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Meeting: 1390<sup>th</sup> meeting (1-3 December 2020) (DH)

Reply from the authorities (06/11/2020) to a communication from an NGO (Bulgarian Helsinki Committee) (23/10/2020) in the YORDANOVA AND OTHERS group of cases v. Bulgaria (Application No. 25446/06)

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1390<sup>e</sup> réunion (1-3 décembre 2020) (DH)

Réponse des autorités (06/11/2020) suite à une communication d'une ONG (Bulgarian Helsinki Committee) (23/10/2020) relative au groupe d'affaires YORDANOVA ET AUTRES c. Bulgarie (requête n° 25446/06)  
**[anglais uniquement]**

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE  
DEPARTMENT FOR THE EXECUTION OF JUDGMENTS  
1390 (DH) MEETING OF THE DELEGATES 1-3 DECEMBER 2020

23 October 2020



## OBSERVATIONS

OF THE BULGARIAN HELSINKI COMMITTEE ON THE EXECUTION OF THE  
GROUP OF JUDGMENTS “YORDANOVA AND OTHERS V. BULGARIA”

This group of cases concerns interferences with the applicants’ right to respect for their home or their private and family life as a result of eviction or demolition orders issued and reviewed under a domestic legal framework which did not require any proportionality assessment. Such measures led so far to establishing by the European Court of Human Rights (ECtHR, the Court) of potential violations of Article 8 of the Convention, but may also lead to violations of Article 3 and Article 1 of Protocol No. 1. Several cases against Bulgaria are pending before the Court, the last one, *Mladenova and Others v. Bulgaria*, in which the Court gave interim measures, from October 2020. In this and in a number of previous pending cases, the applicants alleged violations of all of the above articles.

These observations, which focus on the general measures, are prepared by the Bulgarian Helsinki Committee (BHC), a human rights NGO, which provided legal assistance to the applicants in all the cases from this group, as well as to applicants who were victims in similar cases, a number of which are pending before the Court. In at least two recent pending cases the Court indicated interim measures on behalf of vulnerable applicants and gave priority to the applications. In order to facilitate the delegates’ appraisal of the execution of this group of judgments, the current submission provides:

- An appraisal of the significance of the problems, which these cases concern;
- A review of some recent evictions and demolitions;
- A general appraisal of the developments in the case-law on these cases at the domestic level;
- Concrete examples of evictions and demolitions, in which the BHC was involved recently, illustrating these developments.

## I. SIGNIFICANCE OF THE PROBLEM AND GENERAL DEVELOPMENTS

The problems identified by the cases in this group may affect anybody in Bulgaria, who inhabit unlawfully built homes. Indeed, the first case in the group, *Yordanova and Others*, concerns an attempt to evict a large Roma community in Sofia from their only homes, whereas the second case, *Ivanova and Cherkezov*, concerned a similar attempt to evict an ethnic Bulgarian family. As a matter of fact, however, in more than 90% of the eviction cases, those affected are Roma.<sup>1</sup> At present, the insecurity of tenure is the biggest problem with the right to a home of the Roma and with their integration in Bulgarian society in general. The insecurity stems from the three main factors: 1. The large share of housing, inhabited by Roma as their only homes, which are formally “unlawful” under the law (according to different estimates, between 50% and 70% of all Roma homes in Bulgaria); 2. The constant risk of eviction and demolition, which the inhabitants of these buildings face, as the law continues to regard the mere fact of “unlawfulness” as a ground for eviction or demolition with no requirement for assessment of proportionality in eviction/demolition proceedings; 3. The lack of any positive obligation by the state or the municipal authorities to provide for alternative housing for those rendered homeless as a result of such proceedings, even to those who are vulnerable (children, elderly, persons with disabilities).

Over the past two years, a number of evictions and demolitions took place in different parts of Bulgaria. They affected both individual families (see the third case below), as well as entire communities (see the first and the second cases below). The most recent large eviction and demolition took place on 4 August 2020 in Stara Zagora, where 97 “unlawful” houses were demolished with no alternative housing provided. Thus, around 500 Roma were rendered homeless and, according to media reports, had to rely for shelter on relatives.<sup>2</sup> In Stara Zagora the demolition was initiated in the framework of an infrastructural project. But in a number of other cases the evictions and the demolitions were for revenge – as a form of collective impromptu punishment of Roma for the misbehavior of individual members of the community (see the second and the third cases below). Other evictions and demolitions of Roma houses

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<sup>1</sup> See: BHC, “Alternative Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights in Bulgaria”, December 2018, p. 9, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICS%2fBGR%2f33527&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fICS%2fBGR%2f33527&Lang=en), accessed on 20 October 2020.

<sup>2</sup> „Напрежение в Стара Загора заради събаряне на незаконни ромски къщи“, actualno.com, 4 August 2020, available at: [https://www.actualno.com/society/naprejenie-v-stara-zagora-zaradi-sybarjane-na-nezakomni-romski-kyshti-news\\_1487494.html](https://www.actualno.com/society/naprejenie-v-stara-zagora-zaradi-sybarjane-na-nezakomni-romski-kyshti-news_1487494.html), accessed on 20 October 2020.

over the past one year include the demolition of 15 Roma houses in Samokov on 26 August 2020;<sup>3</sup> demolition of houses in Gabrovo on 11 April 2020;<sup>4</sup> demolition of Roma houses in “Arman Mahala” neighbourhood in Plovdiv in December 2019.<sup>5</sup>

In the last recommendations from March 2020 the deputies urged the Bulgarian authorities to rapidly adopt legislation in order to ensure that everyone affected by a demolition order (and not limited to those who have property rights, have carried out construction works or who are part of the household of such persons) can benefit from a proportionality assessment in eviction proceedings (§ 5 of the recommendations). The deputies also invited the Bulgarian authorities to provide information on the progress achieved in the legislative process by 1 October 2020 (§ 6 of the recommendations). No such legislative process took place in this period. It was in fact unrealistic to think of such a process already in March 2020, taking into consideration the worsening of the situation with discrimination of Roma in general and with the Roma housing in particular since 2017, when a nationalistic coalition of parties entered the government. The case-law of the administrative courts in this period consolidated in allowing unfettered discretion of the municipal authorities to evict families and to demolish housing on the sole basis that it was illegally built (see the examples below). Even where the courts considered proportionality of the interference into Article 8 rights, prompted by demands from the claimants, they by and large held that the illegal constructions by themselves constituted a legitimate ground for interference under Article 8, citing “prevention of disorder”, promoting “the economic well-being of the country”, “protection of health” or “protection of the rights and freedoms of others” and that the measures undertaken were proportionate. Worsening of the administrative courts’ jurisprudence thus went hand in hand with the worsening of the social climate for Roma integration.

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<sup>3</sup> “Премахнаха 15 незаконни къщи по пътя за Драгушиново”, 26.08.2020, at: <https://samokov365.com/>, accessed on 19 October 2020.

<sup>4</sup> “В Габрово: Започна събаряне на къщи, където незаконно се настаняват роми”, 11.04.2020, at: <https://tribune.bg/bg/obshtestvo/v-gabrovo-zapochna-sabaryane-na-kashti-kadeto-nezakonno-se-nastanyavat-romi/>, accessed on 19 October 2020.

<sup>5</sup> “Багер удари втора къща в Арман махала, обитателите не излизат”, 10.12.2019, at: <https://plovdivnow.bg/plovdiv-raion-severen/bager-udari-vtora-kashta-arman-mahala-obitatelite-ne-izlizat-27329>, accessed on 19 October 2019.

## II. RECENT EXAPLES OF CASES OF EVICTIONS AND DEMOLITIONS

Over the past two years the BHC provided legal assistance to the victims of forced evictions, all of which were of Roma origin. The organisation provided legal aid also in cases, although not directly focused on evictions, were nevertheless related to them. The cases below sum up the experience of the organisation and illustrate the general observations, made above, on the worsening of the jurisprudence of the administrative courts at the national level. In previous submissions the BHC provided details on the early developments of these cases.

### VOYVODINOVO

This case concerned the expulsion by the municipal authorities of more than 100 Roma from the village of Voyvodinovo in the evening on 6 January 2019 in revenge for a crime perpetrated by two Roma men against a Bulgarian officer from the special forces. No alternative housing was provided to the affected persons, despite the indication of interim measures by the ECtHR. 55 lawsuits were filed by the Roma families chased away from their homes in relation to their eviction. They concerned a variety of subject matter. 17 of the issued orders for eviction were appealed.<sup>6</sup> Another 17 lawsuits were filed against the unlawful actions of the executive authorities, which prevented the Roma from returning to their homes.<sup>7</sup> Another 17 lawsuits were filed against the issued orders forbidding access and use of the buildings.<sup>8</sup> Another 4 lawsuits were filed against an order issued for demolishing the dangerous constructions<sup>9</sup> and the measures of its execution.<sup>10</sup>

Up to this moment, there are final court decisions in regard to 51 cases. Although no evidence was presented in these lawsuits regarding the existence of alternative housing for the Roma families, in none of the court rulings the courts considered as a problem the lack of proportionality of the contested measures, affecting the right to respect of the claimants' homes.

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<sup>6</sup> Administrative cases nos. 8165/2019, 9396/2019, 12087/2019, 2726/2020, 11322/2019, 9344/2019, 9348/2019, 11324/2019, 8163/2019, 9401/2019, 9345/2019, 12088/2019, 9347/2019, 8514/2019, 11314/2019, 11323/2019 of the Supreme Administrative Court (SAC), second chamber; administrative case no. 320/2019 r. of the Plovdiv Administrative Court (PAC).

<sup>7</sup> Administrative cases nos. 3889/2019, 3904/2019, 3892/2019, 3900/2019, 3907/2019, 3906/2019, 3899/2019, 3885/2019, 3905/2019, 3908/2019, 3875/2019, 3896/2019, 3873/2019, 3877/2019, 3902/2019, 3881/2019, 3903/2019 of the SAC, fifth chamber.

<sup>8</sup> Administrative cases nos. 8575/2019, 9350/2019, 9389/2019, 9352/2019, 9351/2019 of the SAC; administrative cases nos. 691/2019, 692/2019, 694/2019, 696/2019, 698/2019, 699/2019, 700/2019, 701/2019, 718/2019, 719/2019, 720/2019, 721/2019 of the PAC.

<sup>9</sup> Administrative case no. 6832/2020 of the SAC.

<sup>10</sup> Administrative cases nos. 485/2019, 512/2019, 513/2019 of the PAC.

The first-instance courts reasoned that “the applicants are wrongfully quoting the case of *Yordanova and Others v. Bulgaria*”.<sup>11</sup> As for the applicants’ claims for violations of Article 8 of the Convention, the courts found that the rights of other members of society to live in a well-developed and secure environment should be taken into consideration as a legitimate ground for interference and that the interference with the applicants’ rights was proportionate. Both the first-instance courts and the SAC often held that protection under Article 8 may seek only an owner of a legal house and that the very fact of illegality precludes consideration of the proportionality of the eviction (see text box).

**From Decision No. 1721 of the PAC from 13.10.2020**

“Protection under Article 8, para. 1 of the ECHR could look for only a *bona fide* owner who observes the established normative rules and regulations. The opposite precludes the thesis of the proportionality of the state intervention and the existence of a private interest in need of extraordinary protection.”

It has to be taken into consideration that the Roma evictions in Voyvodinovo were not planned. They were spontaneously initiated by the municipal authorities as a response to the incident. Furthermore, the municipal authorities had no plans for the land, which was to become vacant after the demolition of the unlawful constructions that can compete with the rights to respect for the applicants’ homes. On the contrary, according to the Municipal Council’s own plan and program, the land where most of the constructions were situated, was to be sold. Like the PAC, in a number of decisions the SAC reasoned that the interference with the applicants’ right to respect for their home was justified in view of the general public interest for the prohibition not to construct buildings without license and/or authorization. As a legitimate aim the SAC saw the ‘prevention of conflicts’, promoting the ‘economic well-being of the country’, as well as ‘ensuring the health of the occupants’.<sup>12</sup> According to the SAC, “[p]rotection under Art. 8 is due only to a person, who, however, strictly observes construction law regulations [...]”.<sup>13</sup> It also held that the orders for demolition of unlawful constructions has one more important function – to have a dissuasive effect on other potential law breakers.<sup>14</sup>

<sup>11</sup> E.g. Decision no. 1272/12.06.2019 in administrative case no. 291/2019 of the PAC.

<sup>12</sup> Decision no. 3074/26.02.2020 in administrative case no. № 8165/2019 of the SAC; Decision no. 17192/16.12.2019 in administrative case no. 9344/2019 of the SAC; Decision no. 6482/02.06.2020 in administrative case no. 11323/2019 of the SAC.

<sup>13</sup> Decision no. 6571/02.06.2020 in administrative case no. 12088/2019 of the SAC.

<sup>14</sup> Decision no. 7232/11.03.2020 in administrative case no. 12087/2019 of the SAC.

In favor of the state authorities were all but two court decisions. The latter are in favor of the applicants simply because the description of the houses in the issued orders was so poor that they could not be individualized.<sup>15</sup> It is important to note that most of the orders for demolition of houses and buildings were issued against “unknown persons”. Thus, even on the first stage of the administrative procedure the state authorities neglected and prevented every possibility for a proper assessment to be carried out in regard to whether the interference with one’s right to respect of home is proportionate or not. This practice, which prevented granting of free legal aid to the affected persons, along with the poor description of the houses, creates barriers before the defense of the concerned families, and given their current situation and difficulties in relation to their basic survival and search for housing, many of them did not manage to organize the on-time appeal of the issued orders for demolition of their homes. This is why the applicants in the pending proceedings before the ECtHR were less than one-half of all the inhabitants of the Voyvodinovo Roma neighbourhood, who were expelled from the village in the evening of 6 January 2019.

#### SOFIA - ORLANDOVTSI

Since 2017 BHC lawyers are representing three families, living in houses constructed without authorization that are to be demolished in Orlandovtsi neighborhood, Sofia. They were targeted for eviction in revenge for a fight some of the young members of the family were involved into with ethnic Bulgarians. The families are trying to find alternative housing in a municipal property. When submitting their applications for enrollment in the waiting list, in 2017 they were classified as least needing – as people occupying a dwelling with no sufficient square meters per person. They appealed the authorities’ rulings and in 2019 the court ruled in their favor.<sup>16</sup> In the meantime, the address registration of one on the applicants was repealed by the municipal authorities. When their applications were revised, the commission refused to enroll the families at all. The refusals were appealed before the administrative court, where, at this moment, some of the cases are still pending. Two other cases were won by the applicants and

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<sup>15</sup> Decision no. 9246/09.07.2020 in administrative case no. 8575/2019 of the SAC; Decision no. 7656/17.06.2020 in administrative case no. № 9350/2019 of the SAC.

<sup>16</sup> Decision no. 6961/09.05.2019 in administrative case no. 12459/2018 of the SAC; Decision no. 5027/25.07.2018 in administrative case no. 3479/2018 of the Sofia Administrative Court; Decision no. 5457/30.04.2019 in administrative case no. 13189/2018 of the SAC; Decision no. 5427/19.09.2018 in administrative case no. 3481/2018 of the Sofia Administrative Court; Decision no. 11102/17.07.2019 in administrative case no. 11244/2018 of the SAC; Decision no. 4492/03.07.2018 in administrative case no. 3480/2018 of the Sofia Administrative Court.

their lawyers – for the second time before the first-instance court.<sup>17</sup> They were however appealed by the municipal authorities and are pending before the SAC.

In 2020, following court proceedings under the Access to Public Information Act, the BHC found that, according to the Ministry of Regional Development and Public Works, 75 406 Bulgarian citizens did not have a valid registration at a permanent address. Many of them live in homes, which were considered “unlawful”. The registration at a permanent address is an absolute prerequisite in order for an identity document to be issued and to initiate proceedings for alternative housing.

## SOFIA - BENKOVSKI

Problems in relations to eviction proceedings and proportionality consideration under both Article 8 and the national legislation also become evident from a recent case of eviction from public housing. Ms. Mladenova, a Roma, who received *pro bono* legal assistance from the BHC, is a tenant of a municipal house in the city of Sofia since 2006. She lives in the house with her children (that are of full age), the partners of some of her children, and many grandchildren who are minors. Altogether, there are 18 inhabitants in the house, which is the only home of the entire family.

On 13 June 2015 several of the male members of the household – but not Ms. Mladenova herself – took part in a fight. The incident was widely reported by the media and were represented as a conflict between ethnic Roma (Ms. Mladenova’s sons) and ethnic Bulgarians. The news coverage caused widespread anger and criticism against “Roma criminality” in Bulgaria and protestors gathered for several days near Ms. Mladenova’s house and other houses inhabited by Roma in the neighbourhood. Criminal proceedings were initiated for the fight but only against Ms. Mladenova’s sons. To date, the criminal case is pending, there is no decision as to the guilt.

A few days after the events, on 19 June 2015, the district mayor revoked his accommodation order for Ms. Mladenova and terminated the contract with her. The grounds for the revocation order were (1) the unruly conduct of persons in the household and (2) unpaid utility bills. Ms. Mladenova hired a lawyer and challenged the revocation order on points of law due to, *inter alia*, lack of proportionality of the measure under Article 8 of the Convention. While the court

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<sup>17</sup> Decision no. 3576/06.07.2020 in administrative case no. 919/2020 of the Sofia Administrative Court; Decision no. 3124/19.06.2020 in administrative case no. 13571/2019 of the Sofia Administrative Court.



proceedings were undergoing, Ms. Mladenova started paying her utility bills. In January 2017, the Supreme Administrative Court delivered a final decision on the case dismissing Ms. Mladenova's appeal.<sup>18</sup> The court found, *inter alia*, that the bills were not yet fully paid. Regarding the participation of members of Ms. Mladenova's household in the fight, the court found that this was well established on the basis of the statement issued by the municipality. Regarding the claims under Article 8 of the Convention the court found that this is not an issue related to the substantive grounds for the revocation order but rather to the execution procedure and needs to be discussed at that stage.

After the court's judgment, the mayor issued a new order for seizure of the house based on the fact that Ms. Mladenova's possession had no legal ground due to the termination of her contract. She appealed this order in court. With a final decision of December 2019 the SAC dismissed the appeal.<sup>19</sup> The court found, *inter alia*, that the revocation was not disproportionate because there is a long waiting list for municipal housing while Ms. Mladenova was not paying her utility bills. As to the unruly conduct of persons in the household, the court found that it falls under the "the protection of health or morals" and "the protection of the rights and freedoms of others" provision of Article 8 § 2 of the Convention. It therefore found that the interference had a legitimate ground and that it was proportionate. The court did not discuss the lack of alternative accommodation.

Following the court's judgment, the mayor did not immediately initiate execution proceedings due to the outburst of the COVID-19 pandemic. Nevertheless, in April 2020, a notice was put on Ms. Mladenova's door that she is invited to voluntarily leave the house or else she would be forcefully evicted with the assistance of the police. At that point, the BHC stepped in as a representative of Ms. Mladenova appealing on her behalf the notice, as well as requesting for the execution proceedings to be discontinued due to the lack of proportionality. On 21 August, the first instance court stayed the execution.<sup>20</sup> On 31 August, that court dismissed the appeal against the notice.<sup>21</sup> Ms. Mladenova appealed this ruling before the Supreme Administrative Court. Despite the stayed execution and the ongoing challenge of the notice, on 14 October, aided by the police, the municipal authorities evicted Ms. Mladenova. All her family were expelled and the house was sealed. The municipal authorities left the place immediately.

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<sup>18</sup> Decision no. 1168/30.01.2017 in administrative case no. 900/2016 of the SAC.

<sup>19</sup> Решение № 16768 от 10.12.2019 г. по адм. д. № 4447/2019 г. на ВАС.

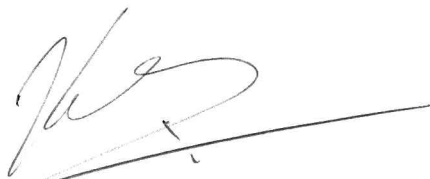
<sup>20</sup> Ruling no. 6272/21.08.2020 in administrative case no. № 8210/2020 of the Sofia Administrative Court.

<sup>21</sup> Ruling no. 6444/31.08.2020 in administrative case no. 8210/2020 of the Sofia Administrative Court.

afterwards and denied any contact with her lawyers from the BHC. That same day, under Rule 39 of the Rules of Court, the ECtHR indicated interim measures to the Government of Bulgaria that they should suspend the applicants' eviction from their only home and grant them access to their personal belongings locked by the authorities in the flat. Only after this procedure, part of the 18-member household was temporarily accommodated in private shelters managed by NGOs. One of the members of the household was provided with alternative municipal housing that same week after being included in the waiting list for such accommodation since 2013.

#### CONCLUSION AND RECOMMENDATION

Since the last examination of the Committee of Ministers of this group of cases there have been no developments whatsoever at the legislative level, as the Committee recommended. At the same time, the jurisprudence of the Bulgarian courts on eviction cases, including that of the SAC, deteriorated. Forced evictions of Roma from their only homes continued. The municipal authorities failed to provide alternative accommodation even to the most vulnerable victims of such practices. The Bulgarian Helsinki Committee therefore recommends to the delegates to adopt an interim resolution on this group of cases.



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**SUBMISSIONS OF BULGARIA IN RESPONSE TO THE OBSERVATIONS OF THE  
BULGARIAN HELSINKI COMMITTEE ON THE EXECUTION OF THE GROUP  
OF JUDGEMENTS *YORDANOVA AND OTHERS V. BULGARIA* (25446/06)**

The Bulgarian State would like to take the opportunity to provide the Committee of Ministers with some comments regarding the allegation of the Bulgarian Helsinki Committee (the BHC) in their observations of 23 October 2020 in respect of the execution of the group of judgments *Yordanova and Others v. Bulgaria*.



**1. ON THE BULGARIAN HELSINKI COMMITTEE'S ALLEGATIONS REGARDING  
THE GENERAL DEVELOPMENTS**

The Government, first, contest the allegation that there is currently no requirement for assessment of the proportionality of eviction orders under domestic law. While such a requirement is not yet enshrined in a legislative act it has been developed by the case-law of domestic courts with reference to the judgments in this group of case— a fact, which has been reported by the Government on a number of occasions.

Second, the Government find the allegations of the BHC in this part of their observations regarding the recent instances of evictions and demolitions of unlawful construction very disputable. In this respect the Government would like to address the events in Stara Zagora. The demolitions there are subject to application no. 33853/20, *Eminova and Others v. Bulgaria*, which was lodged before the European Court of Human Rights by 29 individuals. On 10 August 2020 pursuant to a request for an interim measure the Court informed the Government that it had decided to suspend the examination of the request until the receipt of further information from the parties to the proceedings. Upon exchange of information on 17 August 2020 the Court refused to indicate an interim measure with respect to any of the 29 applicants.

In those proceedings the Government argued, *inter alia*, that the procedure for demolition of the respective houses had been a rather long process having started back in 2015. A number of administrative acts had been issued since then in the respective cases establishing all relevant facts and those acts were served on the applicants. The applicants, had, thus been well aware of

the administrative proceedings for removal of their unlawful homes and the proceedings' development for a long period of time (since February 2015).

In addition, the Government submitted before the Court that the demolition had been preceded by adequate social surveys, which had not establish any particular vulnerability in respect of any of the applicants. The evictions had also been preceded by offers by the municipal administration to the applicants to buy other municipal land or enlist for municipal housing. One of the applicants had received municipal housing. Other applicants had turned down the authorities' offers for municipal accommodation or had not showed up in response to the authorities' invitation. It was further established that a number of the applicants had other registered addresses or sufficient means to afford alternative accommodation. Further, some of the applicants had alleged grounds for vulnerabilities, which proved non-existent, while others had claimed before the Court that their homes had been removed, while in fact they had not been demolished.

The other examples of demolitions referred to by the BHC have been presented in a similarly one-sided manner. With respect to the demolition of the houses in Samokov it should be noted that they had been built on land owned by third private parties and the inhabitants of the buildings had been aware well in advance of the forthcoming demolition. While the improvement of the townscape has been a longstanding goal of the local authorities the demolition itself was overseen by a Roma member of the Municipal Council, while temporary arrangements were proposed for the inhabitants and a municipal project is underway, which includes detailed urban planning and amelioration of the roma neighbourhood, possibilities for acquisition of property rights at reasonable prices and ready-made construction designs to encourage and facilitate of the construction of lawful homes.<sup>1</sup>

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<sup>1</sup> "Събарянето на незаконни къщи започна", at :

<https://vestnikpriatel.com/%D1%81%D1%8A%D0%B1%D0%B0%D1%80%D1%8F%D0%BD%D0%B5%D1%82%D0%BE-%D0%BD%D0%B0-%D0%BD%D0%B5%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8-%D0%BA%D1%8A%D1%89%D0%B8-%D0%B7%D0%B0%D0%BF%D0%BE%D1%87%D0%BD%D0%B0/> и „Ще благоустрояват Седми квартал“, at <https://vestnikpriatel.com/%D1%89%D0%B5-%D0%B1%D0%BB%D0%B0%D0%B3%D0%BE%D1%83%D1%81%D1%82%D1%80%D0%BE%D1%8F%D0%B2%D0%B0%D1%82-%D1%81%D0%B5%D0%B4%D0%BC%D0%B8-%D0%BA%D0%B2%D0%B0%D1%80%D1%82%D0%B0%D0%BB/>

The demolition of houses in Gabrovo, which took place on 11 October 2019 and not 2020, concerned abandoned, old and dangerous buildings and none of the reports of the event suggests that the houses had been inhabited before their removal.

The removal of houses in Arman Mahala in Plovdiv followed a decision of 4 June 2019 in the case *Yuseinova and Others against Bulgaria*, no. 30472/17, with which the Court in part struck the application out of its list of cases and declared it inadmissible for the remained. It should also be noted that on three occasions the applicants in that case asked the Court to indicate to the Government, as an interim measure under Rule 39 of the Rules of Court, that they should not proceed with the demolition. On the basis of information provided, the Court did not grant the first request. In view of exceptional circumstances, the Court granted the second and third requests temporarily. Following the provision of information showing that there was no imminent risk to the life or health of the applicants or their family members living with them, the Court lifted the interim measures granted in connection with the second and third requests<sup>2</sup>. As concerns the demolition of 10 December 2019 it should be noted that it was made with the aim to allow the execution of a public infrastructure project, and the inhabitants had alternative accommodation and had been offered municipal housing<sup>3</sup>.

The Government submit that the BHC's statement that since 2017 the case-law of the administrative courts "consolidated in allowing unfettered discretion of the municipal authorities to evict families and to demolish housing on the sole basis that it was illegally built" is untrue and that the claim of worsening of the administrative courts' jurisprudence is misleading and unwarranted.

## 2. ON THE RECENT EXAMPLES OF CASES OF EVICTIONS AND DEMOLITIONS

### 2.1. Voyvodinovo

In their previous submissions regarding the events in Voyvodinovo of January 2019 we have ask the Deputies to bear in mind the fact that the case *Paketova and Others v. Bulgaria* (no. 17808/19), which deals with those events, is pending before the ECHR. The Government prefer to refrain from providing detailed comments on that subject and believe the Court should be

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<sup>2</sup> See § 15 of the Decision

<sup>3</sup> See the articles available at: <https://dariknews.bg/regioni/plovdiv/romi-ot-plovdivskata-arman-mahala-kylnat-i-plachat-syboriha-kyshtite-na-4-semejstva-2201827> and <https://btvnovinite.bg/bulgaria/butat-nezakonni-kashti-v-plovdivskata-arman-mahala.html>.

allowed to adjudicate on the case before that matter is assessed by the Committee of Ministers in the framework of the execution of the *Yordanova and Others* group of judgments.

The Government also submit that the BHC represent the applicants in the proceedings before the Court and their submissions are thus partial. The isolated quotations from judgments of the domestic courts are pulled out of their context and pieced together in a manner deliberately seeking to create a distorted impression of the reasoning of the courts and the state of domestic case-law. The BHC go so far as to criticise the Supreme Administrative Court for referring to the legitimate aims enumerated in Article 8 § 2 of the Convention such as the economic well-being of the country and the prevention of disorder<sup>4</sup>. In almost all of the cases cited the national courts carried out a proportionality analysis of the relevant demolition order and while the BHC may disagree with their conclusions their judgments do not seem *prima facie* unreasonable or arbitrary.

## **2.2. Sofia – Orlandovtsi**

The second case discussed by the BHC was brought to the attention of the Court in 2017, when an interim measure under Rule 39 of the Rules of Court was temporarily indicated to the Government in the case *Misheva and Dimitrova v. Bulgaria*, (no. 73616/17). Following submission of information by the Government that the applicants refused to cooperate with the authorities and showed no interest in options for alternative accommodation on 27 October 2017 the Court lifted the interim measure. As evident from the database of the Court on the state of proceedings the application was struck out of the list of cases on 8 November 2018. The submissions of the BHC reveal the existence of ongoing court disputes between the applicants and the municipal authorities on issues outside of the scope of execution of the current group of judgments.

## **2.3. Sofia – Benkovski**

The case referred to by the BHC in this section is currently pending before the Court under the name *Mladenova and Others v. Bulgaria*, no. 45309/2020. An interim measure was temporarily indicated by the Court on 14 October 2020 and after exchange of submissions by the parties to the proceedings lifted with respect to all applicants but one minor child. Further information has been requested and provided by the Government as concerns that child. The Court invited

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<sup>4</sup> Incorrectly translated as „prevention of conflict” in the observations.

applicants to submit comments in reply by 10 November 2020, whereupon it will decide whether or not to lift the remainder of the interim measure. The applicants in the case are eight. In the course of the exchange of information the applicants' representative admitted with respect to one of the minor children that the child and his mother lived elsewhere. All applicants (the parents of the minor applicants respectively) have declined any offers of alternative accommodation by the local authorities, while some of them having expressly declared that they did not wish to be contacted by the authorities anymore and were not in need of accommodation.

### **Conclusion**

The Government of the Republic of Bulgaria consider that the positive developments in the case-law of the SAC appear stable and consistent. We reiterate that those developments seem to provide adequate guarantees for the right to respect for one's private and family life and one's home and can off-set the time requirements imposed by the legislative process and the current pandemic. In view of the above considerations the Government consider that the BHC's request for the adoption of an interim resolution on the *Yordanova and others* group of case does not appear justified.