Bulgarian authorities ensure that Article 9 of the European Convention of Human Rights, concerning freedom of religion, is respected in all circumstances, with due regard for the relevant case law of the European Court of Human Rights. ECRI recalls that, under Article 9, paragraph 2 of the ECHR, freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Criminal law provisions

13. In its second report, ECRI encouraged the Bulgarian authorities to ensure that criminal law provisions fully allow for the racist motivation of offenders to be taken into account and to be considered as an aggravating circumstance in the case of common offences.
14. There have been no changes in the Criminal Code to this effect, despite requests to the Bulgarian authorities from certain non-governmental organisations. However, the Bulgarian authorities draw attention to the fact that Article 54(1) provides that judges are to take into account the motives and aggravating circumstances of a crime when making sentencing decisions. Although this article does not specifically mention racist motivation, a judge may make use of it in order to take such a motivation into account and thus hand down a more severe penalty.

Recommendations:

15. ECRI recommends that the Bulgarian authorities insert a provision in the Criminal Code expressly stating that racist motivation for any ordinary offence constitute an aggravating circumstance. In this regard, it draws the Bulgarian authorities' attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, which indicates the provisions that should be included in criminal law.
16. In its second report, ECRI encouraged the Bulgarian authorities to give high priority to criminal prosecution of offences of a racist or xenophobic nature and to collect and publish accurate data and statistics on the number of racist and xenophobic offences reported to the police, the number of prosecutions, reasons for not prosecuting and the outcome of the prosecutions.
17. The Bulgarian authorities have informed ECRI that, since the second report was adopted, there have been very few prosecutions and sentences under Articles 162, 163 and 172-1 of the Criminal Code, which provide for the punishment of racist offences. One of the explanations put forward by the authorities is that there are only isolated instances of such offences in Bulgarian society. ECRI is, however, concerned about the existence of reports by non-governmental organisations describing serious racist incidents in Bulgaria that have not received all the attention they deserve, or been diligently prosecuted by the Bulgarian authorities.

Recommendations:

18. ECRI reiterates its recommendations that the Bulgarian authorities give priority to the criminal prosecution of racist and xenophobic offences and compile accurate statistical data in this field.
19. In its second report, ECRI recommended giving further training to police officers and judges to raise awareness of the problems of racism and intolerance. ECRI considers this point in the section on specific issues.

Civil and administrative law provisions

20. In its second report, ECRI recommended that the Bulgarian authorities introduce civil and administrative legislation to prohibit discrimination in all spheres of life.
21. Article 8(3) of the Labour Code was recently amended to ban direct and indirect discrimination on grounds, inter alia, of nationality, origin, race, colour or political beliefs.

22. On 16 September 2003, the National Assembly adopted an Act on the protection against discrimination. This Act prohibits discrimination in particular on grounds such as race, ethnic origin, religion and nationality. Direct and indirect discriminations are defined in the same terms as under community law¹. The scope of the Act is very large as discrimination is prohibited for any legal or natural, public or private persons in a large number of fields such as employment (including recruitment), education, professional organisations and trade unions, supply of good and services. The Act provides for the principle of a shared burden of proof between the victim and the discriminator in administrative and civil law. The Act also places an obligation upon employers to take preventive measures to fight against discrimination within their workplace. Positive measures of temporary duration aimed at promoting equal opportunities for certain disadvantaged groups are expressly allowed. In addition, the Act provides for the setting up of a Commission for the protection against discrimination². The law is to enter into force on 1 January 2004. ECRI welcomes the adoption of this law which is a significant step forward in the fight against racial discrimination in Bulgaria and contains a large number of elements provided in ECRI's General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination.

Recommendations:

23. ECRI recommends that the Bulgarian authorities swiftly implement the Act on the protection against discrimination and closely monitor its application.
24. ECRI strongly encourages the authorities to inform the general public about the content and the scope of this Act. It also encourages the authorities to provide training on the Act and on its implementation to judges and legal advisers.

Administration of justice

25. In its second report, ECRI recommended that the Bulgarian authorities ensure that Roma detainees were provided with immediate access to legal counsel and an independent medical examination.
26. Under Article 70(1), paragraph 7, of the Code of Criminal Procedure, legal aid is compulsory when the accused is unable to afford a lawyer but wishes to have one and it is in the interests of justice that he or she should be assisted by counsel. Under the Enforcement of Sentences Act, detainees are entitled to a medical examination on request. According to certain sources, however, the exercise of these rights raises problems in practice. For instance, lawyers appointed ex officio are not always paid promptly by the authorities. It would seem that further progress is needed if the rights provided for by law are to be fully recognised in practice, particularly as regards Roma.

Recommendations:

27. ECRI recommends that the authorities keep a close watch on the situation as regards the rights of detainees and accused persons, both Roma and other, to access to counsel and an independent medical examination. It strongly encourages the authorities to make every effort to ensure that practice in this respect complies with the law.

¹ European Union Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and European Union Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

² See below "Specialised bodies and other institutions".

Specialised bodies and other institutions

28. In its second report, ECRI recommended that the Bulgarian authorities set up a specialised body to combat racism and discrimination, in accordance with its General Policy Recommendation No.2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
29. The Act on the protection against discrimination³ establishes a Commission which is an independent body composed of nine members competent to take a range of measures to combat discrimination. The Act on the protection against discrimination provides for the establishment of a Commission, which is to be an independent body composed of nine members mandated to take a range of measures to combat discrimination. A permanent panel focused on racial discrimination is to be created within this Commission. This Commission will be mandated to receive complaints and issue decisions that will be binding upon the parties. It will be entitled to impose civil and administrative sanctions upon the authors of discriminatory acts. It will also be mandated to appear before the courts in cases of discrimination and to make recommendations to the authorities concerning the fight against discrimination. This Commission is to be set up shortly after the entry into force of the Act on 1 January 2004.

Recommendations:

30. ECRI recommends to the Bulgarian authorities to establish the Commission for the protection against discrimination as swiftly as possible and to provide it with the necessary financial and human resources so that it can carry out its work in the best possible conditions. It also encourages the authorities to set up local offices of the Commission in order to ensure that it is able to cover the whole territory of the country and be easily accessible for victims of discrimination wherever they are located.
31. The National Council on Ethnic and Demographic Issues, set up in 1997, is a body comprising representatives of the authorities, but also of non-governmental organisations, which is responsible for consultations, co-operation and co-ordination between government bodies and non-governmental organisations as regards the formulation and implementation of national policy in respect of ethnic and demographic issues and migration, and for the promotion and protection of tolerance and understanding between Bulgarian nationals from ethnic and religious minority groups.
32. According to certain sources, this body does not have sufficient resources or powers to operate effectively. ECRI has been informed that the Bulgarian government is contemplating setting up a National Agency for Minorities to define the government's responsibilities in respect of policy on minorities and reinforce the role currently played by the National Council on Ethnic and Demographic Issues. ECRI does not know what the structure of such a body would be, nor what powers it would have.
33. ECRI notes with satisfaction that a large majority of regional authorities have set up regional councils for ethnic and demographic issues and that certain municipalities have appointed experts on minority issues. Education and awareness-raising

³

See above under "Civil and administrative law provisions".

Recommendations:

34. ECRI recommends that the Bulgarian authorities strengthen the national machinery responsible for minority issues, whether by setting up a new body or by reinforcing the National Council on Ethnic and Demographic Issues. It stresses the importance of ensuring the participation of representatives of minorities on a body responsible for issues concerning them. Such a body should also have sufficient resources, particularly financial resources, to perform its task properly.
35. ECRI encourages the authorities to continue their efforts to set up local bodies to deal with minority issues, on which representatives of minorities are represented, with a view to establishing a policy that is appropriate to each region.
36. The Bulgarian authorities have informed ECRI that Parliament passed the Ombudsman Act in May 2003. ECRI is not familiar with the details of the Act, but welcomes the establishment of such an institution.
37. ECRI is satisfied to note that certain municipalities, including the city of Sofia, have appointed local Ombudsmen to improve relations between the municipal authorities and the inhabitants. It notes, however, that the public are still not sufficiently familiar with such bodies.

Recommendations:

38. ECRI recommends that the Bulgarian authorities appoint the Ombudsman provided for under the Act as soon as possible, so that she or he can take office quickly. It hopes that this institution will have all the powers and human and financial resources needed to perform its task effectively. It encourages it to examine the problems of racism, intolerance and racial discrimination in Bulgarian society with a view to taking an active part in solving them.
39. ECRI recommends that the Bulgarian authorities continue their efforts to appoint local Ombudsmen. It encourages them to inform the public about the existence of such institutions and to give the latter all the human and financial resources they need to perform their task satisfactorily.

Reception and status of non-citizens

40. In its second report, ECRI hoped that a legislative framework would soon be in place for asylum seekers and refugees and that the gaps in the infrastructure for dealing with asylum seekers, the slowness of the asylum procedure and the problem of the right, in practice, of asylum seekers to work would be addressed. It noted that free legal advice was provided by non-governmental organisations.
41. ECRI is satisfied to note that an Asylum and Refugees Act was passed on 16 May 2002 and came into force on 2 December 2002. The Act transfers responsibility for the asylum application procedure, which previously rested with the border police, to the Refugee Agency. The Act provides for an ordinary asylum application procedure and a fast-track procedure when the application is manifestly unfounded. In general, the Act is considered to conform to international standards, even though care should be taken to ensure that the interpretation of the clauses setting out the conditions under which refugee status may be refused or forfeited is not contrary to the 1951 Geneva Convention relating to the Status of Refugees.

42. ECRI is pleased to learn that fruitful co-operation has been established between the Refugee Agency, the border police, the High Commissioner for Refugees and non-governmental organisations, particularly in the form of training seminars for officials in contact with asylum seekers, including judges responsible for ruling on appeals concerning the asylum application procedure. Another example of this co-operation is a refugee integration programme set up to help refugees learn Bulgarian and gain access to the labour market.
43. With regard to the facilities for receiving asylum seekers, new centres have recently been opened and the Refugee Agency is responsible for placing asylum seekers in these centres or in private dwellings which it finances. ECRI has been informed by non-governmental organisations that the facilities in these reception centres need to be improved somewhat. As a rule, asylum seekers are entitled to legal aid as soon as they arrive on Bulgarian territory, but such aid is currently provided by non-governmental organisations and financed by the High Commissioner for Refugees.

Recommendations:

44. ECRI encourages the Bulgarian authorities to continue their efforts to improve the situation of asylum seekers and refugees in Bulgaria, particularly with regard to reception facilities, legal aid and social assistance for asylum seekers. In particular, it invites the authorities to pay for legal aid for asylum seekers throughout the asylum application procedure.
45. ECRI encourages the Bulgarian authorities to continue, and step up, their efforts to provide training in human rights and respect for differences for all officials who come into contact into asylum seekers and refugees.

Vulnerable groups

46. The situation of the Roma community in Bulgaria is dealt with in the section on specific issues.
47. In its second report, ECRI asked the Bulgarian authorities to address the issue of the representation of the Turkish minority in Parliament and government. It is satisfied to note that substantial progress has been made in this area.
48. In its second report, ECRI also asked the Bulgarian authorities to address the concerns relating to the special military units to which Turkish and Roma conscripts are posted and the representation of these minorities among officers in the military.
49. ECRI is pleased to learn that the specialised military units in question have been closed down and that Roma and Turks now do their military service in ordinary units. It notes, however, that little progress has been made as regards the number of Roma and Turkish officers and in the army.
50. As far as the Turkish minority is concerned, ECRI observes that the situation is still improving with regard to the problems of discrimination and intolerance, even though substantial progress still needs to be made. It also notes that the large part of the Turkish minority live in a region particularly hard hit by the economic recession and social crisis and are financially and socially disadvantaged in comparison with the rest of the Bulgarian population.

Recommendations:

51. ECRI encourages the Bulgarian authorities to continue their efforts to improve the situation of members of the Turkish community in Bulgaria, particularly in respect of the protection of their economic, social and cultural rights.

52. In its second report, ECRI recommended that the Bulgarian authorities take steps to ensure that all minority groups in Bulgaria, including Macedonians, effectively enjoyed the right of peaceful assembly.
53. Progress has been reported from several sources as regards the right of peaceful assembly of Macedonians, although they sometimes encounter harassment. ECRI is concerned by reports that restrictions on freedom of association still exist⁴. It is also concerned about allegations of discrimination and acts of intolerance on the part of the authorities and members of the majority population against people who openly declare themselves to be Macedonians.
54. ECRI notes that Macedonians have expressed the desire that the Bulgarian state should better acknowledge their existence as a national minority.

Recommendations:

55. ECRI encourages the Bulgarian authorities to continue their efforts to improve the situation with regard to the right of peaceful assembly of all minority groups, including Macedonians.
 56. ECRI also recommends that the Bulgarian authorities closely monitor allegations of discrimination and acts of intolerance against Macedonians and, if necessary, take steps to punish such acts.
 57. Lastly, ECRI strongly recommends that the Bulgarian authorities establish a dialogue with the representatives of the Macedonians to find a solution to the tension that exists between this group and the authorities, but also between this group and the majority population, so as to enable them to live together and respect one another in the interests of all concerned.
58. There is a group of Muslim Bulgarians in Bulgaria who identify themselves as Pomaks, whose exact number is difficult to establish. According to some sources, the Pomaks are sometimes subject to discrimination, particularly in employment and higher education, because of prejudices against them on the part of the majority population.
 59. Another problem raised by the representatives of the Pomak community is that they are often confused with members of the Turkish community in Bulgaria, because they are Muslims, like the latter. Pomak representatives have said that the Pomaks are Bulgarian-speaking Muslims who wish to identify themselves and be identified as such.

Recommendations:

60. ECRI recommends that the Bulgarian authorities closely monitor the allegations of discrimination and acts of intolerance against persons of Pomak origin and, if necessary, take steps to punish such acts.
61. ECRI also recommends that the Bulgarian authorities combat the stereotypes and prejudices that still exist against persons of Pomak origin and take steps to make the majority population aware of this problem.

Media

62. ECRI notes that certain prejudices and negative stereotypes against members of minority groups, such as Roma, Jews, immigrants, refugees and asylum seekers, and other members of minority groups have been conveyed in the media.

⁴ See above under “Constitutional provisions and other basic provisions”.

According to several sources, the situation has improved over the last few years, in some cases significantly. ECRI is pleased to learn that there is less intolerance in the media, even if the overall results are not yet satisfactory.

Recommendations:

63. ECRI recommends that the Bulgarian authorities alert media professionals and their organisations to the dangers of racism and intolerance. If racist articles have been published, it strongly encourages the Bulgarian authorities to make every effort to prosecute and punish those responsible.

Climate of opinion

64. In its second report ECRI recommended that the Bulgarian authorities increase public awareness of the existence of racism and intolerance and encourage victims to defend their rights.
65. According to certain sources, manifestations of racism and intolerance on the part of the public towards Roma, but also other minority groups, such as ethnic and religious minorities, immigrants, refugees and asylum seekers, have existed to the same degree for a number of years. According to other sources, however, there is a slight decrease in the number of such manifestations. Acts of verbal or physical violence have by no means been eradicated, and the same is true for stereotypes and prejudices, which sometimes lead to acts of discrimination. The public and the authorities appear to be somewhat passive in the face of acts of intolerance of this kind, which are not sufficiently combated or punished.
66. ECRI notes that the Ministry of Culture and local authorities have striven to enhance public access to the cultures of the various ethnic minorities by organising activities at national and regional level. Such schemes have often taken place with the support of international organisations. Non-governmental organisations have taken steps to ensure that schoolchildren are taught more about the cultures of ethnic minorities, but the measures taken by the authorities to increase awareness among the general public and schoolchildren are still very limited.

Recommendations:

67. ECRI recommends that the Bulgarian authorities carefully monitor manifestations of racism and intolerance on the part of the general public against members of minority groups.
68. ECRI also recommends that the Bulgarian authorities increase public awareness of the problems of racism and intolerance so as to lower the level of intolerance among the population. It draws their attention in particular to the need to carry out national surveys of potential victims' experience and perception of discrimination and racism, as advocated in ECRI Recommendation No.4. Such surveys would provide a clear and exhaustive picture of the situation in the country.

Antisemitism

69. Manifestations of antisemitism are not very widespread in Bulgarian society, but ECRI notes that, according to some sources, antisemitic incidents appear to be on the increase. It observes that there are publications, graffiti and discussion forums on the Internet which propagate antisemitic ideas in Bulgaria. It is also concerned at instances where Jewish tombs have been desecrated and an attempt to set fire to a Jewish school in Sofia. Although these are isolated incidents, certain non-governmental organisations have decided to monitor the

situation closely by setting up a working party to address the phenomenon of antisemitism in Bulgaria.

Recommendations:

70. ECRI urges the Bulgarian authorities to carefully monitor manifestations of antisemitism, which, according to some sources, appear to be on the increase. It recommends that they take all the requisite measures to put a stop to antisemitic acts and to punish their perpetrators.

Monitoring the situation

71. In its second report, ECRI recommended that the Bulgarian authorities consider ways of monitoring the situation with regard to racism and racial discrimination.
72. ECRI is concerned, however, about the lack of reliable information about the situation of the various minority groups living in Bulgaria. It notes that no specific steps have been taken to improve the situation in this respect. One of the reasons put forward by the Bulgarian authorities to justify their failure to take action is the need to avoid discriminating against people on the grounds of their ethnic origin. ECRI considers, however, that it is essential to produce statistics in which figures are broken down according to ethnic origin in order to find out the extent of discrimination in fields such as employment and education.

Recommendations:

73. ECRI strongly encourages the Bulgarian authorities to consider ways of establishing a coherent, comprehensive data collection system in order to assess the situation of the various minority groups living in Bulgaria and the scale of manifestations of racism and racial discrimination. Such a data collection system should comply with national law and European regulations and recommendations on data protection and the protection of privacy, as stated in ECRI General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. When collecting data, the Bulgarian authorities should, in particular, make sure to respect the anonymity and dignity of the people questioned and the principle of full consent. Furthermore, the data collection system on racism and racial discrimination should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

II. SPECIFIC ISSUES

Situation of the Roma community in Bulgaria

- ***Excessive use of force and firearms by the police against members of the Roma community.***

74. In its second report, ECRI recommended that the Bulgarian authorities reconsider the relevant provision of the Ministry of the Interior Act and restrict the use of firearms by the police to cases where they are really necessary. It stressed that it was important for the authorities to acknowledge the existence of the problem posed by certain questionable behaviour on the part of the police, and for the police and political leaders to express their strong commitment to ensuring that any allegations of misbehaviour or criminal acts on the part of the police are promptly and stringently investigated and dealt with. ECRI also recommended setting up an independent body - acting at central and local level - to examine police, investigative and penitentiary practices.
75. The authorities have informed ECRI that Article 80 of the Ministry of the Interior Act was amended in February 2003 in order to strengthen the restrictions on the

use of firearms. However, according to certain non-governmental organisations, further changes are still needed in order for this provision to conform fully to the United Nations Basic Principles on the use of Force and Firearms by Law Enforcement Officials, adopted in 1990. ECRI is concerned about allegations of instances of excessive use of firearms by the police, which have sometimes led to the death of Roma. ECRI has also heard allegations of the excessive use of firearms by gendarmes.

76. ECRI is concerned about information received from non-governmental sources but also from the Bulgarian authorities⁵ to the effect that Roma have been ill-treated by the police, whether on their arrest, during their interrogation or during police custody and, when they are in prison, by members of the prison staff. The Bulgarian authorities have informed ECRI that they are looking into these cases and that police officers found to be responsible for such ill-treatment have been disciplined and in some cases dismissed on grounds of serious misconduct. According to certain sources, however, ill-treatment inflicted by members of the police has not always received sufficient attention from the Bulgarian authorities, and those responsible are not always properly punished. The prevalence of a feeling of impunity among certain members of the police force could also account for behaviour of this type. ECRI notes that the police is not demilitarised, and that it is therefore the Military Prosecution Office that is responsible for investigations into the conduct of members of the police force.
77. ECRI is particularly concerned about the findings of surveys of physical violence in police stations, which show that the proportion of people of Roma origin who state that they have been subjected to physical violence in police stations is three times higher than the proportion of people of Bulgarian origin. It therefore seems that members of the Roma community are ill-treated more often than members of the majority population.
78. ECRI is pleased to learn that a specialised human rights committee was set up in the National Police Department in August 2000 to deal, in particular, with problems of this kind. The committee is responsible for taking steps to improve police conduct as regards respect for citizens' rights and for organising training for police officers in human rights and international standards applicable to law enforcement agencies. A co-ordinator has been appointed for each regional police directorate to relay the committee's work by organising schemes at local level. The specialised human rights committee has, inter alia, drafted a statement which police officers must make to arrested persons to inform them of their rights. It has prepared a handbook on human rights in police practices for police officers. ECRI has also been informed that a code of ethics for the police is under preparation.
79. Numerous schemes have been launched to provide human rights training for police officers with the help, in particular, of the international community and Bulgarian non-governmental organisations. ECRI notes, in particular, that the pilot project, mentioned in its second report, on police work with ethnic minorities, which was launched in Plovdiv in 1999, is being extended to other regions. The project mainly concerns regions with a large Roma population. It has been welcomed both by the police and by local representatives and has produced convincing results. Training in human rights and in the principle of non-discrimination has been given to judges, with the help in particular of non-governmental organisations.

⁵ See the report submitted by Bulgaria under Article 25, paragraph 1, of the Council of Europe Framework Convention for the Protection of National Minorities, 9 April 2003, ACFC/SR(2003)001.

80. So far, the Bulgarian authorities have not set up an independent body to investigate ill-treatment or acts of discrimination committed by members of the police force. As a rule, such acts are investigated by police officers who do not work in the same police station as the person who has been accused and, if necessary, by the Prosecutor's Office. The authorities have informed ECRI that a human rights working party set up in the National Police Department has suggested that the government appoint such a body. The government is considering this proposal. The authorities have also reported that the draft law on the prevention of discrimination provides for an independent body which would be able to investigate and punish acts of discrimination perpetrated by public servants, including police officers. It is also likely that the Human Rights Ombudsman Act which has just been passed allows the Ombudsman to examine human rights violations perpetrated by the police. ECRI considers these measures insufficient, however, particularly as a means of dealing with the excessive use of force and firearms.

Recommendations:

81. ECRI strongly recommends that the Bulgarian authorities take steps to restrict the use of firearms by the law enforcement agencies to cases where their use is really necessary. In particular, it urges the Bulgarian authorities to amend the law to this end and ensure that international standards are conformed to in practice in this field.
82. ECRI urges the Bulgarian authorities to take steps to put a stop to all ill-treatment by members of the police. It also recommends ensuring that allegations of ill-treatment are subject to a prompt, impartial investigation leading, where appropriate, to effective punishment of those responsible.
83. ECRI recommends that the Bulgarian authorities set up, without delay, an independent body to investigate allegations of unlawful acts committed by members of the law enforcement agencies.
84. ECRI recommends that the Bulgarian authorities continue, and step up, their efforts to provide human rights training for police officers and all parties involved in the criminal justice system, including prosecutors and judges. It strongly encourages the Bulgarian authorities to focus on raising awareness of the issues of racism and discrimination and on the need to combat racism and discrimination perpetrated by the police and the general public.
85. In its second report, ECRI recommended that the Bulgarian authorities take more proactive measures to encourage the recruitment of members of the Roma community in the various structures of the criminal justice system, particularly as police officers.
86. Roma representation on the staff of the Ministry of the Interior is increasing: the figure as at 21 October 2001 was 158 people. Of these, four are officers and 89 work in the national police protection unit. It is likely that there are more Roma in the police force, for the figures available concern only people who voluntarily identify themselves as Roma. Nevertheless, ECRI still considers this figure insufficient.
87. The Bulgarian authorities have informed ECRI that the method for recruiting police officers is based on neutral criteria which take account of the skills of the applicants. One of the obstacles to access to police officer posts is the requirement that candidates have a certain level of education and knowledge

which people of Roma origin rarely attain because of the difficulties they encounter in the educational field⁶.

Recommendations:

88. ECRI reiterates its recommendation that more proactive measures be taken to encourage recruitment of members of the Roma community to the police and other branches of the criminal justice system. Such a measure would facilitate relations between these bodies and the Roma community.

- Problems encountered by the Roma community in various fields of life

89. ECRI is concerned about reports of serious difficulties encountered by members of Roma community in many spheres of life. No improvement has been noted in this respect, and there are some reports of a deterioration in the situation of Roma, who, particularly because of the economic recession and social crisis, are excluded from society even more than before. The main problems stem from the fact that the Roma districts are turning into ghettos. Far from declining, this problem has apparently worsened in some respects. Most Roma neighbourhoods consist of slums, precariously built without planning permission on land that often belongs to the municipalities, as in the case of the Faculteta district in Sofia. As the Bulgarian authorities have not taken steps to address the situation, the people living in these districts have no access to basic public services, whether health care, public transport, waste collection or sanitation. The inhabitants of these areas are often in a deplorable state of health and cannot afford medical treatment, as there are no facilities on the spot and, in any case, medical care is too expensive for them, despite social welfare. ECRI is particularly concerned about reports that the electricity supply is sometimes cut off in an entire Roma district as certain inhabitants do not pay their bills. This problem has apparently worsened since the electricity company started to operate in a market economy. In some cases, moreover, Roma do not receive the welfare benefits to which they are entitled.
90. The serious social and financial problems facing members of the Roma community are a source of growing tension between them and the authorities and the majority population, which leads to open, sometimes violent conflict, particularly when the inhabitants of Roma districts demonstrate in support of their rights.
91. ECRI is concerned about reports that Roma are still very widely discriminated against in all areas of life. For example, they are apparently refused entry to places open to the public, such as bars and shops, solely because of their ethnic origin. In addition, Roma are subjected to a large amount of racism and intolerance on the part of the majority population, fuelled by stereotypes and prejudices against them⁷.

Recommendations:

92. ECRI considers that there is an urgent need for the authorities to adopt specific measures to combat all forms of direct and indirect discrimination against members of the Roma community. In particular, it recommends that the Bulgarian authorities ensure that Roma have equal access to services offered to the public. It would draw attention, in this connection, to the measures advocated in its General Policy Recommendation N°3 on combating racism and intolerance against Roma/Gypsies and General Recommendation N°7 on national legislation

⁶ See "Education of Roma children", below.

⁷ See "Climate of opinion", above.

to combat racism and racial discrimination⁸. Special attention should be drawn to the situation of Roma women who may be victims of discrimination on several grounds, for instance on that of their sex and ethnic origin.

- **Employment**

93. The unemployment rate among the Roma population is very high, and well above average. In certain disadvantaged Roma districts, it may be up to 90 % or more. The Bulgarian authorities have informed ECRI that Roma have difficulty in finding work because they are poorly educated and do not have sufficient vocational skills. ECRI would, however, draw attention to allegations that certain Roma are refused jobs, even though they have the education required, solely because of their ethnic origin. ECRI notes that the Ministry of Labour has set up training schemes to enable people who have been excluded from the labour market for a long time to find jobs. These measures mainly benefit Roma, even though they do not cater for them exclusively.

Recommendations:

94. ECRI recommends that the authorities continue, and step up, their efforts to provide vocational training in order to increase the opportunities for members of the Roma community to find jobs.
95. ECRI recommends that the authorities closely monitor the situation as regards discrimination in employment and take steps to prevent and punish any acts of racial discrimination in this field.

- **Education of Roma children**

96. In its second report ECRI recommended that the Bulgarian authorities take steps to combat school segregation, either in the form of Roma and non-Roma schools or of classes of Roma children and classes consisting solely of non-Roma children within the same school. It also recommended, as a matter of urgency, putting an end to the practice of sending a high percentage of Roma children to special schools which are actually intended for children with mental disabilities.
97. ECRI notes in this respect that non-governmental organisations have set up pilot "desegregation" projects to take Roma children out of schools in Roma districts and enrol them in schools to which they did not previously have access. These experiments have proved very successful over the last few years, but such projects are few and far between, and exist only in certain municipalities.
98. The Ministry of Education and Science is aware of the problems referred to by ECRI in its second report in connection with the education of Roma children, and recently took steps to improve the situation. In April 2002 an Advisory Council on the Education of Children and Pupils belonging to Minorities was set up. This permanent body is responsible for advising the Ministry of Education and Science, inter alia, on matters concerning the integration of Roma children. In September 2002 the Ministry of Education and Science adopted an "Instruction on the integration of children and pupils belonging to minorities". The Education Act was amended to provide for a compulsory preparatory one-year class for children with a poor grasp of Bulgarian. The Ministry is devising a strategy for the integration of children and pupils belonging to ethnic minorities.
99. ECRI observes that progress in the field of the education of Roma children is far from sufficient and consists largely of initiatives on the part of non-governmental organisations.

⁸ See also the recommendations above, under "Civil and administrative law provisions".

Recommendations:

100. ECRI urges the Bulgarian authorities to take steps without delay to give Roma children more equal opportunities in the educational field. It stresses the prime importance of devising a short-, medium- and long-term policy in this area and setting aside sufficient funds and resources to implement it.
101. In particular, ECRI recommends that the authorities take over the “desegregation” programme by enabling children in schools attended solely by Roma children, where the standard of education is below average, to receive an education of the same standard as that given to other children. ECRI reiterates the urgent need to put a stop to the practice of placing Roma children who are not mentally handicapped in special schools intended for children with mental disabilities, and to reintegrate those already placed in such schools in the ordinary school system.

- Implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society

102. The Framework Programme for Equal Integration of Roma in Bulgarian Society was devised at the instigation of Roma non-governmental organisations with the help of representatives of the Roma community. The programme was endorsed by over 70 Roma organisations and adopted by Cabinet decree on 22 April 1999. It covers all the main problems which Roma encounter in Bulgaria and is designed, in particular, to improve their situation in numerous areas such as employment, vocational training, land ownership, social welfare, education, health, culture and housing. The programme provides for much more stringent measures to combat discrimination, in particular the establishment of a specialised government body in this field.
103. The National Council on Ethnic and Demographic Issues is responsible for co-ordinating and assessing the implementation of the Framework Programme. It has drawn up, in conjunction with Roma organisations, an action plan for its implementation establishing short-, medium- and long-term priorities. This action plan was adopted by the Council of Ministers of the Bulgarian Republic on 25 September 2003. Roma experts have also been appointed in several ministries and other government departments under the programme.
104. The Framework Programme for Equal Integration of Roma in Bulgarian Society is unanimously considered, including by Roma representatives, to be well structured and fairly comprehensive and to meet the needs of the Roma community effectively. According to a number of sources, certain aspects need to be reinforced, in particular measures to improve the situation in the criminal justice and health fields.
105. There is, however, a unanimous feeling within the Roma community and among non-governmental organisations, whether or not they are Roma organisations, that, apart from the few initiatives mentioned in this report, the programme has remained a dead letter and that the few measures taken under it for the benefit of Roma are the result of isolated initiatives by non-governmental organisations, taken with the support of European or other foreign funds. As far as the government is concerned, there appears to be no integrated policy for implementing the programme, and no significant sum has been earmarked in the state budget and local authority budgets to fund its implementation. The view in certain quarters is that the government lacks the political resolve to carry through such a programme, although the National Council on Ethnic and Demographic Issues considers that the political resolve exists but is not backed up by budgetary funds.

106. ECRI is very concerned to learn that, four years after the adoption of the Framework Programme, its implementation is still in its early stages. It is convinced that the best way of solving the serious difficulties facing the Roma community in Bulgaria is to implement the existing Framework Programme and update it to make good any shortcomings.
107. ECRI's attention has also been drawn to the need for find local solutions to the problems encountered by the Roma population, which means that regional and local authorities must devise strategies with the help of members of the communities concerned. Such strategies are needed, in particular, to deal with the urban development situation in neighbourhoods where Roma live and the integration of Roma children into Bulgarian schools, and these are problems that cannot be addressed without the co-operation of the municipalities concerned.

Recommendations:

108. ECRI urges the Bulgarian authorities to speed up the implementation of the Framework Programme for Equal Integration of Roma in Bulgarian Society. It recommends that the Bulgarian authorities take a clear public stand, asserting their political resolve to implement the Framework Programme without delay. ECRI also urges the authorities to ensure that the funds needed to finance the Framework Programme are made available.
109. ECRI encourages the Bulgarian authorities to devise and implement quickly, at regional and local level, in conjunction with the national authorities, effective strategies for improving the situation of Roma. These strategies should allow for, and make it possible to adapt to, local features. In this connection, it urges regional and local authorities to work closely with representatives of the local Roma community and local non-governmental organisations when devising and implementing these strategies.

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